



**Asia-Pacific  
Economic Cooperation**

# **APEC's Bogor Goals Progress Report**

**APEC Policy Support Unit**  
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**Advancing** Free Trade for Asia-Pacific **Prosperity**

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## INTRODUCTION

Since 1994, the Bogor Declaration provided guidance on how to achieve economic cooperation and growth within APEC by adopting “the long-term goal of free and open trade and investment in the Asia-Pacific”, which is commonly known as the Bogor Goals. Through the years, the Bogor Goals has remained as the inspirational strength behind APEC’s agenda.

In 1995, the Osaka Action Agenda was developed to set out individual and collective action guidelines in 15 areas towards achieving the Goals. Subsequently in 2005, a midterm stocktake was carried out to analyze APEC’s performance and identify challenges that hinder the progress towards achieving these goals. In 2010, an assessment of APEC’s progress towards the Bogor Goals showed that substantial progress had been made by APEC industrialized and developing economies, but more work needed to be done en-route to 2020.

In 2011, as part of the process to track progress of APEC member economies in the relevant areas concerning the Bogor Goals, Senior Officials tasked the Policy Support Unit (PSU) to prepare in 2012 short reports highlighting the achievements and remaining areas for improvement.

The Bogor Goals Progress Reports use mostly qualitative information to describe the main achievements and shortcomings by APEC member economies, in the areas listed under the 1995 Osaka Action Plan and new areas that acquired relevance in recent years due to the changing trade policy environment. The main input in the preparation of these reports was the information directly submitted by APEC member economies through their Individual Action Plans (IAP). Should information gaps exist, PSU has referred to other credible public sources, such as WTO Trade Policy Reviews, to complete these reports.

In general, the analysis of the information shows that APEC member economies are moving in the right direction, as progress has been achieved in all areas since the previous assessment conducted in 2010. Nevertheless, there is room for improvement as more work can be done. Efforts in trade liberalization have been significant, but uneven across sectors and non-tariff measures still remain. Trade facilitation, services and investment are becoming more relevant areas in the pursuit to improve business conditions.



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## APEC<sup>1</sup>

### Highlights of Achievements and Areas for Improvement

- Tariffs are continuing their downward trend. In 2010, APEC's MFN average tariff was equal to 5.8 percent. However, average tariffs in agriculture remain higher in comparison with other sectors (11.9 percent to 4.9 percent).
- APEC economies have reported progress concerning the elimination or reduction of certain non-tariff measures. However, some restrictions still remain and new measures restricting or potentially restricting trade continue to be implemented.
- Progress in services liberalization and facilitation. Nevertheless, there is still room for improvement as some restrictions in terms of market access, national treatment and local presence are maintained.
- APEC economies are making efforts to improve investment conditions and welcome foreign investors. However, sectoral restrictions to foreign investment are common in areas considered of domestic strategic interest.
- Efforts to align to international standards. Some concerns exist regarding the conditions to meet certain sanitary and phytosanitary requirements and technical regulations.
- Substantial progress to facilitate trade by making customs procedures more efficient.
- Efforts to strengthen intellectual property rights and competition policy systems. There is progress in enforcement, but still more can be done to improve conditions.
- Increased transparency and market access in government procurement. Concerns remain especially in terms of preferences to local suppliers and restrictions on the origin of the goods/services.
- Trend continues for regulatory reforms to increase efficiency.
- Higher levels of transparency across time. More relevant information concerning laws, regulations, guidelines and administrative procedures are becoming easily available.
- Network of RTA/FTAs is expanding for all APEC economies.

### Summary of Updates

#### Tariffs

Tariff levels have continued to fall. APEC's MFN average tariff, measured at the HS 6-digit level, went down from 6.6 percent to 5.8 percent during the period 2008-2010. All sectors moved in the same direction. Nevertheless, tariffs in agriculture remain higher compared with other sectors. The average tariff for agricultural products went down from 13.1 percent to 11.9 percent; whereas the average tariff for non-agricultural products declined from 5.7 percent to 4.9 percent.

APEC's efforts in liberalizing trade are also reflected in the percentage of zero-tariff product lines, which went up from 42.4 percent to 45.2 percent. In the same way, the percentage of product lines with MFN applied tariffs equal or greater than 10 percent decreased from 16 percent to 14.7 percent.

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<sup>1</sup> This brief report was prepared with information from the submissions of the 2012 APEC Individual Action Plan (IAP) templates, the minutes of the meetings of WTO Trade Policy Reviews for individual APEC member economies and the WTO Report to the Trade Policy Review Body from the Director-General on Trade-Related Developments from June 2012 (Document WT/TPR/OV/W/6).

In addition, APEC member economies are continuing their engagement with RTA/FTAs, which is leading to a further reduction in the effective tariffs, based on the tariff liberalization schedules agreed with their RTA/FTAs counterparts.

### **Non-Tariff Measures**

In general, APEC members have indicated that they generally do not apply non-tariff measures, with the exception of those applied for legitimate reasons, such as the protection of public health, security, safety and consistency with WTO agreement and international treaties.

APEC economies have reported progress in numerous ways, such as the reduction or elimination of certain import and export prohibitions, quantitative restrictions, licensing requirements, among others.

However, some of these restrictions still remain in many APEC economies. The latest WTO Report to the Trade Policy Review Body from the Director General on Trade-Related Developments from June 2012 also shows that new restrictions restricting or potentially restricting trade continue to be implemented and measures are accumulating. Trade remedies, licensing requirements and customs controls are among the most recurrent measures.

### **Services**

APEC has experienced progress in terms of services liberalization and facilitation. Several APEC members reported increased competition in some services sectors such as telecommunications, financial services, postal and courier services, audiovisuals, transportation, health-related services and legal services among others. Competition was promoted by extending more operational licenses and/or opening the markets to foreign participants. In some cases, foreign equity participation was allowed up to certain limit.

APEC members have also achieved progress through bilateral or regional agreements. RTA/FTAs with services chapters usually include many commitments beyond those agreed in GATS. In addition, in the air transportation sector, some APEC economies have signed reciprocal “open skies” agreements.

In terms of professional services, some APEC economies have reported the implementation of mutual recognition agreements to facilitate certain professionals from one party to practice in the other party as well. APEC economies have implemented unilateral measures to make more flexible the registration of foreign professionals to allow them to practice in specific areas.

Some restrictions still remain, as APEC economies still maintain various restrictions in terms of market access to foreign participants, national treatment and local presence to provide a service.

### **Investment**

APEC has made good progress in improving investment conditions in the region. Many APEC members reported that no restrictions are applied with regards to repatriation of capital and remittances for royalties and profits.

In general, APEC members recognize the economic benefits of foreign investments. Barriers for foreign investments have fallen across APEC, for example: by lifting sectoral restrictions or by raising the threshold to screen potential investments. In addition, some economies have removed minimum paid-in capital requirements. However, restrictions still remain in sensitive sectors that each APEC economy considers of domestic strategic interest.

Another mechanism used by APEC economies to reduce barriers to investment and increase stability is through the implementation of Bilateral Investment Treaties, Avoidance of Double Taxation Treaties or RTA/FTAs with an investment chapter.

In terms of investment facilitation, progress has been reported through the implementation of policies such as tax benefits, the increased transparency in the publication of relevant laws and guidelines, the simplification of procedures to obtain investment permits, the improvement of public infrastructure and the establishment of one-stop shops to resolve inquiries.

### **Standards and Conformance**

As a general rule, APEC members are aiming to align domestic standards to international standards as far as possible. The range of alignment in the APEC economies that reported this information varies significantly, from 14 percent to 100 percent. It is very common for APEC members to align domestic standards to the International Standardization Organization (ISO) and the International Electrotechnical Commission (IEC) standards for manufacturing products and to the Codex standards for food-related products.

Some APEC members also reported full alignment to the 168 IEC standards in the APEC Voluntary Alignment Program for 2006-2010, which targets the IEC System for Conformity Testing and Certification of Electrical, Electronic Components, Equipment and Products (IECEE). Also, APEC members have reported increasing participation in Mutual Recognition Arrangements (MRA) and Multilateral Recognition Arrangements (MLA), which involves the recognition of accredited certification bodies and testing laboratories.

Concerns remain with regards to strict sanitary and phytosanitary requirements and technical regulations in certain APEC economies.

### **Customs Procedures**

APEC members have been working intensively to streamline customs procedures and facilitate trade. In this regard, measures such as the implementation or upgrade of single window systems, the submission of advance electronic information, the execution of risk-management techniques, the introduction of the Authorized Economic Operators, the development of advance ruling systems and the acceptance of the ATA carnet for temporary importation of goods are relevant examples that support APEC members to reduce time and cost to trade across borders.

In addition, many APEC customs organizations have signed agreements with similar counterparts in order to exchange information, target high-risk shipments and expedite legitimate cargo. The strengthening of measures to guarantee secure trade increased the cost to trade in some APEC members. One of the current challenges is to find the right balance between the strengthening of border security and trade facilitation.

### **Intellectual Property Rights**

A common feature for many APEC economies in recent years is the preparation and implementation of amendments to copyright legislation. These cases seek to cover gaps from old legislation due in part to the proliferation of electronic means of communication, such as internet. These amendments strengthen the mandate of the competent authorities to address online infringements to IPR and to provide certainty by clarifying roles and responsibilities of internet services providers.

Amendments to legislation on patents have also been implemented to raise the quality of granted patents, provide greater certainty in patent rights and make more expedite the examination for patent registration. Some APEC economies are implementing Patent Prosecution Highways in which someone that obtained from a patent office a first-ruling that an application is patentable, may apply for fast-track the examination of those claims in patent offices of other parties. Some APEC members are also amending trademark legislation in order to conform to international trends and be part of international conventions.

In addition, APEC members share the concern of violations to IPR. In this regard, efforts are being implemented via tougher sanctions to infringements, organized raids and stricter law enforcement, among others. However, despite these efforts, it is perceived that there is still room for improvement.

### **Competition Policy**

In recent years, a significant number of APEC members have introduced or amended legislation to strengthen competition policy in their markets. In this sense, these measures aim to improve guidelines to review merger and acquisitions; to prevent and sanction the abuse of market dominant position; to fight deceptive marketing; to protect consumers and companies against price-fixing, discriminatory and predatory pricing; to implement hefty sanctions for those infringing the law; and to provide more powers to the competent authorities to investigate alleged anticompetitive behaviors; among others.

Many APEC economies also reported on the importance to maintain international cooperation at the bilateral level between competition agencies in order to benefit from information exchange and technical assistance. In this regard, competition authorities from some APEC members have reported the implementation of bilateral Anti-Trust Cooperation Agreements with similar counterparts.

### **Government Procurement**

APEC economies have reported increased efforts to increase transparency in government procurement. In this sense, relevant laws, bidding opportunities, guidance materials, qualification requirements and resolutions on protests and reconsiderations are becoming available online. Most of APEC members are currently using or in the process of implementing electronic tender and bidding systems, which allows sending documents through electronic means and saving time and costs. In some cases, some governments have also implemented electronic notification systems in which new public procurement opportunities are submitted immediately to companies to encourage them participating in this process.

Additional efforts to open government procurement markets to foreign companies have been reported, for example, by loosening the qualification criteria or by signing bilateral agreements on government procurement. In addition, the successful conclusion of the

negotiations to modernize the WTO Agreement on Government Procurement will increase market access opportunities for those APEC economies participating in it.

Nevertheless, restrictions still remain within APEC as some economies still keep restrictions on the origin of the goods/services and provide preferences to local suppliers.

### **Deregulation/Regulatory Reform**

APEC members share the views that reforms are important to tackle inefficient and costly regulation. Many APEC economies have been conducting regulatory reviews to identify unnecessary barriers and find ways to improve efficiency. Some APEC economies have institutionalized processes in which public institutions need to review regulations and their internal processes for these purposes. In other cases, changes to regulations and internal procedures can only be implemented after conducting a Regulatory Impact Assessment (RIA). Some APEC economies have created institutions to be in charge of deregulation and regulatory reform. These institutions usually assist other public entities in developing RIA, as well as in providing guidance to implement the necessary reforms.

Many APEC members have highlighted that the efforts in deregulation/regulatory reform are linked with their interest to ease doing business. In this way, it has been a common trend to simplify administrative procedures to reduce cost, time and procedures to start a business.

### **Dispute Mediation**

APEC economies have reported dispute mediation systems in place. Some economies introduced recently legislation concerning alternate dispute resolution courts. In other cases, changes to legislation concerning arbitration and legislation were made to make the system simpler.

APEC economies have also reported the implementation of systems based on international practices such as the New York Convention; the WTO Dispute Settlement Understanding; the UNCITRAL Model Law on International Commercial Arbitration; and the International Convention on the Settlement of Investment Disputes (ICSID). APEC economies also use dispute settlement mechanisms available in BITs and RTA/FTAs.

### **Mobility of Business People**

All APEC members are taking part of the APEC Business Travel Card (ABTC) system, albeit at different levels. 18 APEC members are fully implementing the APEC Business Travel Card (ABTC) system and the remaining three APEC members entered into the scheme as transitional members.

Several reported examples how improve the mobility of business people in the region are the improvement of the systems to approve the issuance of business visas, resident, work and re-entry permits in a shorter time span; granting visa exemptions to passport holders from certain economies; the introduction of schemes to attract investors by granting them permanent status if they commit investments above certain levels; and the facilities to highly-skilled professionals to reside. In addition, other reported measures to facilitate mobility of business people takes place in the border, by opening around the clock immigration checkpoints, expanding schemes for expedite checks for trusted travelers, business visitors or foreign permanent residents.

Some APEC members have also implemented RTA/FTAs with chapters on mobility of business people, which provides facilities for intra-corporate transfers, business visitors, investors and professionals.

### **Transparency**

Many APEC members have reported that all laws and regulations are published promptly and made available in the internet. In some cases, procedures and administrative rulings are also available. Government agencies are increasingly showing high standards in transparency by publishing all relevant information in their websites.

Some APEC members also mentioned that draft laws, proposals are also published in order to seek comments from interested parties. Public notices, hearings and consultations are part of the process to formulate new policies and review existing legislation.

### **RTA/FTAs**

Another way for APEC to make progress towards achieving the Bogor Goals of free and open trade and investment is through the implementation of RTA/FTAs. APEC members have been very active in negotiating and putting into force this kind of agreements. In fact, by the end of 2010, APEC economies had already implemented 103 RTA/FTAs. As at December 2011, APEC members had 110 RTA/FTAs implemented (44 of which were intra-APEC RTA/FTAs) and 129 RTA/FTAs signed (49 of which were intra-APEC RTA/FTAs).

## AUSTRALIA<sup>2</sup>

### Highlights of Achievements and Areas for Improvement

- Continued reduction in remaining tariffs on a unilateral MFN basis and through implementation of FTAs.
- Transparency in the application of anti-dumping measures has improved.
- While some economies have concerns in relation to Australia's sanitary and phytosanitary requirements, Australia has confirmed its SPS regime is science-based, transparent and consistent with international obligations.
- Trade facilitation efforts by improving inspection processes through the application of cargo risk assessment.
- Further liberalization of foreign investment. Thresholds were unified and adjusted every year to prevent screening from becoming more restrictive over time.
- Some local preference policies exist in government procurement, particularly in relation to the development of SMEs.
- Reforms are continuing in several areas, including competition policy, deregulation and simplification and intellectual property rights.

### Summary of Updates

#### Tariffs

From 2010, Australia has reduced MFN tariffs on passenger motor vehicles and components, footwear, carpets and certain fabrics and textiles from 10 percent to five percent. Australia reduced tariffs to zero on passenger motor vehicles imported from partners to the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) except for certain vehicles manufactured in Indonesia, Malaysia and Thailand, which are subject to tariff elimination at later dates. On the bilateral side, under the Thailand-Australia FTA, 529 tariff lines fell to zero on footwear, automotive components and carpets, and to five percent on apparel and certain finished textiles. Tariffs on passenger motor vehicles and some textile products from the United States went down to zero, whereas tariffs on carpets and some finished textile products fell to 3 percent and tariffs on apparel being reduced to 8 percent,

#### Non-Tariff Measures (NTMs)

When necessary, Australia adopts measures to protect public health, security and safety. Measures that may have a significant impact on trade are notified to WTO. Reforms are being implemented on Australia's quarantine and biosecurity arrangements, with key achievements including further strengthening the import risk analysis process; improving risk-based profiling and inspection processes at airports, mail centers and seaports; implementing improved export certification arrangements; enhancing offshore risk mitigation measures; among others.

Some concerns have been expressed in relation to Australia's strict sanitary and phytosanitary (SPS) requirements, including the lack of cost-benefit analysis and the need to bring the

<sup>2</sup> This brief report was prepared with information from Australia's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Australia's WTO Trade Policy Review from April 2011.

measures closer to international norms. However, Australia has reported that its SPS regime is consistent with international obligations, which state that SPS rules must be based on scientific measures appropriate to protecting the local economy and natural environment. Australian reforms to the SPS regime are consistent with the themes outlined in the 2008 independent review of Australia's biosecurity and quarantine arrangements.

In June 2011, Australia announced a package of reforms to Australia's anti-dumping regime to improve timeliness and transparency for all parties to anti-dumping investigations and to better align Australia's laws and practices with other WTO members. The first tranche of legislation implementing the amendments took effect in October 2011, introducing a time limit on the Minister's consideration of an investigation, which will result in earlier resolution of complaints. As at 31 January 2012, Australia had 27 anti-dumping and countervailing measures in place, applying to a relative narrow range of goods (covering nine products and 15 economies).

### **Services**

The Australian Government is conducting a strategic review of the student visa program to enhance the continued competitiveness of the international education sector.

In the telecommunications sector, the Australian Government is implementing a new high-speed National Broadband Network (NBN). The NBN will be Australia's first domestic, wholesale-only, open access broadband network offering equivalent terms and conditions to all access seekers or service providers. The NBN is being rolled out progressively over 9.5 years.

### **Investment**

Further liberalization of Australia's foreign investment regime took place in 2009-10. The lowest thresholds for private business investment was replaced with the new unified threshold, which is indexed on 1 January every year to keep pace with inflation and to prevent foreign screening from becoming more restrictive over time (AUD 244 million as at 1 January 2012). Australia also abolished the existing requirement that private investors notify proposals to establish a new business valued above AUD10 million.

### **Standards and Conformance**

Standards Australia has adopted a policy in which every standard, regardless of who develops it, must demonstrate positive net benefit to the community as a whole. Standards Australia continues his active involvement on international standardization activities. Of the total catalogue of Australian Standards approximately 38 percent of these are identical and aligned to international standards.

Australia is also involved in multilateral accreditation arrangements such as the Asian Pacific Laboratory Accreditation Cooperation (APLAC) and the International Laboratory Accreditation Cooperation. The National Association of Testing Authorities (NATA) is publishing "A Guide to using NATA Accreditation in Legislation, Regulation and Specification", which provides guidance on the accreditation system, both at the domestic and international levels, and explain the practical use of the APLAC Mutual Recognition Arrangement.

### **Customs Procedures**

Australian Customs and Border Protection Service continue to undertake research and evaluation activities to improve the efficiency and effectiveness of border management processes and interaction with industry. Outcomes of this work were published in a number of reports, such as Time Release Studies and Customs Industry Engagement and Analysis Project.

### **Intellectual Property Rights**

On 15 April 2012, the Intellectual Property Laws Amendment (Raising the Bar) Act 2012 received Royal Assent. The Act includes provisions to raise the quality of granted patents; give free access to patented inventions for regulatory approvals and research; reduce delays in resolution of a patent and trade mark applications; assist the operation of IP professionals; improve mechanisms for trade mark and copyright enforcement and simplify the system.

IP Australia is modernizing its customer communication channels and standardizing customer processing across different IPR under the Integrated Customer Service Delivery program. The new e-commerce channels (B2B and web eServices) will deliver increase customer data quality and convenient self-service capabilities that cater for the high-volume of service requests across trademarks, patents, designs and plant breeder's rights. IP Australia has also extended the search system for patents (AusPat) to encompass an eDossier so that customers can view (publicly available) patent documents in a way that suits them, as well as an electronic notification service to alert subscribers of any change to patent cases they have flagged as being of interest with AusPat eDossier.

The Australian Government is currently drafting legislation to implement the TRIPS Protocol. This would allow the manufacture and export of cheaper generic versions of patented medicines to address public health problems in eligible importing countries.

### **Competition Policy**

The *National Partnership Agreement to Deliver a Seamless National Economy* (SNE NP) by the Council of Australian Governments continues to deliver effective competition reform. Some examples of progress are found in energy distribution and retail businesses, infrastructure heavy vehicles, rail safety, and commercial vessel safety.

In 2011, the Parliament passed laws that amend the Competition and Consumer Act 2010 (CCA) to prohibit anti-competitive price signaling and information disclosures on classes of goods and services that are prescribed by regulations. Their application will be limited to the banking sector in the first instance. The new laws will take effect on 6 June 2012.

In 2011, the Parliament also passed laws that amend the CCA to clarify the operation of Australia's mergers and acquisitions provisions in relation to small scale acquisitions (referred to as 'creeping acquisitions'). These amendments took effect as of 6 February 2012.

### **Government Procurement**

In 2011, the Australia Government moved away from paper-based procurement policy guidance and published its guidance materials on the internet to improve transparency and accessibility.

As at April 2011, there was no single procurement policy in Australia. Australia is a federation and therefore Commonwealth, State and Territory governments are each responsible for establishing and maintaining their own procurement policy frameworks. There are some local preference policies remaining across the States and Territories, particularly in relation to promoting SMEs. The Commonwealth Government works with State and Territory governments to promote consistency in government procurement policies.

### **Deregulation/Regulatory Review**

The Australian Government is working with States and Territories on reducing the regulatory burden on business in areas of shared responsibility under the SNE NP. The aim is to improve efficiency and reduce the cost of regulation through the implementation of 27 deregulation priorities, eight areas of competition reform and improving regulatory processes. By end of 2011, 15 out of 27 deregulation priority reforms had been completed. The bulk of the remaining reforms are well advanced towards completion in December 2012. Full implementation of the reforms could lower business costs by more than AUD 4 billion per year.

Australia has also been eliminating unnecessary regulatory burdens under Better Regulation Ministerial Partnerships between the Minister for Finance and Deregulation and other portfolio Ministers. This initiative has helped to simplify processes and benefit consumers and businesses.

The Australian Government released a revised Best Practice Regulation Handbook in June 2010, covering a number of changes to the Regulation Impact Statement (RIS) requirements aimed at better balancing the rigor and practicality of the RIS process. On 13 December 2011, the Government announced an independent review of the Australian Government best practice regulation requirements.

### **Dispute Mediation**

Australia is currently a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) and the International Convention on the Settlement of Investment Disputes (ICSID). In addition, Australia provides investors with option to referring to the ICSID and provides for foreign awards to be enforced.

### **Mobility of Business People**

In Australia, the APEC Business Travel Card (ABTC) Scheme commenced permanent operations in March 1999, facilitating entry procedures for ABTC holders.

Although Australia's visa system is universal and no major changes since 2009, it puts in place five short stay business visitor visas to enable business people to visit Australia for business activities. In addition, Australia has other working visa schemes such as the Temporary Skilled Migration Program involving the 457 business visa, the Employer Nomination Scheme and the Regional Sponsored Migration Scheme.

### **Transparency**

Australia ensures that laws, regulations, and progressively, procedures and administrative rulings are promptly published or otherwise made available.

### **RTAs/FTAs**

The ASEAN-Australia-New Zealand FTA is now in force for all signatories. Amendments to the article on Rules of Origin and the related Product Specific Rules in the Australia New Zealand Close Economic Agreement (ANZCERTA) took effect on 1 September 2011.

Currently, Australia has six FTAs in force and it is negotiating nine FTAs at various levels of progress.



## BRUNEI DARUSSALAM<sup>3</sup>

### Highlights of Achievements and Areas for Improvement

- Tariffs are generally low, although some tariff peaks remain.
- Gradual openness in the telecommunications sector.
- In the air transportation sector, Brunei Darussalam offers a reciprocal open skies policy.
- However, there is a perception that additional efforts in terms of services liberalization need to be done.
- Concerns in terms that certifications and licensing requirements become more burdensome and trade-restrictive than necessary.
- No restrictions in terms of repatriation of capital, remittances of profits or royalties from investments.
- International standards are adopted when relevant.
- Amendments to legislations to streamline customs procedures.
- Brunei Darussalam enacted the Patents Order and became part of the Paris Convention for the Protection of Intellectual Property.
- Increased transparency needed as information on policies and guidelines in some areas are not available online.

### Summary of Updates

#### Tariffs

By 2008, tariffs in Brunei Darussalam were low in general, as zero-tariff lines were equivalent to 74.7 percent of all tariffs. Some tariff peaks remain, in particular in chemicals and cereals and preparations.

#### Non-Tariff Barriers

Some import prohibitions, restrictions and licensing requirements are kept for health, security, protection of wild life and moral reasons. However, there are some concerns that certifications and licensing requirements become more burdensome and trade-restrictive than necessary. Exports restrictions for few products remain to ensure the internal market with domestic supply.

#### Services

It is perceived that additional efforts in terms of the liberalization of the services sector need to be implemented. Nevertheless, in telecommunications, the market has been gradually opened and there is some competition in the mobile telephone and internet access sub-sectors.

In the air transport sector, Brunei Darussalam applies a reciprocal open skies policy to attract more foreign companies to fly to/from there.

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<sup>3</sup> This brief report was prepared with information from Brunei Darussalam's submission of 2012 APEC Individual Action Plan (IAP) template, IAP 2008 and the minutes of the meeting of Brunei Darussalam's WTO Trade Policy Review from February 2008.

## **Investment**

Foreign investment is generally open, except in some sectors in which the Government is the major provider such as mass media, post office, energy and utilities. Full majority or minority of foreign ownership is allowed depending on the type of activity. There are no restrictions in terms of repatriation of capital, remittances of profits or royalties from investments.

## **Standards & Conformance**

Brunei Darussalam adopts international standards when relevant, in particular taking as reference ISO and IEC standards. In terms of quality system certification/registration, Brunei Darussalam promotes the acceptance of the certificates issued by the bodies that have been accredited by the members of the Pacific Accreditation Cooperation. Conformance certificates and laboratory accreditations are accepted from Asia Pacific Laboratory Accreditation Cooperation (APLAC) Mutual Recognition Arrangement members.

Brunei Darussalam established the National Standards Council in December 2009, which is chaired by the Ministry of Industry and Primary Resources. This Council endorsed the National Standards Centre, as Brunei Darussalam's accreditation body in April 2010. The National Standards Act is currently being drafted.

## **Customs Procedures**

Brunei Darussalam has been amending legislations in order to streamline customs procedures and facilitate trade. The improvements include the upgrade of infrastructure in checkpoints; the provision for temporary importation of goods; the introduction of risk-management techniques and the implementation of clear appeals provisions; among others.

## **Intellectual Property Rights**

Brunei Darussalam is implementing legislation to protect IPR. In this regard, the Patents Order was put in force in January 2011. In addition, Brunei Darussalam acceded to the Paris Convention for the Protection of Intellectual Property in November 2011 and put it in force since February 2012.

## **Dispute Mediation**

For investor-state disputes, Brunei Darussalam is a Contracting State to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention).

The New York Convention has been incorporated to the laws of Brunei Darussalam. Any arbitrator awards made by virtue of an arbitration agreement in a state or territory outside Brunei Darussalam, which is a party of the New York Convention, shall be enforceable in Brunei Darussalam in the same manner as a judgment of a Brunei Court.

## **Transparency**

It is perceived that increased transparency is needed as information on policies and guidelines in some areas are not available online.

## **RTA/FTAs**

Brunei Darussalam has put in force eight RTA/FTAs with 16 partners around the world.

## CANADA<sup>4</sup>

### Highlights of Achievements and Areas for Improvement<sup>5</sup>

- Progress has been made in reducing tariffs.
- Investment thresholds for review have increased.
- For certain agricultural products, Canada uses tariff quotas under the supply management system to maintain predictable levels of imports. Canada ensures that its policies are in compliance with its WTO obligations.
- New initiatives undertaken to expedite customs procedures.
- New cooperation arrangements in standards and conformance have been made to facilitate trade.
- Reviews of laws to strengthen intellectual property rights and competition policy.
- Access to Canada's government procurement market is expanding through multilateral and bilateral agreements.

### Summary of Updates

#### Tariffs

Since 2009, the Canadian government has eliminated customs duties on more than 1,800 tariff lines. In particular, Canada is working unilaterally to eliminate tariffs in manufacturing inputs, machinery and equipment. By March 2010, the majority of the tariff lines in these sectors were eliminated and the remainder will be eliminated by 1 January 2015.

Further measures have been applied more recently. In October 2010, a new duty remission framework was instituted to reduce the cost of importing cargo vessels, tankers and large-sized ferry boats. Also, in November 2011, 70 tariffs on manufacturing items were eliminated.

Canada's existing policies in the supply managed sectors of dairy, poultry and eggs aim to provide consumers with a secure and stable supply of high-quality products. Canada ensures that its policies are in compliance with its WTO obligations. Canada maintains a transparent and predictable import regime for supply managed products through low with-access tariffs, administering its tariff rate quotas to maximize their fill rates.

#### Investment

New thresholds for review for WTO member investors or Canadian businesses controlled by a WTO member (other than Canadian) prior to its acquisition, must be determined and become effective on January 1 of each year. The calculation of the threshold is based on the growth of the Nominal Gross Domestic Product –published by Statistics Canada- and multiplied by the

<sup>4</sup> This brief report was prepared with information from Canada's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Canada's WTO Trade Policy Review from June 2011.

<sup>5</sup> Note by the Government of Canada: The Government of Canada has made significant progress during the past several years on meeting the Bogor Goals of free and open trade and investment in the Asia Pacific region. The government of Canada is undertaking a number of other initiatives as part of the largest pro-trade plan in the country's history and will continue to review policies and procedures that are barriers to trade and investment.

amount determined for the previous year. In this regard, the threshold for 2012 is CAD 330 million, an increase over the CAD 312 million threshold in 2011.

### **Standards and Conformance**

Canada's goal is to continue increasing the harmonization between new Canadian standards and those adopted by international organizations such as the International Organization for Standardization and the International Electrotechnical Commission, whenever appropriate. Canada through the Standards Council of Canada (SCC) maintained strategic participation in ISO and IEC technical committees.

The SCC signed a cooperation arrangement with the Mongolian Agency for Standards and Technology (MASM) and renewed its cooperation arrangement with the Standardization Administration of China (SAC). Also, SCC has continued its active involvement in a number of multilateral accreditation arrangements, including the International Accreditation Forum, the International Laboratory Accreditation Cooperation, and the Asia-Pacific Laboratory Accreditation Cooperation.

### **Customs Procedures**

In June 2010, the Canada Border Services Agency (CBSA) signed three Mutual Recognition Arrangements with customs organizations in Japan, Singapore and Korea, which allow customs administrations to work together and improve their capability to target high risk shipments while expediting legitimate cargo.

In 2011, the CBSA announced the introduction of the eManifest Portal to allow the trade community to electronically transmit pre-arrival information through the internet. The eManifest initiative is the third phase of the Advance Commercial Information (ACI) program. ACI phases 1 and 2 require air and marine carriers to submit pre-arrival cargo and conveyance information electronically, within advance time frames. When fully implemented, eManifest will require carriers, freight forwarders and importers in all modes of transportation (air, marine, highway and rail) to electronically transmit cargo, conveyance, house bill/supplementary cargo and importer data to the CBSA prior to loading in the marine mode and prior to arrival in the air, rail and highway modes. The eManifest Portal was developed primarily for small-to-medium sized enterprises to facilitate their compliance and ease the transition from paper reporting to pre-arrival electronic data transmission. The first version of the eManifest Portal is designed for highway carriers to submit pre-arrival cargo and conveyance data.

### **Intellectual Property Rights**

The Government of Canada is working to amend its copyright law. Bill C-11 the *Copyright Modernization Act* was introduced in the Parliament of Canada on 29 September 2011. Bill C-11 implements the rights and protections of the World Intellectual Property Organization Internet Treaties, which brings Canada in line with international standards. The Bill also gives copyright owners the tools to combat piracy; clarifies the roles and responsibilities of Internet service providers and search engines; encourages businesses to innovate; and provides greater flexibility for educators and students to use copyrighted materials for the purpose of education.

### **Competition Policy**

Between March 2009 and March 2010, amendments to the Competition Act entered into force. The changes in the Competition Act include reforms to the merger review process; amendments to the conspiracy provisions; introduction of financial penalties for abuse of dominance; higher penalties for deceptive marketing and for obstruction and non-compliance; and the repeal of various industry-specific and pricing practices provisions.

In addition, Canada has passed new anti-spam legislation which aims to deter spam and avoid other electronic threats. The new legislation includes a private right of action that will allow Canadian consumers and businesses to take civil action against those who violate the legislation. The legislation is expected to come into force sometime in 2013.

### **Government Procurement**

In December 2011, Canada welcomed the successful conclusion of negotiations in Geneva to modernize WTO's Agreement on Government Procurement (GPA).

In February 2010, the Canada – United States Agreement on Government Procurement was concluded, which included commitments at the sub-federal level for the first time. Canada now includes entities from two territories and all 10 provinces under its GPA commitments with respect to goods, services and suppliers from the United States. This coverage is being extended to most other GPA parties with the conclusion of the GPA negotiations, pending eventual ratification.

### **Mobility of Business People**

Canada's transitional membership for the APEC Business Travel Card (ABTC) has been extended until 2014. Canada facilitates border clearance of foreign ABTC holders through special service counters at eight major international airports. Canada is developing a plan to issue ABTCs to qualifying Canadian citizens in order to receive reciprocal border facilitated processing into the other APEC economies.

Currently, 55 economies are visa exempt to travel to Canada, including 10 APEC economies. Since 22 November 2010, holders of Chinese Taipei's ordinary passports that contain a personal identification number can qualify for visa exemption.

### **RTAs/FTAs**

Canada currently has seven FTAs with 11 economies in force, and three more FTA negotiations concluded. Canada is also engaged in ten ongoing negotiations at various levels of progress, including the recent launch of negotiations with Japan. In addition, Canada has 24 Foreign Investment Promotion and Protection Agreements in force and 11 under negotiations.

Among Canada's future plans, several initiatives are underway, including recently launched exploratory discussions toward a potential FTA with Thailand. In addition, Canada is consulting with Trans-Pacific Partnership members with a view to joining these negotiations at the earliest opportunity.

## CHILE<sup>6</sup>

### Highlights of Achievements and Areas for Improvement

- Network of FTA/RTAs is still expanding. Tariffs to goods from FTA/RTAs' partners are reduced through the trade liberalization schedules agreed in those agreements.
- No quantitative restrictions to imports. Only used motor vehicles are subject to import prohibitions. A surcharge of 50 percent of the applied tariff is charged to the importation of used goods.
- Efforts to facilitate trade by improving customs procedures.
- Chile's Intellectual Property Rights' system has been strengthened with modifications to existing laws and the adherence to multilateral treaties.
- Better access to government procurement market for micro and small enterprises.
- Open skies policy for air cargo and passengers services for domestic routes.

### Summary of Updates

#### Tariffs

A Preferential Trade Agreement with Turkey entered into force in March 2011, which allows most of the current trade flows between Chile and Turkey to be tariff-free immediately. Chile has also signed Free Trade Agreements with Malaysia, Nicaragua and Viet Nam that are expected to reduce and eliminate tariffs immediately after entering in force.

#### Non-Tariff Barriers

Chile does not apply market access restrictions, quantitative or national treatment restrictions. The exceptions are regarding the prohibition to import used motor vehicles and import used tires (the latter for health reasons). For the rest of used goods, a tariff surcharge of 50 percent of the applied tariff is charged.

#### Services

Chile signed new agreements on trade in services with China and Mercosur.

#### Standards and Conformance

Chile is strengthening the National Commission on Technical Barriers to Trade, which has provided a forum to express parties' concerns and expectations related to Chile's standardization agenda.

In 2010, Chile became a full member of the International Electrotechnical Commission. In addition, the National Normalization Institute signed Multilateral and Mutual Recognition Agreements with the Inter-American Accreditation Cooperation, International Laboratory Accreditation Cooperation and the International Accreditation Forum for the accreditation of several types of management systems and laboratories.

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<sup>6</sup> This brief report was prepared with information from Chile's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Chile's WTO Trade Policy Review from October 2009.

### **Customs Procedures**

Since 2009, the National Customs Service has been developing projects to accelerate the release of goods by allowing the electronic submission of documents. In addition, Chile is working to implement a single window initiative called the Integrated System for International Trade. A pilot program is expected to be operational by July 2012.

A pilot to establish the Authorized Economic Operator system is expected to be implemented during the second half of 2012.

### **Intellectual Property Rights**

Chile has been implementing measures to strengthen its IPR system. On the one hand, the existing Copyright Legislation was modified in 2010. On the other hand, Chile became part of the following multilateral treaties: 1) the Trademark Law Treaty; 2) the Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite; and 3) the Budapest Treaty on the International Recognition of Microorganisms for the Purposes of Patent Procedures.

In 2011, Chile also approved the latest version of the International Convention for the Protection of New Varieties of Plants. The legislation to implement this convention still needs to be approved by the Congress.

### **Competition Policy**

Chile's competition policy authority, National Economic Prosecutors Office (FNE), issued guides on "Trade Associations and Competition" and "Competition in Public Procurement" to promote competition. In addition, the FNE signed an agreement with U.S. antitrust agencies, which include provisions on cooperation, information exchange and technical assistance.

In addition, the Presidential Advisory Commission for the Defense of Free Competition was created recently. This Commission aims to propose improvements and adjustments to the competition policy legislation; to incorporate preventive measures to avoid abuse; to establish mechanisms to detect and sanction abuse with the hefty sanctions; and to eliminate entry barriers to markets and industries and create equal opportunities.

### **Government Procurement**

The Law 19,886 on Government Procurement was modified to facilitate access to micro and small enterprises to the public procurement market and reduced the level of bureaucracy.

### **Deregulation/Regulatory Reform**

In the air transport sector, the Chilean Government recently established an open skies policy for domestic routes, which mean that air transport services for cargo and passengers within Chile can be served by foreign companies as well.

### **Mobility of Business Persons**

Immigration services are being modernized to facilitate the application process for resident permits while being in Chile. In addition, the process to apply for resident visas has been

streamlined, as the Agreement of Interoperability with the Chilean Civil Police is facilitating access to a database to search for criminal records that visa residence applicants may have.

A similar plan is being implemented in missions overseas with regards to electronic consular immigration services.

### **RTA/FTAs**

Chile has put in force a comprehensive network of trade agreements covering more than 50 economies around the world. The FTA with Malaysia is the most recent one and entered into force in April 2012. Currently, Chile has reported the negotiation of four FTAs at different levels of progress.



## CHINA<sup>7</sup>

### Highlights of Achievements and Areas for Improvement

- Tariffs in five items were reduced or eliminated unilaterally on 1 January 2010. Tariff reductions are also being implemented as result of bilateral trade agreements.
- Perception that certain distortions related to the export regime have not fallen at the same pace as those related to the import regime.
- Reforms are being widely implemented. For instance, measures to reduce restrictions or facilitate economic activities are seen in many services sectors.
- The threshold of foreign investment projects requiring central government approval was raised to USD 300 million for the ‘encouraged’ & ‘permitted’ categories.
- 68 percent of China’s standards are aligned with international standards. China is participating actively in international standardization activities.
- Concerns related to the process, cost and time to obtain the Compulsory Certification Scheme in order to sell certain products in China’s domestic market.
- China is building a Modern Customs Comprehensive Management system in its efforts to achieve paperless trading. Also, China is adopting risk management techniques to improve the Customs Control System and facilitate trade.
- Improving regulations in areas such as government procurement, intellectual property rights and competition policy. Progress in the implementation and enforcement of regulations. Increased transparency.
- However, some concerns remain related to initiatives in government procurement framework to encourage buying local products.

### Summary of Updates

#### Tariff

China reduced MFN tariffs on five tariff lines on 1 January 2010 and China applied tariff quotas on eight imported goods (45 HS 8-digit tariff lines).

China’s progress in reducing tariffs is largely under tariff schedules of eleven Free Trade Agreements in force comprising several economies. In addition, China unilaterally applies special preferential tariff rates on certain products originated from 41 Least Developed Economies, under which 4788 tariff lines (HS 8-digit level) enjoyed a zero-tariff rate in 2011.

#### Non-Tariff Measures

Since 2010, due to concerns on public health, security and safety, as well as environmental sustainability, used mechanical and electronic products and ozone layer depleting substance are subject to import licensing.

<sup>7</sup> This brief report was prepared with information from China’s submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of China’s WTO Trade Policy Review from May 2010.

It is perceived that certain aspects of the export regime, such as restrictions, licensing, quotas, export taxes and partial tax rebates have not been reduced or eliminated at the same pace as those for imports.

### **Services**

In general, China has made substantial progress in the liberalization of services sectors, by having already liberalized more than 100 services sectors on a unilateral basis. The current depth of services liberalization in China goes further than its services commitments in WTO.

China has further liberalized financial services. Since 2009, foreign-funded corporate banks are allowed to underwrite the financial bonds issued in the inter-bank bond market; issue financial bonds in the inter-bank bond market in China; and issue financial bonds in Renminbi in Hong Kong, China. In addition, China promulgated measures on 1 October 2011 to facilitate insurers to exit from the market. New regulations related to securities were issued to allow certain financial activities/products and protect investors.

Regarding other sectors, 25 applications had been granted operating licenses for telecommunications services by the end of November 2011. In audiovisual services, China reported that the procedures of examination and approval for foreign investment in film industry have been streamlined since 2011. In health-related and social services, 10 Sino-foreign joint venture medical institutions have been approved since 25 January 2011 by provincial health departments. In tourism services, three pilot travel agencies have been allowed to operate the outbound travel business in China. Finally, in the legal sector, foreign law firms have obtained licenses for establishing representative offices.

### **Investment**

The threshold of foreign investment projects requiring central government approval was raised to USD 300 million under the ‘encouraged’ & ‘permitted’ categories from the Catalogue for Guidance of Foreign Investment Industries. The Central Government has delegated the approval right on foreign investments to local level in most of service sectors except financial sector and telecommunication sector. An online licensing and administration system was set up to streamline the approval process of foreign investment.

To further promote foreign investment, China now allows foreign investors to invest offshore with Renminbi and facilitates re-investment of foreign investment companies. In 2011, China promulgated the Regulation on National Security Review Relating to Mergers & Acquisitions by Foreign Investors and revised the Catalogue for the Guidance of Foreign Investment Industries, which aimed at improving understanding and transparency of investment regulation policies.

### **Standards and Conformance**

68% of China’s standards are aligned with international standards. China participates actively in international standardization activities at international bodies, such as the International Electrotechnical Commission and the International Organization for Standardization, and became Category A member of the IEC in October 2011, which is given to members that participate actively and make effective contributions to the work in technical committees and subcommittees.

In 2011, China notified 73 domestic mandatory standards to WTO Technical Barriers to Trade Committee, and two Administrative Measures on Certification Bodies and on Registration of Overseas Manufacturer of Import Food. To increase transparency of standards and conformance requirement, China has developed the electronic reading system of Chinese National Mandatory Standards to make easy search for and improve understanding of the domestic standards.

Some concerns remain with regards to the process, cost and time to obtain the Compulsory Certification (CCC) to sell certain products in the domestic market. For example, the scheme generally does not accept third-party testing results and testing is usually required in authorized laboratories in China.

### **Customs Procedures**

China reconstructed the official customs website to improve public availability of customs information. To achieve paperless trading, China is developing a Modern Comprehensive Management system (H2010), which uses information technology to upgrade the Customs system. Pre-arrival electronic declaration was effective on 1 January 2009. In addition, China Customs further implemented the Integrated Clearance Project and the E-port Project, which is expected to become a “single window” in the future.

China has also started to build an effective Holistic Customs Control System focusing on risk management techniques and integrated functions. Moreover, the China is revising the regulation on the Authorized Economic Operators (AEO) and upgrading the integrated enterprise information management system to facilitate global trade. China Customs is working together with other counterparts to promote the mutual recognition of AEO.

China is implementing a number of international agreements and conventions, such as the WTO Valuation Agreement, the General and a specific Annex of the Kyoto Convention, among others.

### **Intellectual Property Rights**

China is fighting actively against IPR infringement and counterfeiting, through special operations and investigations. To further improve the enforcement of IPR protection, the State Council established the leading group against IPR infringement and counterfeiting in November 2011, in order to further improve the enforcement of IPR protection. In addition, the Supreme Court promulgated the Advance on Several Issues on Application of Law on the Trial of Cases related to Infringements of Intellectual Property Rights on 10 January 2011 to provide guidance on new cases and situations of IPR infringement.

On 1 April 2010, the Patent Law of China was amended and implemented, as well as amendments of the Regulations on Customs Protection of Intellectual Property Rights. The Chinese Government also recognizes the importance of protecting intangible cultural heritage, and on 1 June 2011, the Intangible Cultural Heritage Law was put into force.

### **Competition Policy**

China has recently issued regulation to enhance the operability of the Anti-Monopoly Law and the predictability, certainty and transparency of the competition policy system. New regulations include the Provisions on Prohibition of Monopoly Agreements, the Provisions on Prohibition of

Abuse of Dominant Market Position, and the Provisions on Prohibition of Abuse of Administrative Power to Eliminate or Restrict Competition and the Provisions on Anti-Pricing Monopoly, among others. In addition, China is actively enhancing international cooperation in competition policy-related areas with several economies around the world.

### **Government Procurement**

Since October 2010, China has taken measures in five areas: value for money, open and effective competition, fair dealing, accountability and non-discrimination. Some examples of the specific measures implemented are the following: to strictly review the government procurement budget; to initiate the government procurement planning compilation system; to strengthen the management of the government procurement plans; to standardize the bid evaluation procedures; to encourage competition by using competitive procurement methods; to streamline procedures for application and approval; and to strengthen the management of procurement documents and contracts; among others.

Although China is still in the negotiation process to accede to GPA, the Government Procurement Law ensures that the products of foreign capital enterprises in China are treated equally as products of Chinese enterprises. However, there are some concerns on initiatives related the government procurement framework that encourages buying local products.

### **Mobility of Business People**

As a full-member of APEC Business Travel Card scheme, China has processed around 186,000 foreign applications and 9,761 local applications to date.

From 1 January 2012, foreigners holding Chinese permanent residence permits and foreign crew members are exempted from filling out the arrival and departure card when entering or exiting China. Besides above, China started to provide around-the-clock immigration inspection services at seaports, and introduced online pre-declaration and pre-check system for exit-entry vessels since 2009.

### **Transparency**

Transparency was improved on government procurement and IPR. New laws and regulations are published timely by media or available at the internet. Public consultation channels were established to object government procurement process that may not have met the requirements. Public consultation was conducted on draft laws in the revision of IPR-related legislation, such as the Patent Law, the Copyright Law and the Regulation of Customs Protection of Intellectual Property Rights. Since 1998, China has published the White Paper on the Intellectual Property Protection every year.

### **RTAs/FTAs**

China currently has nine FTAs in force, being those with Chinese Taipei and Costa Rica the most recent ones to be in force (September 2010 and August 2011). China put into force an agreement on investment with the ASEAN Free Trade Area in July 2010 and an agreement on trade in services with Chile in August 2010. China is currently negotiating FTAs with Gulf Cooperation Council, Australia, Iceland, Norway, and Switzerland, at various levels of progress.

## HONG KONG, CHINA<sup>8</sup>

### Highlights of Achievements and Areas for Improvement

- Hong Kong, China does not apply tariffs on imports, nor impose non-tariff barriers to protect domestic industries.
- Hong Kong, China maintains a liberal, transparent and open regime for trade in services and investment regimes.
- International standards have been adopted as far as possible.
- Various sophisticated systems have been put in place to enhance customs operations and adopt systematized risk management techniques.
- The Competition Bill was introduced into the Legislative Council for scrutiny in July 2010. Efforts are underway to enact the Bill within the 2011-12 legislative year.
- The e-Tender Box replaced the Electronic Tendering System to improve efficiency of government procurement.
- The procurement system is under continuous review with a view to further liberalizing the government procurement regime and improving the transparency of tendering procedures.
- The new Arbitration Ordinance came into operation on 1 June 2011, establishing a unitary regime for arbitration.

### Summary of Updates

#### Tariffs

Hong Kong, China applies no tariffs on imports; and binds tariffs on 3,161 tariff lines (about 44.65% of all lines) at zero on a MFN basis in 2011, accounting for 66% of imports in 2010 value terms. Wood, Pulp, Paper and Furniture; and Metals are the sectors with the highest percentage of zero bound tariff lines.

The Hong Kong, China- New Zealand Closer Economic Partnership Agreement came into force on 1 January 2011. In accordance with the Agreement, Hong Kong, China bound the provision of tariff free access to all New Zealand originating products.

#### Non-Tariff Measures

Hong Kong, China does not impose any quantitative restrictions or maintain non-tariff measures for the protection of domestic industries. Hong Kong, China only maintains those non-tariff measures that are required to protect public health, safety, security and the environment, and to fulfill obligations under international agreements, and these measures are under constant review with the objective of facilitating trade as far as possible. For example, all textiles imports from the non-sensitive markets are exempted from import licensing requirements from May 2011.

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<sup>8</sup> This brief report was prepared with information from Hong Kong, China's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Hong Kong, China's WTO Trade Policy Review from December 2010.

For example, Hong Kong, China controls the imports and exports of genetically modified organisms in accordance with the Cartagena Protocol on Biosafety to the Convention of Biological Diversity. Similarly, Hong Kong, China requires licenses for import and export of certain controlled chemicals to fulfill international obligations under the United Nations Convention Against Illicit Traffic and Narcotic Drugs and Psychotropic Substances.

### **Services**

Hong Kong, China maintains a liberal regime for trade in services. Most service sectors are free and open, and foreign service providers and traders normally enjoy national treatment.

Among recent measures, Hong Kong, China and China agreed in November 2010 on the mutual recognition of professional qualifications of estate agents from 2011 to 2015. Also, as part of the Hong Kong, China – New Zealand Closer Economic Partnership Agreement, Hong Kong, China made broad bilateral services commitments that in general go beyond its current commitments in GATS and its offer in the negotiations under the Doha Development Agenda.

### **Investment**

Hong Kong, China maintains one of the most liberal, open and transparent investment regimes in the world. There are no restrictions on foreign exchange transaction, repatriation of capital and returns related to foreign investment. Hong Kong, China signed 17 Investment Promotion and Protection Agreements as at December 2011. In addition, Hong Kong, China has signed a Free Trade Agreement with the Member States of the European Free Trade Association (EFTA) that grants national treatment to investors from the other signatories but it has yet to come into force.

### **Standards and Conformance**

Hong Kong, China adopts international standards as far as possible, including ISO and IEC standards. Hong Kong, China achieved 100% alignment of the 28 target standards established in APEC Voluntary Action Plan in the fields of product safety, electrical equipment and assistive products.

Regarding telecommunications equipment, Hong Kong, China is expanding the recognition of testing laboratories and certification bodies overseas, as well as designating similar local entities for recognition in overseas markets. Hong Kong, China has recognized 14 testing laboratories as conformity assessment bodies (CAB) and has designated seven CAB so far. In addition, Hong Kong, China has recognized three Certification Bodies (CBs) and has designated one CB as CAB.

In 2011, the Hong Kong Accreditation Service extended the multilateral arrangements with both the Pacific Accreditation Cooperation and the International Accreditation Forum to cover environmental management system certification as well as product certification, in addition to the existing quality management system certification.

### **Customs Procedures**

Hong Kong, China has been implementing initiatives to streamline customs clearance procedures. In this respect, the Hong Kong Customs has taken the following measures: -

- (i) launched the Road Cargo System (ROCARS) on 17 May 2010, which became mandatory in November 2011, to allow registered shippers or authorized agents to submit advance road cargo information to Customs by electronic means for risk profiling and cargo clearance;
- (ii) implemented the Hong Kong AEO Pilot Programme in June 2010 to enhance Customs-Business partnership in facilitating global trade and in making global trade more secure; and
- (iii) revamped the Air Cargo Clearance System in December 2010 to facilitate the exchange of air cargo information between Customs and cargo operators.

### **Intellectual Property Rights**

The Intellectual Property Department publicizes a wide range of information on its website concerning copyrights, trademarks, patents and designs and other intellectual property rights (IPR). Hong Kong, China is putting in place a new enforcement strategy against IPR infringements, which includes intercepting pirated and counterfeit goods at source, organizing raids, prosecuting offenders, seeking enhanced sentences or penalties, utilizing new technologies to tackle infringements on the internet, among others.

To prevent abuses of Hong Kong, China's company name registration system, the Registrar of Companies got new powers from December 2010 to enhance enforcement against the registration of "shadow companies", which seeks to take advantage of having very similar names to registered trademarks or trade names of other companies.

### **Competition Policy**

Hong Kong, China introduced the Competition Bill to the Legislative Council for scrutiny in July 2010 and is striving for the enactment of the Bill within the 2011-12 legislative year. The draft cross-sector law seeks to ensure a level-playing field in the market by prohibiting and sanctioning anti-competitive conduct.

### **Government Procurement**

Hong Kong, China launched the e-Tender Box in 2010 to replace the Electronic Tendering System to allow for downloading of tender documents from and submission of tender offers through the internet for all types of tenders issued by the Government Logistics Department.

The procurement system is under continuous review with a view to further liberalizing the government procurement regime and improving the transparency of tendering procedures.

### **Deregulation/ Regulatory Review**

Hong Kong, China is making progress in cutting red tape, removing unnecessary regulatory barriers and improving regulatory efficiency by conducting sector-specific and license-specific regulatory reviews under its business facilitation program in partnership with the business community through entities such as the Business Facilitation Advisory Committee and its Task Forces.

### **Dispute Mediation**

The new Arbitration Ordinance came into operation on 1 June 2011, establishing a unitary regime for arbitration in Hong Kong, China, abolishing the distinction between the domestic arbitration regime and international arbitration regime under the repealed Arbitration Ordinance.

The Mediation Bill had its First Reading in the Legislative Council on 30 November 2011. The Bill seeks to provide a regulatory framework in respect of certain aspects of the conduct of mediation, to promote a wider use of mediation and to establish Hong Kong, China as an international alternative dispute resolution center.

### **Mobility of Business People**

Hong Kong, China has been an active participant of the APEC Business Travel Card (ABTC) Scheme since 1998. Hong Kong, China installed a new ABTC system in December 2011 to improve efficiency and effectiveness.

Hong Kong, China has extended the period of stay from seven days to 30 days for visitors from Chinese Taipei holding Mainland Travel Permit for Taiwan Residents, and the self-service immigration clearance (e-Channel) was also extended to a broader group of visitors. In addition, applications for intra-corporate transfer of senior managers or specialists in 10 specified sectors and applications for installers or servicers in the business and environmental services from New Zealand nationals and permanent residents have been streamlined in January 2011.

### **RTAs/FTAs**

Hong Kong, China currently has signed three FTAs with two of them currently in force (China and New Zealand). Hong Kong, China is also negotiating an FTA with Chile.

## INDONESIA<sup>9</sup>

### Highlights of Achievements and Areas for Improvement

- Most of the tariff lines are below 10 percent. Applied tariffs have decreased in recent years.
- However, MFN tariff peaks for some agricultural products above 50 percent still remain.
- Permits or licenses still needed to import several goods. Some imports can only be processed at certain ports of destination.
- Efforts in services liberalization across many sectors. More flexibility in the participation of foreign companies in certain services sectors.
- Getting permits, licenses and investment procedures were simplified in recent years,
- 45 percent of standards approved in 2011 were aligned with international standards.
- Concerning intellectual property, patent transfers have to be registered in the General List within 30 days from the time the applicant completes the required documentation.
- Efforts to increase transparency in government procurement. Every ministry should announce its procurement on centralized government procurement website, and government sector agencies are obliged to implement the Electronic Procurement (e-Procurement) by 2012 and to set up permanent Procurement Service Units by 2014.
- Indonesia has issued a Master Plan for the Acceleration and Expansion of Economic Development of Indonesia 2011-2025 in 2011, which includes the implementation of bureaucratic, regulatory and economic reforms in many sectors.
- New measures are put in place to grant Permanent Stay Permit to foreign investors. Visa on Arrival is granted to passport holders from 65 economies.

### Summary of Updates

#### Tariffs

Applied tariffs have decreased in recent years. 81.5 percent of the tariff lines at the HS 10-digit level had tariffs between zero and 10 percent in 2009 and the simple average tariff at the same HS level reached 7.64 percent. Indonesia has also committed to reduce tariffs according to the liberalization schedules in its Free Trade Agreements (FTAs).

However, MFN tariff peaks for some agricultural products above 50 percent still remain.

#### Non-Tariff Measures

Additional flexibility has been introduced in the import of used capital goods. From January 2012, the number of used capital goods that can be imported went up from 288 to 306. However, some recent regulations seem to move in the opposite direction. For example, regulations were put in place in 2012 to allow only registered importers or producers to import certain goods such as iron and steel, food and beverages products, traditional medicine and herbal products, cosmetic products, garment, footwear, electronics and children's toys, tires and sodium

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<sup>9</sup> This brief report was prepared with information from Indonesia's submission of 2012 APEC Individual Action Plan (IAP) template.

tripolyphosphate. In addition, these regulations mentioned that these imports could only be processed in specific ports of destination.

Some measures have been justified under legitimate reasons, such as cultural grounds (procurement, distribution, sales, supervision and control of alcoholic beverages) and concerns on the environment and public health (procurement, distribution and control of hazardous materials; and the Import Provision of Ozone Depleting Substance).

### **Services**

In recent years, liberalization took place in many services sectors. For example, foreign companies with a minimum amount of capital of five billion IDR are now allowed in distribution services. Foreign equity participation in telecommunications, postal and express delivery is allowed up to 49 percent. Foreign Accountants could provide services in Indonesia by joining a local accounting firm, subject to the firm meeting particular ratios of foreign versus domestic employees and the existence of a bilateral Mutual Recognition Agreement (MRA). Foreign investors may purchase up to 100 percent shares of publicly held Securities Company in both primary and secondary markets.

In 2010, Indonesia also allowed foreign participation up to 49 percent in four audiovisual services sub-sectors, as well as land freight, air passenger transportation, computer reservation system for air transport and certain sub-sectors in tourism, recreation and entertainment.

In terms of air transportation, Indonesia also ratified protocols of the ASEAN Multilateral Agreement on Air Services regarding unlimited third, fourth and fifth freedom traffic rights within ASEAN.

### **Investment**

Indonesia has developed several regulations to facilitate investment. For example, Special Economic Zones receive fiscal incentives such as corporate tax allowance, import tax holidays, excise tax exemptions, and exemptions for value added tax and sales tax for luxury items and import income tax. In general, regulations and application procedures on tax exemption or reduction were put in place in 2011, which allows exemptions for corporate income tax from five to ten years, following certain requirements. Also, income tax allowances incentives were granted for high-priority business.

Getting permits and investment procedures were simplified. Retribution as requirement to obtain trade business licenses was removed. Collateral as requirement for foreign trading companies to obtain business licenses was also removed. In this context, Indonesia is also refining the implementation of a one-stop shop, including services for obtaining investment licenses, as well as non-license services.

### **Standards and Conformance**

As of December 2011, there are 7,469 standards (7,222 voluntary standards and 247 mandatory standards) approved as National Standards of Indonesia. For the year 2011 alone, 500 standards were approved by Indonesian Government, among which 225 standards (45 percent of them) were harmonized with international standards. Indonesia is in the process of developing a program to align domestic standards to international standards.

Indonesia has given accreditation to various certification bodies and testing bodies; as of September 2011, Indonesia accredited 138 calibration laboratories, 560 testing laboratories, 26 inspection bodies, 22 medical laboratories, 31 product certification bodies, among others. Moreover, Indonesia is actively participating in international fora in accordance with international standards formulation process, such as the Codex Committees on Food Additives, Contaminants in Food and Food Labeling, the Codex Alimentarius Commission, among others.

### **Customs Procedures**

Indonesia has conducted capacity building activities in cooperation with other customs administrations regarding the implementation of an Authorized Economic Operator (AEO) Program.

### **Intellectual Property Rights**

In 2010, it was established that the Directorate General of Intellectual Property shall register the patent transfers in the General List within 30 days from the time the applicant completes the submission of the required documentation.

### **Competition Policy**

In the period of 2010 – 2011, Commission for the Supervision of Business Competition (KPPU) issued 43 regulations and nine guidelines aimed at implementing laws concerning the improvement of transparency and understanding of the law, discriminatory practices, price fixing, exclusive dealing, predatory pricing, ownership sharing, re-sale price maintenance, exclusion of SMEs, merger and acquisition procedures, and monopoly practices.

### **Government Procurement**

Under Presidential Regulation No.54/2010, from 2011, every ministry should announce its procurement on centralized government procurement website. Furthermore, government sector agencies are obliged to implement the Electronic Procurement (e-Procurement) by 2012 and to set up permanent Procurement Service Units by 2014. The Regulation also provides more opportunity to SMEs to participate in government procurement, with SME being given priority for procurement valued below 2.5 billion INR.

### **Deregulation/ Regulatory Review**

Indonesia issued a Master Plan for the Acceleration and Expansion of Economic Development of Indonesia 2011-2025 in 2011. The Plan provides building blocks to transform Indonesia into one of the 10 major economies in the world by 2025 and includes the implementation of bureaucratic, regulatory and economic reforms in many sectors.

### **Implementation of WTO Obligations/ ROOs**

In December 2011, Indonesia notified its acceptance to the Protocol Amending the TRIPS Agreement to the WTO Secretariat.

### **Mobility of Business People**

Indonesia has established a new Immigration Law in May 2011 that facilitates the obtaining of Permanent Stay Permits for foreign investors. Now, foreign investors can obtain those permits

after having Temporary Stay Permits for three years in a row. Previously, five years were required. In addition, the Permanent Stay Permits are now valid for five years and can be extended on an unlimited basis.

Currently, Visa on Arrival is granted to 65 economies. In 2011, visa exemptions for short visits were granted to passport holders of Cambodia, Laos and Myanmar.

#### **RTAs/FTAs**

So far, Indonesia has signed trade agreements with ASEAN; China; Japan; Korea; Australia-New Zealand and India.

## JAPAN<sup>10</sup>

### Highlights of Achievements and Areas for Improvement

- Tariffs in 30 items were reduced/ eliminated between 2011 and 2012.
- Most of the tariffs are low. Nevertheless, some products are subject to high tariff peaks, quotas or state trading. For example, some agricultural products, leather products and footwear, among others.
- Reforms in immigration and visa system to attract high-skilled foreign professionals in an effort to contribute to economic growth.
- While some economies have concerns in relation to Japan's sanitary and phytosanitary requirements and technical regulations and standards, Japan has confirmed its regimes are science-based, transparent and consistent with international standards.
- Mutual Recognition Arrangements on Authorized Economic Operators have been signed to facilitate clearance of goods trade.
- Efforts to grant patents in a more expedite manner. Signature of the Anti-Counterfeit Trade Agreement to assist Japan to fight against counterfeit and pirated goods.
- Access to Japan's government procurement market is expanding through the WTO Government Procurement Agreement.

### Summary of Updates

#### Tariffs

In 2011 and 2012, tariffs for 30 items, two of them corresponding to the agricultural sector and 28 items corresponding to the non-agricultural sector were reduced or eliminated. Some examples are ginger and other plants used in pharmacy, embroidery, co-axial cables, among others. Most of Japan's tariffs are low. Nevertheless, some agricultural products, leather products and footwear are subject to high tariff peaks (some of them, concealed by non-ad valorem rates), quotas and/or state trading.

#### Services

Japan is looking to attract highly-skilled foreign professionals to contribute with Japan's economic growth and create positive spillovers in terms of increasing domestic demand and employment. In this way, the Ministry of Justice announced in 2011 the introduction of preferential immigration control measures based on a points system that takes into account criteria such as academic, professional background and salary. This system started in May 2012. Japan also expects to enforce a new system of residence management from July 2012, which includes the extension of the maximum period of stay from three to five years.

#### Investment

Japan's current position is to accelerate negotiations on Bilateral Investment Treaties (BIT) to protect and promote Japanese companies overseas. Following this approach, Japan signed two Bilateral Investment Treaties with Papua New Guinea and Colombia in 2011.

<sup>10</sup> This brief report was prepared with information from Japan's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Japan's WTO Trade Policy Review from February 2011.

Initiatives such as the “Program for Promoting Japan as an Asian Business Center and Direct Investment into Japan” and “The Strategy for Rebirth of Japan” were released in 2011 with the aim of assisting Japan to implement institutional reforms to ensure an attractive environment for foreign businesses, increase its competitiveness and duplicate the level of inward foreign direct investment by 2020

### **Standards and Conformance**

Japan has reported participating actively in standardization organizations such as the International Organization for Standardization and the International Electrotechnical Commission. The work to harmonize standards and discuss conformity assessment issues is also present at the regional level with the ASEAN Consultative Committee on Standards and Quality, as well at the bilateral level (for example, meetings with counterparts within the framework of the Economic Partnership Agreements signed by Japan).

Some concerns have been expressed in relation to Japan’s strict sanitary and phytosanitary (SPS) requirements and technical regulations, in particular in terms of the complexity of its systems and the appropriateness of risk assessment practices regarding SPS measures. However, Japan has reported that its regimes and risk assessment practices are consistent with international standards and science-based.

### **Customs Procedures**

Japan Customs has been making good progress in the development of Authorized Economic Operators (AEO) program. The program is aimed to facilitate customs procedures for economic operators meeting certain security and compliance standards. In addition to that, Japan is developing partnerships with overseas AEO programs. In 2011, Japan Customs signed Mutual Recognition Arrangements of AEO programs with Korea and Singapore.

### **Intellectual Property Rights (IPR)**

The Japan Patent Office has started Patent Prosecution Highway (PPH) programs with counterparts in several APEC economies to grant IPR faster and more efficiently. The PPH programs allow applicants who receive from a patent office a first ruling concerning that a claim in an application is patentable, may request to fast-track the examination of those claims in applications done in the office of the other party.

Japan participated in the negotiations of the Anti-Counterfeit Trade Agreement (ACTA) that were successfully concluded between several counterparts around the world. The agreement was signed by Japan in October 2011 and is in the process of approval by the Diet. This agreement will assist Japan in its efforts to combat the infringement of IPRs, in particular the proliferation of counterfeit and pirated goods.

### **Competition Policy**

The bill to amend the Antimonopoly Act to abolish the Japan Fair Trade Commission’s (JFTC’s) hearing procedure for administrative appeal was submitted to the Diet for deliberations in 2010 and includes proposals such as implementing a system in which appealing suits to cease and desist orders/surcharge payment orders shall be subject to the jurisdiction to Tokyo District

Court to ensure the expertise of the court and judgments made by a panel of three to five judges. In addition, the bill proposes the development of provisions to provide the recipients with the explanation of the content of anticipated cease and desist orders/surcharge payment orders, give the opportunity to the recipients to present opinions and offer evidence, among others.

In 2011, the JFTC also reviewed business combination regulations (investigation procedures and criteria) to further improve the swiftness, transparency and predictability of business combination investigations, while enhancing international conformity.

### **Government Procurement**

Japan welcomed the successful conclusion of negotiations in December 2011 to modernize WTO's Agreement on Government Procurement (GPA). With the entry into force of GPA, the coverage of the agreement for Japan will be expanded.

### **Deregulation/Regulatory Review**

To investigate and deliberate on existing regulations and institutions, the Subcommittee on Regulatory and Institutional Reform was established under the Government Revitalization Unit in March 2010. Among their duties, the Subcommittee is making efforts to conduct regulatory and institutional reforms to assist the government to rebuild areas of Japan affected by the Great East Japan Earthquake.

### **Mobility of Business People**

Since November 2011, Japan has improved its informational networking system to shorten the visa issuing process. This includes the short term business visit visa.

### **RTAs/FTAs**

So far, Japan has signed and implemented 13 Economic Partnership Agreements (EPA). In addition, Japan is currently negotiating an EPA with Australia. Japan has entered into consultations toward participating in the TPP negotiations with the countries concerned.



## KOREA<sup>11</sup>

### Highlights of Achievements and Areas for Improvement

- Tariffs remain relatively high in the agriculture sector. Average tariffs are around eight times higher than non-agriculture products.
- Korea is building an extensive FTA network. Korea's commitments in services are beyond those under GATS.
- Only 29 sectors among 1,083 business sectors are fully or partially restricted to foreign investors. Some audiovisual services have experienced more openness recently.
- Korea actively participates in international standardization activities and is continuing to align its domestic standards to international standards.
- The implementation of a Single Window System is making customs procedures more efficient.
- Reforms in the systems of Intellectual Property Rights and Competition Policy were implemented to strengthen laws.
- Korea is simplifying its regulation system. For example, licensing regulation methods follow a negative approach now (only list those activities which do not need a license).

### Summary of Updates

#### Tariffs

Korea reported that its MFN applied tariff single average was equal to 12.1 percent and its tariff average based on import tariff revenue reached 2.2 percent for year 2009.

However, tariffs remain relatively high, especially in the agriculture sector. Average tariffs in agriculture are around eight times higher than non-agriculture products. Tariff rate quotas are provided for the imports of some agricultural products.

#### Non-Tariff Measures

Currently, in compliance with domestic legislation or international agreements, technical regulations and sanitary and quarantine measures are in place to protect national security, human health, hygiene and sanitation, animal or plant life, and environmental conservation or essential security interests.

#### Services

In recent years, Korea has created a network of RTA/FTAs with many partners around the world, under which Korea is undertaking deeper commitments in many sectors concerning market access and national treatment than those under GATS.

As part of the efforts to improve transparency in services, proposals for policy changes related to services are published through various procedures such as a pre-announcement of legislation and public notifications.

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<sup>11</sup> This brief report was prepared with information from Korea's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Korea's WTO Trade Policy Review from October 2008.

## **Investment**

Korea's investment regime is neither subject to performance requirements on foreign investors nor restrictions on transfers of capital. Only 29 sectors among 1,083 business sectors were fully or partially restricted to foreign investors as at 2009. The Amendment of the Broadcasting Law in 2010 permitted foreign investment in general service and news-reporting channels, as well as raised the proportion of foreign investment allowed in satellite broadcasting business. The Amendment of the Law on Promotion of Foreign Investment 2010 removed the requirement for minimum amount of investment.

To improve the transparency in investments, the Consolidated Public Notice for FDI (in English) is released annually, covering the restrictions on foreign investments other than those stipulated by Foreign Investment Promotion Act 2009. As of January 2012, Korea has Bilateral Investment Treaties (BITs) with 92 economies, with 86 BITs being enforced and six signed.

## **Standards and Conformance**

As of December 2010, 14,177 of 23,622 standards in Korea are harmonized with international standards, equivalent to an adoption rate of 60%. Korea has continued aligning with international standards. In addition, the Korean Agency for Technology and Standards (KATS) is implementing its third National Standards Plan (2011-2015) to further develop standards for Korea's growth engine industries, improve quality of life and streamline certification systems.

Korea actively participates in international standardization activities at international bodies, such as the International Electrotechnical Commission (IEC) and the International Organization for Standardization (ISO), serving as the Secretariat for 17 ISO technical committees and sub-committees (TC/SCs), and five IEC TC/SCs. Besides, Korea is a member of the APEC Mutual Recognition Agreement (MRA) on Conformity Assessment of Telecommunications Equipment (Phase I & II), the Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA, the Pacific Accreditation Cooperation (PAC) MRA, and the International Committee of Weights and Measures (CIPM) MRA.

On transparency, KATS operates a web-based (Korean Standards) Development System to support the establishment, revision, and withdrawal of standards. Relevant information is notified to WTO.

## **Customs Procedures**

Korea has concluded Mutual Recognition Agreements with the United States, Canada, Singapore, Japan and New Zealand.

In 2009, Korea introduced the Air Cargo Radio-Frequency Identification (RFID) Management system, which simplifies the process of cargo entry & withdrawal through the Air Cargo Entry & Withdrawal System using the RFID technology. Korea is operating the Internet Electronic Clearance System called UNIPASS, which allows traders to proceed with the import & export declaration and clearance procedure online. Korea's Single Window System, is also in operation, saving logistics costs by combining the import & export declarations and requirements verifications. The Single Window System in Korea is quoted as an example of best practice in

the World Bank's Doing Business 2010 ranking, given the benefits it brought to private sector on freight storage, inventory and labor cost savings.

### **Intellectual Property Rights**

Korea enacted the Framework Act on Intellectual Property in May 2011 and the National Committee on Intellectual Property, a government control tower for IP policies, was established in July 2011. Korea signed the Locarno Agreement and Vienna Agreement in April 2011 to adopt international classification for industrial design and trademark. In addition, Korea launched the Special Judicial Police to reinforce crackdown of counterfeits in August 2010.

The Copyright Act was amended and came into force in July 2011. The revision categorizes Online Service Providers (OSPs) and clarifies on specific requirements for the limitation of liability in different OSPs; expands the definition of Technological Protection Measures (TPMs) and prohibits any direct and indirect circumvention of TPMs. Moreover, in order to combat copyright piracy through online storage services spotted as the hotbeds of illegal contents in Korea, the Telecommunications Business Act was revised and came into force in November 2011. The Act makes the registration compulsory for the operators who run online storage services or P2P services in Korea.

To promote transparency, Korean has set up the Design Map website in 2009 to provide search functions for registered designs of 54 items within and outside Korea. Also, a patent application guide for Korea and other economies became available.

### **Competition Policy**

Since Korea adopted the Competition Impact Assessment in 2009, the country has abolished anti-competitive laws and regulations based on its results.

Korea released the Consent Resolution in December 2011 to protect consumers and enterprises from anti-competition behaviors. The Korea Fair Trade Commission is working on market restructuring and it is analyzing markets to prevent cartels or any abuse of market dominant position, especially in industries such as information technology, pharmaceutical, financial, intermediate goods production, and services.

### **Government Procurement**

As a WTO Government Procurement Agreement (GPA) signatory, Korea imposes no restrictions on foreign goods, services or suppliers, and has no preferences to domestic suppliers in accordance with 1997 GPA. Korea is also in the process of domestic procedures to ratify revised GPA, which was concluded in December 2011 and adopted in March 2012. The Korea Public Procurement Service (PPS) has operated Korea online e-Procurement System (KONEPS) since 2002 for greater transparency and efficiency in public procurement. As of December 2011, PPS has entered MOUs with 17 countries for sharing e-Procurement experiences, and four have adopted KONEPS-based e-procurement systems.

To encourage fair dealing, Korea introduced the Fingerprint Recognition e-Bidding System in April 2010, in which an individual user can only represent one company through the use of a biometric security token. This helps to eradicate collusive acts such as lending supplier's e-

Certificates. The Corrupt Activity Analysis System was implemented in July 2009, generating data to detect possible collusion, and the result are reported to the relevant agencies for further investigation/interrogation.

### **Deregulation/ Regulatory Review**

In 2009, to improve long-term economic growth potential and job creation, Korea Government promoted the Regulatory Reform for New Growth Engine Industries. It cleared off various stumbling blocks that hinder the development of future growth industries such as new and renewable energy and green technology. The Regulatory Information System was also implemented in the same year, which is an integrated and comprehensive system to examine the regulatory reform process. Korea is identifying administrative rules that are not registered in the Regulatory Information System in order to make them subject to regulatory screening.

Korea has converted licensing regulation methods from positive (listing which activities need a license) to negative (listing which activities do not need a license), and adopted the principle of differential regulation application in terms of criteria, procedure, timing and others, depending on the company size and regional features.

### **Mobility of Business People**

Foreign Financial Investors card holders are allowed to use the exclusive immigration inspection booths. Registered Foreigners under specific categories can use automated gates. The Fingerprint Identification System for Registered Foreigners was launched in July 2011. In April 2011, Korea agreed with the United States on automated immigration clearance services.

### **RTAs/FTAs**

The Republic of Korea has actively engaged in FTA negotiations with over 50 economies. Currently, Korea has FTAs in force with Chile, Singapore, EFTA, ASEAN, India, Peru, the European Union and the United States.

## MALAYSIA<sup>12</sup>

### Highlights of Achievements and Areas for Improvement

- Import duties and import licensing have been eliminated or reduced for some goods. However, import licensing is still required for certain products.
- Some agricultural products still face tariff peaks beyond 50 percent. Some of these tariffs are non-ad valorem.
- Reforms in services are ongoing. Further liberalization in terms of foreign participation in 17 services sub-sectors under implementation.
- Malaysia has been implementing initiative to streamline customs procedures and facilitate trade such as the launch of the single window and the Authorized Economic Operators program.
- Amendments to improve the regulation concerning intellectual property rights and competition policy.
- Regulatory reforms are aiming to reduce market distortions and reduce the cost of doing business.

### Summary of Updates

#### Tariffs

Malaysia has been consistently eliminating or reducing import duties in recent years. 449 tariff lines had their tariffs reduced in 2008, 361 in 2009, 473 in 2010 and 265 in 2012. In addition, Malaysia is reducing tariffs to the goods from its FTA partners as agreed in the corresponding tariff liberalization schedules.

Despite a generally liberal trade regime in agriculture, Malaysia still applies high MFN tariffs to some agricultural goods beyond 50 percent. Some of them are non ad-valorem tariffs.

#### Non-Tariff Measures

Malaysia has been eliminating import licensing requirements in recent years. 20 tariff lines had these requirements scrapped in 2008, 20 in 2010 and 19 in 2012. However, import licensing is still required for some products.

#### Services

In October 2011, the Prime Minister announced further liberalization in terms of foreign equity holdings for 17 services sub-sectors, which will be implemented in phases during 2012. The sub-sectors are related to the areas of professional services, communications services, educational services and health-related and social services.

In addition, TalentCorp was established in January 2011 to initiate, facilitate and attract foreign and Malaysian talents working abroad.

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<sup>12</sup> This brief report was prepared with information from Malaysia's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Malaysia's WTO Trade Policy Review from January 2010.

### **Investment**

The Malaysian Industrial Development Authority (MIDA) was converted into the Malaysian Investment Development Authority in August 2011. MIDA's main function is as central investment promotion agency covering manufacturing and services sectors, excluding finance and utilities.

In May 2010, the National Committee on Investment was established in MIDA. This Committee enables "real time" decision making on applications for manufacturing licenses and incentives for investment projects in manufacturing and services sectors.

### **Standards and Conformance**

The percentage of Malaysian Standards aligned with international standards is equal to 62.08 percent.

Malaysia is participating actively in the International Standardization Organization, the International Electrotechnical Commission and the Pacific Accreditation Cooperation. Malaysia has four accreditation schemes, 542 accredited laboratories, 43 accredited certification bodies in several areas, six accredited inspection bodies and four facilities for Good Laboratory Practices Compliance Test.

### **Customs Procedures**

Malaysia is implementing initiatives to streamline customs procedures and facilitate trade. In 2009, the National Single Window was launched. Later, the Authorized Economic Operators (AEO) Program was implemented in January 2010. As at December 2011, 15 companies had AEO status.

In addition, a pilot project with Singapore, Brunei Darussalam and Thailand on self-certification was implemented in November 2010 and extended to the end of October 2012.

### **Intellectual Property Rights**

Amendments to the Copyright Act were approved by the Parliament in December 2011. MyIPO, Malaysia's competent authority, has been working actively to improve efficiency by allowing the expedited examination for registration of patents and trademarks. In addition, the IP Online System was upgraded to provide a secure web-based system to search and file patents, trademarks, industrial designs and geographic indicators applications.

### **Competition Policy**

The Competition Act 2010 was passed in May 2010. This Act seeks to promote and protect competition through the prohibition of anti-competitive agreements and the abuse of dominant position.

### **Government Procurement**

In 2009, the threshold value for tender was increased from 200,000 MYR to 500,000 MYR. Government agencies are required to ensure that at least 70 percent of the annual allocation for the procurement of supplies and services are done online through the electronic procurement

system. Electronic bidding through reverse auction is available since 2008, which allows saving resources through more open and competitive bidding.

### **Deregulation/Regulatory Reform**

Malaysia is undertaking regulatory reviews with the aim of removing market distortions, encouraging healthy competition and reducing the cost of doing business. The current efforts include the elimination or simplification to obtain business licenses, the ease of the steps to start a business, faster procedures to trade across borders and registering property, among others.

### **Dispute Mediation**

Malaysia does not have legislation on mediation. However, court-led mediation is being implemented administratively from 2010 by way of the Practice Direction No. 5 on Mediation. This Practice Direction encourages parties to reach an amicable settlement without having a complete trial or appeal. Parties can choose a judge-led mediation, or a mediator agreeable to and by both parties.

### **Mobility of Business People**

In 2011, Malaysia agreed to extend APEC Business Travel Card facilities to transitional ABTC member economies such as Canada, Russia and the United States. Malaysia also extended its ABTC special lane facilities to seven major checkpoints.

The Residence Pass for Talent was introduced in April 2011 in order to attract and retain top talent. This scheme will be offered to highly qualified expatriates seeking to continue living and working in Malaysia on a long-term basis.

### **Transparency**

All policies, laws and regulations are publicly available in the relevant Ministries and Agencies' websites. Public can also have access to these websites through social media such as Twitter and Facebook.

### **RTA/FTAs**

Between 2010 and February 2012, Malaysia put in force five RTA/FTAs with six partners. Currently, Malaysia is participating in four negotiations towards an RTA/FTA, including the negotiations of the Trans-Pacific Partnership Agreement (TPP).



## MEXICO<sup>13</sup>

### Highlights of Achievements and Areas for Improvement

- Mexico's simple average tariff at the HS 8-digit level is falling and expected to reach 6.09 percent by the end of 2012. However, some agricultural products are still subject to high MFN tariffs.
- Some export/import licenses still remain.
- Increased flexibility in the operability of telecommunication services.
- Mexico is actively negotiating investment agreements on avoidance of double taxation and information exchange to fight against tax evasion.
- In terms of foreign investment, some sectors are still restricted to the State or to Mexicans.
- Efforts to prevent overregulation. Active involvement in implementing regulatory reform programs.
- Initiatives to implement conformity assessment and equivalence agreements at the bilateral and sub-regional levels.
- Implementation of programs to facilitate trade, by making customs procedures simpler, such as the Single Window, ATA Carnet and Authorized Economic Operators program, among others.
- The government procurement system includes domestic tenders (only for Mexicans) and international tenders (either for Mexicans and those from FTA signatory partners with a government procurement chapter; or open regardless of origin).
- Laws, regulations, procedures and administrative rulings of general application are published daily at the Official Gazette of the Federation and easily available via internet.
- Mexico's comprehensive FTA network is being enhanced.

### Summary of Updates

#### Tariffs

Between 2010 and 2011, Mexico increased tariff rates related to refined and unrefined vegetable oils and aluminum goods, and reduce tariff rates concerning clock and watches, mucilages, some chemical compounds and fungicides, as well as some steel and aluminum goods. By the end of 2011, the simple average tariff rate at the HS 8-digit level was equal to 6.4 percent. It is expected to fall to 6.09 percent by the end of 2012. However, MFN tariff peaks beyond 50 percent still remain for some agricultural products.

#### Non-Tariff Measures

Mexico has implemented some changes in its export/import licensing regimes. For example, in September 2010, export and import licenses for gas oil, diesel oil and its blends were established, but lubricating oils and additives were exempted. Also, in June 2011, import requirements to allocate import licenses for cocoa were simplified. Moreover, in June 2011, the Ministry of

<sup>13</sup> This brief report was prepared with information from Mexico's submission of 2012 APEC Individual Action Plan (IAP) template and Mexico's 2010 submission of APEC Bogor Goals Fact Sheets on Trade and Investment Liberalization and Facilitation Efforts.

Economy established export licenses to conventional weapons, including technology and software to produce weapons of mass destruction. However, in December 2011, exemptions were granted to the export of technology and software available to the general public.

### **Services**

Telecommunications services are becoming more flexible. In February 2011, the rules on number portability were implemented, which allow consumers to change mobile phone operators and keep their numbers. In addition, an Agreement on Interconnection of Fixed Telecommunications Services was approved by the regulatory entity in June 2011. Also, the concession program for FM radio broadcasting started in July 2011.

Regarding financial services, the regulatory framework for investment funds specialized in retirement savings now allows to invest in commodities and in overseas mutual funds from eligible economies. Efforts to fight money laundering and financing of terrorism have been enhanced.

Mexico and the United States signed a Memorandum of Understanding over long-haul, cross-border trucking services, which will allow carriers from both places to receive provisional and permanent authority to operate these types of services in the other country.

### **Investment**

Mexico has been active in negotiating international agreements to avoid double taxation and prevent tax evasion. Between 2010 and 2011, one agreement on double taxation was renegotiated, whereas three new ones were signed. Five agreements were put in force and two more were approved by the Mexican Senate. In addition, six agreements on information exchange were signed and three were implemented.

Some sectors are still restricted to the State or to Mexicans or Mexican companies.

### **Standards and Conformance**

Mexico is adopting a tree decision mechanism to prevent overregulation. In this regard, during 2011, many regulations were modified to eliminate unnecessary costs, modified to harmonize them with international standards.

In terms of conformity assessment, a trilateral agreement for telecommunications equipment was signed with Canada and the United States. Similarly, an equivalence agreement for medical device with competent authorities from Canada and the United States simplifies the process to grant registrations for devices that have already been approved in the other two economies.

### **Customs Procedures**

Multiple efforts to facilitate trade through more expedite customs procedures have been implemented recently, such as the Single Window system, the Authorized Economic Operator program, the acceptance of the ATA carnet for temporary admission of imports and the adoption of a new alert system to identify irregularities for the importation of sensitive goods.

### **Intellectual Property Rights**

Mexico is implementing processes to ensure the expeditious granting of IP rights. For example, the Mexican competent authority put in force bilateral Patent Prosecution Pilot Programs signed with counterparts from the United States, Japan and Spain. In addition, Mexico has developed tools for consultation on issues related to IPR, such as the Document Viewer of Industrial Property (Vidoc) to access public records on industrial property and Marcanet, which provides information on trademarks, trade names and slogans already registered and pending.

Activities to enforce IPR continue. Raids have been carried out to fight illegal practices. Reforms in the Federal Criminal Code and the Industrial Property Law in June 2010 allow the competent authority to act ex-officio and prevent the sale of counterfeit goods in public places. Activities to promote innovation and develop technological information continue as well as awareness campaigns aimed to protect intellectual property.

Mexico also participated in the negotiations of the Anti-Counterfeit Trade Agreement and is discussing the possible signature and ratification by the Senate in the near future. Mexico is also holding interagency consultations in order to develop legislation aiming to implement the WIPO Internet Treaties.

### **Competition Policy**

In May 2011, several amendments to the Federal Law of Economic Competition (FLEC) were approved by Congress. The amendments brought the FLEC in line with international best practices by providing the Commission with better instruments to investigate and sanction violations to the FLEC, simplifying compliance and adding legal certainty.

Specifically, the reforms introduced: i) higher fines (up to 10 per cent of the offender's annual sales); ii) criminal sanctions (3-10 years of imprisonment for individuals responsible of ordering or committing cartel offenses); iii) on-site searches without prior notification; iv) cautionary measures (temporary suspension of a conduct during the course of an investigation to prevent irreversible damage to the markets); v) early termination (in cases of abuse of dominance a fine reduction or the withdrawal of any charges by the authority may happen in exchange of commitments to cease the conduct and/or restore competition conditions in the market); vi) oral hearings; vii) simplification of mergers notification; viii) upgrading of the leniency program (extended to employees of the firms involved in cartel offenses); ix) additional transparency and accountability obligation (impact assessment reporting and the issuance of technical criteria); and x) creation of specialized tribunals in competition issues to review the Mexican Federal Competition Commission's resolutions (to be fleshed out in future legislative process).

### **Government Procurement**

Mexico's government procurement system includes domestic public tenders and international public tenders. The domestic public tenders are only open for Mexicans and the goods must have at least 50 percent of domestic content. The international public tenders are either open to only Mexicans and those from signatory parties with a government procurement chapter in an FTA; or open to any party regardless of origin.

### **Deregulation/Regulatory Review**

The Regulatory Improvement Federal Commission (COFEMER) is in charge of coordinating and supervising regulatory reforms in Mexico. By law, all Federal Ministries and agencies have to formulate and submit a regulatory reform program to COFEMER for consideration. Subsequently, COFEMER submits its opinion to these institutions on the reform proposals. COFEMER also works jointly with state and municipal governments to build legal frameworks to promote competitiveness in a transparent environment.

Mexico is implementing the Rapid Business Start-Up System which simplifies the process to start a business. Through this system, low-cost businesses may start a business in a maximum time of 72 hours.

### **Transparency**

All laws, regulations, procedures and administrative rulings of general application are published daily at the Official Gazette of the Federation, which is not only available in print, but also is available in electronic format via internet.

### **RTA/FTAs**

As at the end of 2011, Mexico had already in place a network of RTA/FTAs with 43 economies. Mexico already liberalized around 95 percent to 100 percent of its tariff lines under these agreements, with the exception of the Economic Partnership Agreement with Japan, in which phase-out periods are still in place.

Mexico signed an FTA with Peru, which entered into force in February 2012. In addition, the FTA with Central America (unique process in which three FTAs were merged into one) was approved by the Mexican Congress in December 2011.

## NEW ZEALAND<sup>14</sup>

### Highlights of Achievements and Areas for Improvement

- Initiatives in some services sectors are encouraging more competition. Changes in legislation are improving competition policy framework.
- 100 percent alignment with APEC Voluntary Action Plan priority area standards. New Zealand standards have a high level of alignment with those of Australia.
- Amendments in legislation related are better assisting to address infringements related to intellectual property rights.
- Comprehensive regulatory review system of existing regulations, as well as proposed regulations to improve efficiency.
- All legislation can be accessed and downloaded through the internet. Transparency system allows anyone in New Zealand to request for official information.

### Summary of Updates

#### Tariffs

Tariff levels are currently at 0 percent, 5 percent or 10 percent.

As agreed in the ASEAN-Australia-New Zealand FTA, Malaysia-New Zealand FTA and Hong Kong, China – New Zealand Closer Economic Partnership Agreement, tariffs for goods originating in New Zealand's counterparts are being reduced or eliminated according to the corresponding tariff liberalization schedule.

#### Services

In architectural and engineering services, the Trans-Tasman Mutual Recognition Agreement came into force in March 2012 and entitles practitioners granted occupational licensing in New Zealand or Australia to register to practice the equivalent occupation in both places without need to undergo for future testing or examination.

In telecommunications, changes to the Telecommunications Act 2001 provide for co-investment between the government and the private sector. These changes also split Telecom New Zealand into a network infrastructure provider and a retail services provider, which will ensure increasing competition in this sector through the provision by infrastructure providers of open access at the network level.

In educational services, the Education Amendment Act 2011 allows the New Zealand Qualifications Authority to lift the threshold to private training establishments to be registered and to strengthen the monitoring of and sanctions on poor quality providers.

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<sup>14</sup> This brief report was prepared with information from New Zealand's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of New Zealand's WTO Trade Policy Review from June 2009.

## **Investment**

Overseas Investment Regulations introduced in December 2009 new factors to the benefits test for potential foreign investments in sensitive land. These factors allow Ministers to decide on the convenience of these potential investments based on New Zealand's economic interests.

## **Standards and Conformance**

As of June 2011, New Zealand had 3013 standards in its catalogue. Thirty- one percent were identical to the International Standardization Organization (ISO) standards and 10 percent were modified adoptions of ISO or IEC standards. Eighty- one percent of all standards were aligned with Australia. New Zealand achieved 100 percent alignment with the APEC Voluntary Action Plan priority area standards.

New Zealand has been an active participant in bilateral recognition agreements. A regulatory Cooperation Arrangements was signed with Chinese Taipei in February 2010, covering electrical and electronic products, gas products and other consumer goods. Similarly, an arrangement on cooperation in the field of consumer products and safety was signed with China in June 2010.

New Zealand is participating actively in relevant international fora such as the WTO TBT and SPS Committees. In addition, in the area of legal metrology, New Zealand has an active participation in the International Organization for Legal Metrology (OIML) and the Asia-Pacific Legal Metrology Forum (APLMF). In general consumer product safety, New Zealand participates in the International Consumer Product Health & Safety Organization (ICPHSO) as well as in the International Consumer Product Safety Caucus (ICPSC).

While some economies expressed concerns in relation to particular New Zealand's sanitary and phytosanitary (SPS) requirements during New Zealand's 2009 WTO Trade Policy Review, New Zealand confirmed its SPS regime provides fair, non-discriminatory and transparent rules in line with international guidelines, in particular the WTO SPS Agreement.

## **Customs Procedures**

Mutual Recognition Arrangements have been signed with the United States, Japan and Korea to recognize customs security and facilitation programs and to provide benefits for recognized traders in those markets.

## **Intellectual Property Rights**

Amendments have been made to the Trade Marks Act 2002 to implement the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, as well as the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, and ratify the Singapore Treaty on the Law of Trademarks.

The Copyright Act 1994 was amended to assist right holders to address infringements occurring over peer-to-peer file sharing networks.

The amendments in these two acts provide competent authorities with warranted and non-warranted search and seizure powers to combat criminal offenses related to copyright piracy and trade mark counterfeiting.

### **Competition Policy**

New Zealand has been working on initiatives to improve competition policy. For example, the Commerce (Cartels and Other Matters) Amendment Bill was introduced in October 2011. The Bill introduces criminal sanctions for hard-core cartel conduct and aims to clarify the scope of legitimate collaborative activities via new exceptions and clearance mechanism.

Furthermore, the Electricity Industry Act 2010 improved regulatory efficiency in the electricity sector by increasing the independence of the economic regulator and transferring some functions such as grid upgrade approvals and energy efficiency to other agencies.

### **Government Procurement**

A single access e-commerce portal “eMarketplace” was established to provide agencies access to catalogues of multiple suppliers’ products available under the All-of-government contracts.

### **Deregulation/Regulatory Review**

New Zealand has implemented a system in which departments report and review the regulation they are responsible for. Thirteen major regulatory reviews in a number of areas such as electricity, telecommunications and investments, among others, were completed recently. All regulatory regimes are subject to a high-level assessment against principles of best-practice regulation such as: growth supporting, proportionate, flexible and durable, certain and predictable, transparent and capable regulator.

Regulatory Impact Assessments are now being used systematically to review new or proposed regulation.

### **Mobility of Business People**

Chinese Taipei was added to New Zealand’s visa waiver scheme in November 2009.

### **Transparency**

All legislation must be published and offered for sale at a reasonable price. Legislation can also be viewed and downloaded free of charge at Legislation Direct ([www.legislation.govt.nz](http://www.legislation.govt.nz)). All statutory notices must be published in the New Zealand Gazette.

According to the Official Information Act, anyone who is in New Zealand can request official information. This also applies for New Zealand citizens living overseas and corporate bodies with a place of business in New Zealand. Enquiries from other economies can be dealt with through inter-governmental consultative channels or by direct approach to the responsible agency.

Government agencies in charge of particular areas also offer high-level transparency standards by including regulations, procedures, requirements and other relevant information in their websites.

### **RTA/FTAs**

Currently, New Zealand has eight agreements in force, being the most recent ones the Malaysia – New Zealand FTA in force from August 2010 and the Hong Kong, China – New Zealand Closer

Economic Partnership, which was in force since January 2011. New Zealand is also involved in six negotiations with economic partners all around the world.

## PAPUA NEW GUINEA<sup>15</sup>

### Highlights of Achievements and Areas for Improvement

- A tariff reduction program started in 2011. However, some MFN tariffs are still high, acting as trade barriers for some sectors.
- Full liberalization in the Information and Communications Technology sector (ICT). Existing monopolies in this sector were removed.
- Efforts to implement measures to tackle regulatory impediments to do business in PNG.
- Almost all domestic standards are aligned with international or regional standards.
- Customs implemented a risk management policy in 2011.
- In terms of competition policy, reviews are being conducted in several sectors.
- Alternate Dispute Resolution Courts were established in 2010.
- The lack of notifications to WTO is undermining the transparency of PNG's trade policy.

### Summary of Updates

#### Tariffs

A tariff reduction program started in 2011. This program establishes that tariff rates will be reduced by 5 percent for all tariff lines not zero rated in three phases up to 2018.

Some MFN tariff rates are still high, creating barriers for food processing and some manufactures.

#### Non-Tariff Measures

No import or export quotas are applied. Papua New Guinea (PNG) maintain relatively few NTMs.

#### Services

The information and communications technology (ICT) sector is fully liberalized with the removal of monopolies. The openness process was completed in late 2010. The National ICT Policy 2009 allows for open competition and the implementation of a new technology-neutral licensing regime; the liberalization of the international gateway; the introduction of a new regulatory regime for wholesale access and interconnection; and the deregulation of retail telecommunications tariffs; among others.

#### Investment

PNG is implementing measures to address regulatory impediments to doing business. Reforms on performance requirements have taken place in areas related to competition. Also, the foreign exchange control has been reformed.

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<sup>15</sup> This brief report was prepared with information from Papua New Guinea's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Papua New Guinea's WTO Trade Policy Review from November 2010.

PNG is in the process to implement the Online Lodgment Project to streamline queues related to company registrations and foreign certification lodgments.

PNG has effective three Bilateral Investment Treaties and nine agreements concerning the avoidance of double taxation.

### **Standards & Conformance**

Almost all PNG standards are adopted from the International Standardization Organization, International Electrotechnical Commission, Codex, American Society for Testing and Materials, Australian and New Zealand standards. PNG has issued 785 standards.

PNG is a full member of the Asia-Pacific Laboratory Accreditation Cooperation (APLAC), the Asia-Pacific Legal Metrology Forum (APLMP), the Asia-Pacific Metrology Program (APMP) and the Pacific Areas Standards Congress (PASC). PNG is a signatory to the APLAC Mutual Recognition Arrangement. PNG also participates in part 1 of the APEC Electric and Electronic Equipment Mutual Recognition Arrangement.

### **Customs Procedures**

PNG launched the Risk Management Policy in 2011. The overall process at PNG Customs Services was reviewed and a uniform process is being implemented.

### **Intellectual Property Rights**

PNG is preparing IP legislation on several matters that are expected to be finalized this year. A Copyright Working Group was established in October 2011 to help establish an enforcement taskforce to deliberate on policy issues.

PNG is considering acceding to the Madrid Protocol for the international recognition of trademarks. In this regard, PNG amended the Trademark Act to prepare for this accession. In addition, PNG is also including in its strategy plan to accede to the Berne Convention.

### **Competition Policy**

The Independent Consumer & Competition Commission (ICCC) is pursuing cases of abuse of market dominance, price-fixing and other anti-competitive conducts. Awareness programs on the importance of roles and responsibilities of the ICCC are being conducted.

The ICCC is undergoing reviews in some sectors such as air transport, coastal shipping, general insurance and water and sewerage, among others. In addition, regulatory contract reviews regarding electricity, Motor Vehicle Insurance Ltd. and postal services are ongoing.

### **Government Procurement**

PNG is developing a Standard Bidding Document to improve procurement activities with all stakeholders and parties concerned. The National Procurement Assessment is reducing incidences of running parallel procurement systems in the public sector. Also, the Public Finance Management Act is being reviewed to make the procurement system more efficient. This includes plans to eliminate preferences to domestic bidders.

### **Dispute Mediation**

PNG introduced the Alternate Dispute Resolution Courts in 2010. This system mainly deals disputes between two domestic partners. PNG is working in a project to develop an arbitration system.

### **Transparency**

Some concerns have been raised with regards to the lack of notifications to WTO, which undermines the transparency of PNG's trade policy.

### **RTA/FTAs**

PNG has reported one agreement on trade in goods, as well as the negotiation of another agreement of this kind. In addition, PNG reported a new Interim Economic Partnership Agreement with the European Union, which was ratified by the PNG Parliament in May 2011.

### **Health Related and Social Services**

Multinational Corporations such as Ok Tedi Mining Ltd. and Lihir Gold Mine Ltd. have been allowed to set up their own health care establishments upon meeting government requirements. PNG does not discriminate against health care providers.

### **APEC Food System**

Food security is included in medium and long-term plans. PNG overall goal is to ensure that all people at all times have physical, social and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preference for an active and healthy life. Food availability is achieved by local food production and imports.

Agricultural production has increased in recent years. Also, PNG has become self-sufficient in the production of pork and chicken. Nevertheless, main constraints persist, such as poor management and infrastructure, difficult geography, high cost of fuel, low private sector investment and lack of farming knowledge, among others. Natural disasters and climate change are also affecting food supply in PNG.



## PERU<sup>16</sup>

### Highlights of Achievements and Areas for Improvement

- Current average tariff at HS 10-digit level is equal to 3.2 percent.
- No quantitative import restrictions/prohibitions are applied. Same occurs for import licensing and export subsidies.
- Some restrictions to the importation of certain used goods are in place.
- Additional flexibility introduced in mobile telephone services by allowing number portability and eliminating long distance calls.
- Certain limitations on foreign investments in broadcasting, air and water transport and ownership of real estate and some resources within fifty kilometers of Peru's international borders are applied.
- Active participation in international standardization entities.
- Peru is actively implementing initiatives to improve customs procedures and facilitate trade.
- Efforts to implement regulatory reforms to improve business environment and encourage private investment growth.

### Summary of Updates

#### Tariffs

The Peruvian tariff structure has been reduced and presents three levels: 0 percent, 6 percent and 11 percent. The current simple MFN average tariff at HS 10-digit level is equal to 3.2 percent. Of these tariff lines, 55.6 percent are equal to zero, which are equivalent to 75.7 percent of Peru's total imports.

#### Non-Tariff Measures

Peru does not apply any quantitative import restrictions or prohibitions. No import licensing or export subsidies are applied. Imports are subject to the general sales tax equivalent to 16 percent and the municipal promotion tax (2 percent) applicable to 6,910 tariff lines. Some products are exempted. A selective consumer tax is applied to 126 tariff lines concerning fuel oils, cigarettes, liquors, beer, wine and vehicles.

Some restrictions remain with regards to the importation of used clothing and footwear, used tires, cars and trucks older than five and eight years old, respectively.

#### Services

In January 2011, in order to promote international trade in services, it was established that exporting services activities were not going to be affected by value added tax. In July 2011, Peru enacted the Law for the Promotion of Data Privacy to encourage Business Processes Outsourcing.

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<sup>16</sup> This brief report was prepared with information from Peru's submission of 2012 APEC Individual Action Plan (IAP) template and Peru's 2010 submission of APEC Bogor Goals Fact Sheets on Trade and Investment Liberalization and Facilitation Efforts.

With regards to telecommunications services, number portability for mobile phones was implemented in January 2010. In addition, a virtual mobile area which eliminated long distance calls and established local rates for all calls to mobile phones was set in September 2010.

### **Investment**

No screening mechanisms, no performance requirements are applied. Certain limitations on foreign investments in broadcasting, air and water transport and ownership of real estate and some resources within fifty kilometers of Peru's international borders are applied. However, these limitations can be waived by decree on a case by case basis.

Peru has reported progress in the context of implementing APEC Non-Binding Investment Principles, in particular concerning business facilitation, international investment agreements and double taxation treaties. Since 2009, four Bilateral Investment Treaties have been signed, as well as one agreement to avoid double taxation.

### **Standards and Conformance**

In 2011, the National Institute for Defense of Competition and Protection of Intellectual Property (INDECOPI) approved 760 technical standards, 14.5 percent of them corresponded to the adoption of international standards. Most of the rest are based on regional standards, domestic standards and other well-known standards. In relation to sanitary and phytosanitary measures, between 2010 and 2011, the National Service of Agrarian Health issued 150 regulations that establish sanitary and phytosanitary requirements, all of them aligned with the recommendations of the WTO Sanitary and Phytosanitary Committee and other competent multilateral organizations.

The adoption of standards in Peru involves a process of public discussion with stakeholders. At the APEC level, Peru's technical standards are aligned with the international standards target at the Voluntary Action Plan. INDECOPI is participating actively in the International Organization for Standardization, the International Electrotechnical Commission and the FAO/WHO Codex Alimentarius Commission. The National Accreditation Service has signed a Mutual Recognition Arrangement with the International Accreditation Forum in the area of Systems Certification Bodies of Quality System.

### **Customs Procedures**

Peru has implemented a number of initiatives to facilitate trade by streamlining customs procedures. In this regard, the Single Window started its operations in January 2010, which allows customs declarations to be prepared by electronic means. Data on cargo manifest is sent electronically prior to cargo arrival. Measures to secure trade have also been implemented, including new customs clearances processes involving risk management. The Peruvian Customs Act establishes that customs clearance cannot longer than 48 hours in regular conditions and express delivery consignments could not take more than six hours.

Advance rulings procedures are available from February 2010. These advance ruling are related to customs valuation criteria, application of returns, suspensions, exoneration of customs rights and re-imports of repaired or shaken goods.

### **Intellectual Property Rights**

In August 2011, Peru became a member of the International Convention for the Protection of New Varieties of Plants (UVOV) and amended relevant domestic legislation on new plant breeders.

To promote transparency, INDECOPI implemented a system for electronic trademark filling.

### **Competition Policy**

Changes to legislation in order to make more effective repealing anticompetitive practices have been introduced since 2008. The current Competition Law allows the competent authority to request information, organize in situ inspections and decide to initiate a procedure against any anticompetitive conduct.

### **Deregulation/Regulatory Reform**

In order to improve the business environment and encourage private investment growth, the Competitiveness Council at the Ministry of Economy and Finance is implementing a plan to improve Peru's performance in the World Bank's Doing Business, in particular in the areas of Starting a Business, Dealing with Construction Permits, Enforcing Contracts, Trading Across Borders, Paying Taxes, Registering Property and Investors' Protection.

### **Mobility of Business People**

The modifications to the Foreigner Status Law expanded the period of stay for business persons. Temporary Business Visas are granted for up to 183 days.

### **RTA/FTAs**

Peru has a comprehensive RTA/FTA network. 14 RTA/FTAs are currently in force with several counterparts around the world. Four additional RTA/FTAs have been successfully concluded and are pending of implementation and three RTA/FTAs are currently under negotiation.



## THE PHILIPPINES<sup>17</sup>

### Highlights of Achievements and Areas for Improvement

- Recent reforms in the financial sector. The foreign exchange regulatory framework was liberalized, simplified and clarified. Some restrictions on bank branching were removed.
- Regulatory reforms are ongoing in the transportation sector.
- Concerns on the use of incentives contingent on export performance and Filipino ownership to attract investment.
- High-level of standards aligned with international standards (78.59 percent of the Philippines' domestic standards).
- Need to improve transparency in terms of sanitary and phytosanitary measures and technical regulations.
- The Philippines acceded to the Revised Kyoto Convention. Efforts to streamline customs procedures.
- New measures concerning government procurement are enhancing transparency, competition and efficiency in this area.

### Summary of Updates

#### Tariffs

The Philippines completed recently a comprehensive tariff review to implement a tariff structure for 2012-2015. The tariff structure includes an overall average applied tariff at 6.3 percent; 60 percent of the applied MFN tariff around 0 and 5 percent; and applied tariffs reduced to 0 percent for certain items such as wheat, cement, crude oil, petroleum products, asphalt, iron, steel products and books.

The Philippines also continued reducing tariffs applied to FTA partners as agreed in the FTA's tariff liberalization schedules.

#### Non-Tariff Measures

The automation of procedures on the application for the Minimum Access Volume (MAV) License and the MAV Import Certificate is starting in 2012.

#### Services

Reforms in the financial sector were implemented in 2011. The current foreign exchange regulatory framework enhances and facilitates access to foreign exchange resources of the banking system for legitimate transactions and induces a shift of foreign exchange transactions from the parallel to the formal market. Moreover, restrictions on bank branching for domestic universal and commercial banks, as well as for thrift banks, were lifted in eight areas in Metro Manila in July 2011.

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<sup>17</sup> This brief report was prepared with information from the Philippines' submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of the Philippines' WTO Trade Policy Review from April 2012.

In energy services, the Philippines awarded contracts for projects on renewable energy: 52 wind energy service contracts, seven solar energy service contracts and two certificates of registration for own use.

### **Investment**

In terms of investment facilitation, the Philippines introduced the Client Feedback Form to gauge the effectiveness of the Strategic Investor Aftercare Program. Furthermore, the One-Stop Action Center has been reorganized in two divisions: Investment Counseling Division and Investments Research and Data Warehousing Division to further enhance the services provided to investors.

There are some concerns related to the use of incentives contingent to export performance and Filipino ownership in an effort to attract investments.

### **Standards and Conformance**

At present, 78.59 percent of the Philippines' domestic standards are aligned with relevant international standards. Between July 2010 and December 2011, the Philippines adopted 168 International Electrotechnical Commission (IEC) standards related to low voltage equipment and electromagnetic compatibility.

The Philippines is a signatory member of the Mutual Recognition Arrangements with the Asia Pacific Laboratory Accreditation Organization and the International Laboratory Accreditation Organization. The Philippines also participates actively in the IEC and the International Organization for Standardization (ISO) and Codex committees. In addition, the Philippines continues to strengthen its capability to fully participate in the APEC Mutual Recognition Arrangement on Telecommunications Equipment.

Some concerns remain with respect to the need of further transparency in terms of sanitary and phytosanitary requirements, as well as in technical regulations.

### **Customs Procedures**

The Philippines acceded to the Revised Kyoto Convention in June 2010. The Revised Kyoto Convention includes elements to facilitate trade such as the application of simplified customs procedures, the use of risk management, among others. The Philippines is working towards the application of the Authorized Economic Operator (AEO) Program and availing pre-clearing process, as well as conducting a pilot testing of the Automated Raw Materials Liquidation System.

The Philippines issued rules and regulations of E-transit System by monitoring containerized cargo through GPS. Also, the Import and Assessment System was implemented in all ports, which includes an enhanced risk management system, submission of electronic manifest 12 hours before arrival of shipment, and payment of duties and other fees through banks via electronic debit.

### **Intellectual Property Rights**

In order to improve its IPR system, the Philippines implemented initiatives to raise awareness, facilitate the use of IP schemes, streamline procedures and strengthen the enforcement of its IP legal framework. In this regard, the Philippines established a pool of Innovation and

Technological Support Offices to strengthen the capacity of local institutions in accessing patent information and using the patent system. Also, the Philippines commenced the Industrial Property Automation System to cover the end-of-end processing of patents, trademarks, utility models and industrial design applications.

The Philippines established partnerships between public and private institutions to strengthen IP enforcement and promote anti-counterfeiting initiatives.

### **Competition Policy**

In June 2011, the Philippines designated the Department of Justice as the competent authority in competition matters and created the Office for Competition. The Philippines is advocating for the enactment of a comprehensive competition policy law in the upper and lower chamber of the Congress.

### **Government Procurement**

The Philippines implemented the Revised Implementing Rules of the Government Procurement Reform Act to enhance transparency, competition and efficiency in government procurement. The revised rules streamlines eligibility requirements set forth under the previous rules.

To enhance transparency in the government procurement system, the Philippines posted the Resolutions of Protest and Request for Reconsiderations by procuring websites in the Government Procurement Policy Board.

### **Deregulation/Regulatory Review**

As stated in the 2011-2016 Philippine Development Plan, reforms in the transportation sector are ongoing with the commitment to separate the regulatory and operational functions and eliminate overlapping functions among agencies.

### **Dispute Mediation**

In December 2009, the Department of Justice issued the Alternative Dispute Resolution Act to further encourage alternative modes of dispute resolution.

In 2011, the Intellectual Property Office of the Philippines (IPOPHL) put in place the IPOPHL Arbitration Rules, which are consistent with the World Intellectual Property Organization (WIPO) Arbitration.

### **Mobility of Business People**

The Philippines conducted a full implementation of the e-passport project.

### **Transparency**

Public hearings and consultations are conducted in the formulation of policies. The private sector and civil society are represented in government councils/committees.

### **RTA/FTAs**

Currently, the Philippines has seven free trade agreements in force with 15 partners.



## RUSSIA<sup>18</sup>

### Highlights of Achievements and Areas for Improvement

- Changes in the tariff regime are taking place to implement the Customs Union with Belarus and Kazakhstan. Additional changes expected as part of the commitments agreed by Russia after finalizing its accession to WTO.
- Some goods are subject to import/export restrictions or licensing.
- Reforms in the financial sector are being implemented.
- In relation to customs procedures, legislation on Authorized Economic Operators was introduced. Nevertheless, more efforts need to be done to reduce cost, time and procedures to trade across borders.
- Amendments to antitrust legislation with clearer and more transparent rules. Sanctions are applicable to cartel agreements.
- Initiatives to simplify administrative procedures are under implementation. The electronic submission of documents is reducing time and cost to have access to government services.

### Summary of Updates

#### Tariffs

In 2011, Russia made substantial changes in its tariff regime as part of the implementation of the Customs Union with Belarus and Kazakhstan. This led to changes in tariff levels in both directions. Tariff reductions were implemented for some industrial, chemical and agricultural goods and import tariff quotas were reduced for pork and poultry in 2011. On the contrary, tariffs were increased for heavy engineering products, large-sized agricultural and industrial equipment. However, there will be further market access liberalization in the upcoming years, as part of the commitments agreed by Russia to accede to the WTO.

#### Non-Tariff Measures

Measures were implemented to simplify imports of pharmaceuticals. Import controls of veterinary pharmaceuticals were eliminated. A temporary export ban on grain crops was abolished in June 2011. However, as at January 2012, there were still 22 goods with export or import restrictions. Import of meat products are subject to licensing, with the exception of meats from the Community of Independent States (CIS).

#### Services

A new Federal Law introducing a new system to license several activities was introduced in Russia. 49 activities are covered by this law.

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<sup>18</sup> This brief report was prepared with information from Russia's submission of 2012 APEC Individual Action Plan (IAP) template.

Russia implemented some measures to reform the financial sector, increase the capacity and transparency of the financial markets at the federal and local levels, improve the financial legislation and create a more advantageous tax climate.

### **Investment**

The Russian Government adopted in 2011 an Action Plan for Improving Investment Climate. The Action Plan aims to facilitate investments by improving regulations, administrative paperwork and infrastructure, as well as providing tax incentives, easier immigration procedures.

### **Standards and Conformance**

Russia continued the implementation of domestic policies regarding standards and conformance. Measures include amendments to the Federal Law on technical regulations, changes to the conformity assessment of new products, and new rules concerning the registration of declaration of conformity, among others.

### **Customs Procedures**

Russia has been implementing measures to implement the Customs Union territory with Belarus and Kazakhstan. In July 2011, customs control was eliminated within the Customs Union territory.

The legal framework of Russia's customs regulation was adapted to create a flexible customs environment, which aims to maintain customs control effectiveness and trade facilitation. The changes are simplifying procedures at customs, as well as reducing the time of the release of goods. In addition, provisions concerning Authorized Economic Operators were introduced.

However, despite these measures, more works need to be done to reduce the time, cost and procedures to trade across borders.

### **Intellectual Property Rights**

Russia has developed a draft law on amendments to the Civil Code in order to be ready to implement the TRIPS Agreement.

In terms of the effective enforcement of IPR, an agreement with Belarus and Kazakhstan on uniform principles in the areas of protection and enforcement of IPR entered into force in January 2012. In December 2011, amendments on the criminal code concerning IPR matters were put in force. New legislation was also introduced in December 2011 to establish a specialized commercial court to resolve disputes in IPR.

### **Competition Policy**

In January 2012, Russia put in force amendments to antitrust legislation. These amendments include clearer and more transparent rules concerning prices established by monopolies; the introduction of the term "cartel"; the establishment of criminal convictions for cartel agreements, including price fixing and maintenance, bid rigging, market share allocation and termination of production; the requirement to determine a dominant position to initiate a case; and unified thresholds for transactions which need approval of the antimonopoly authority; among others.

### **Government Procurement**

Russia has been giving emphasis to the provision of state and municipal services through electronic means. The federal program Electronic Russia allows submitting an application and documents in electronic form for more than 60 services. The public can also have access to get these government services electronically through public access centers, which are available in all cities.

### **Dispute Mediation**

Two legislative changes in dispute mediation were adopted: 1) the founding of the Court on Intellectual Rights; 2) adoption of a training mediators program.

### **Mobility of Business People**

Russia has joined the APEC Business Travel Card (ABTC) scheme as a transitional member in May 2010. In 2011, reforms were implemented to facilitate migration of highly-qualified foreign specialists and their family members. These reforms include the simplification of the procedures for entry to and exit from Russia.

The amendments to the law concerning the status of foreign citizens in Russia introduced the term “permanent residence” for foreign citizens.

### **Transparency**

According to Article 15.3 of the Constitution of the Russian Federation, laws and other regulatory acts relating to human rights, freedom and duties are subject to official publication. Any federal laws or acts passed by the Parliament are published in official gazettes. Information concerning draft legislations is available in official websites.

Executive bodies are required to ensure public access to information concerning laws, Presidential Decrees, resolutions, regulations, orders, and rules, among others. The information is available through printed documents or via internet.

### **RTA/FTAs**

Currently, Russia is reporting three trade agreements in force (Customs Union with Belarus and Kazakhstan, FTA at the Community of Independent States and FTA with the former Federal Republic of Yugoslavia, which applies equally between Russia and Serbia and Montenegro). The Customs Union formed by Russia, Belarus and Kazakhstan is negotiating trade agreements with New Zealand and EFTA.



## SINGAPORE<sup>19</sup>

### Highlights of Achievements and Areas for Improvement

- Most of Singapore's imports enter tariff free to the domestic market.
- Export subsidies were discontinued many years ago and no changes in import prohibitions and licensing in recent years. Import licensing is required for certain products.
- Improved market access in accounting, financial, and legal services sectors. Still room for improvement in services despite having an open and transparent services regime.
- Domestic standards are aligned with international standards.
- The single window system was upgraded to facilitate trade. The advance ruling system was strengthened with an additional function on valuation of imported goods.
- Singapore enforced the Copyright (amendment) Bill at the end of 2009.
- Competition was strengthened in aviation, media and telecommunication sectors.
- Government online procurement system was improved to ensure fairness and transparency. More Singapore-based branches of international companies will be able to participate in the government procurement market.
- Singapore introduced 'e-Lobby' to provide a convenient and secure electronic platform to perform immigration-related transactions.
- Singapore is extending its already vast RTA/FTA network.

### Summary of Updates

#### Tariffs

Most of Singapore's imports are tariff free, except for beer made from malt (2 tariff lines) and samsu (4 tariff lines).

#### Non-Tariff Measures

Import prohibitions and other import restrictions are applied for protection of public health, public security or environment or to meet Singapore's international obligations. There is no change in import prohibitions and import licensing in recent years, and export subsidies were discontinued in 1999. Licenses are required to import some products.

#### Services

Singapore maintains an open and transparent services regulatory regime, although there is still room for improvement. Measures have been implemented in recent years in some services to facilitate market access in the Singaporean market. For example, in accounting services, it was made easier from October 2010 to register as public accountant, as Singapore now recognizes practical experience in auditing gained in other jurisdictions. In financial services, securities exchanges may admit foreign applicants that are able to meet membership requirements and are

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<sup>19</sup> This brief report was prepared with information from Singapore's submission of 2012 APEC Individual Action Plan (IAP) template and Singapore's 2010 submission of APEC Bogor Goals Fact Sheets on Trade and Investment Liberalization and Facilitation Efforts.

subject to regulation by a home regulatory authority with an information sharing arrangement with the Monetary Authority of Singapore

Singapore is becoming more flexible for foreign-qualified lawyers as they can apply now for a Foreign Practitioner Certificate to practice Singapore law in certain areas. Singapore has also announced a new structure of annual license fees in telecommunication sector, resulting in a significant reduction of license fees for a large majority of licensees.

### **Investment**

Singapore maintains an investment-friendly regime. Since 2009, three Bilateral Investment Treaties (BITs) came into force, bringing the total number of enforced BITs to 39. 14 Free Trade Agreements (FTAs) include investment chapters, with four of them in force since 2009.

### **Standards and Conformance**

Under the APEC Voluntary Alignment Programme (VAP) 2006-2010, Singapore had fully aligned domestic standards to international standards on 168 IEC standards under IECEE CB Scheme. Under the new APEC VAP 2011-2015, Singapore has fully aligned domestic standards to 28 international standards in the areas of toy safety, electrical equipment, among others. In 2010, food labeling was made fully equivalent with international standards.

Singapore continues to participate actively in both international and regional standardization forums, promoting Mutual Recognition Agreements (MRAs) among regulators and also cooperation among National Standards Bodies.

### **Customs Procedures**

Singapore has upgraded its single window system, TradeNet, to version 4.1 with effect from 2012 to facilitate the alignments to regional and international standards and to introduce trade facilitative measures to the trading community. From January 2011, Singapore Customs' Advance Ruling System is including valuation of imported goods, in addition to classification and origin determination.

Since 2011, Singapore has signed three Mutual Recognition Arrangements (MRAs) with Canada, Korea, and Japan.

### **Intellectual Property Rights**

In 2010, the Copyright Act was amended to implement changes to the jurisdiction and procedures of the Copyright Tribunals. In 2011, Singapore launched the Intellectual Property (IP) Competency Framework to raise the capacity of the IP professionals and practitioners; and signed a Memorandum of Understanding with the World Intellectual Property Organization to establish a joint dispute resolution procedure to facilitate the mediation of Intellectual Property disputes filed with Singapore.

### **Competition Policy**

For the aviation sector, an Airport Competition Code was introduced in 2009. In June 2009, Changi Airport Group (Singapore) Pte Ltd was incorporated, and was thereafter granted a license in July to operate Changi Airport and Seletar Airport.

For the telecommunications sector, the revised Media Market Conduct Code (MMCC) was amended in July 2011 to include the implementation of the cross-carriage measures, which requires pay-TV retailers that have acquired any exclusive content after 12 March 2010 to widen the distribution of that content to offer it to subscribers from other pay-TV retailers through the set-top TV boxes. Also, following the second triennial review of the Telecommunications Code of Practice for Competition, a revised Code was issued in December 2010. In addition, the revised Telecommunication Act came into effect in February 2012.

### **Government Procurement**

In 2010, the government online procurement portal (GeBIZ) launched a business alert service to notify suppliers on government procurement opportunities. Singapore also enhanced the GeBIZ to publish the Quotation Schedule of offers when the award notice is published, and the reasons for cancelling or not awarding any quotation.

Singapore has loosened the qualification criteria for Singapore-based branch offices of international companies to participate in government procurement market. Instead of using their own financial statements to qualify for the required financial grades, now branch offices with a minimum S8 financial grade can use their parent company's financial statements to meet the criteria.

### **Deregulation/Regulatory Reform**

The Corporate Governance Council was established in 2010 to promote a high standard of corporate governance in companies listed in Singapore. In addition, Singapore is currently reviewing the Companies Act to ensure that the corporate regulatory framework continues to be business- and investor- friendly and keeps pace with relevant international developments.

The Committee to Develop the Accountancy Sector (CDAS) completed its review of the Singapore accountancy services sector in 2010, and the Pro-Tem Singapore Accountancy Council was established to drive the implementation of key initiatives recommended by CDAS. The Singapore Financial Reporting Standard for small entities and the Charities Accounting Standard were issued to make financial reporting simpler and more relevant. A review on the implementation of convergence for the Singapore Financial Reporting Standards with the International Financial Reporting Standards was also completed in 2011.

### **Dispute Mediation**

In January 2010, the Singapore Office of the World Intellectual Property Organization Arbitration and Mediation Centre was established, providing more options for Intellectual Property dispute resolution.

### **Mobility of Business People**

Singapore introduced 'e-Lobby' in July 2011, an innovative one-stop facility that offers members of the public a convenient, secure electronic platform to perform immigration-related transactions. Also, the newly designed version of the APEC Business Travel Card was issued from November 2011, which incorporates enhanced security features.

### **Transparency**

The Smart Regulatory Committee (SRC) and the Pro-Enterprise Panel (PEP) continue their efforts to ensure a business-friendly regulatory regime and environment. The SRC seeks to reduce cost and burden of regulation on stakeholders, while safeguarding and maximizing public interest. The PEP solicits feedback on rules and regulations that hinder businesses and stifle entrepreneurship and responds to feedback on government rules to ensure they remain relevant and support a business-friendly environment.

### **RTA/FTAs**

Singapore has a comprehensive RTA/FTA network. 20 RTA/FTAs have been signed with 18 of them currently in force. In 2011, Singapore also conducted reviews on and amended accordingly previous agreements, such as Singapore –Australia FTA and Singapore – China FTA.

## CHINESE TAIPEI<sup>20</sup>

### Highlights of Achievements and Areas for Improvement

- Tariff rate quotas on industrial products have been completely phased out as of January 2011. However, they still remain for some agricultural products.
- Some agricultural products are still subject to high MFN tariff rates.
- Quantitative import restrictions are completely eliminated. Some import prohibitions remain.
- Measures were implemented in the financial sector to create open and efficient capital markets.
- Restrictions on investment for overseas Chinese and foreigners remain in many sectors, although some of them were removed recently. The ceiling of the foreign investment ratio in registered ships was raised to 50 percent.
- Several initiatives to improve customs procedures and facilitate trade were implemented. Efforts to strengthen the development of supply-chains are undergoing.
- Existing framework to review regulations. Deregulation/regulatory reforms are being implemented in many areas to strengthen international competitiveness.

### Summary of Updates

#### Tariffs

Chinese Taipei's average nominal tariff was equal to 5.89 percent at the end of 2011. However, some MFN tariff peaks above 50 percent still remain for some agricultural products (many as non-ad valorem tariffs). In 2011, tariff preferences were granted to imports from China under the Economic Cooperation Framework Agreement (ECFA).

Tariff rate quotas on industrial products were completely phased out as of January 2011. However, tariff rate quotas still remain for some agricultural products such as red beans, liquid milk, peanuts, garlic, pineapple, mangoes and rice, among others.

#### Non-Tariff Measures

Quantitative import restrictions have been eliminated in recent years. However, as of January 2012, 70 items were subject to import prohibitions and 15 items subject to import licensing. In addition, the number of items for which import licenses are required reduced from 18 to 15. These restricted items are those permitted by WTO rules, such as rough diamonds, methyl bromide, and Montreal Protocol restricted chemicals.

#### Services

In financial services, Chinese Taipei continues to promote foreign companies to list in its stock exchange and to strengthen supervision on foreign issuers. In addition, various measures were taken to create open and efficient capital markets, such as amending the regulations to ease

<sup>20</sup> This brief report was prepared with information from Chinese Taipei's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Chinese Taipei's WTO Trade Policy Review from July 2010.

restriction on fund management and strengthening rules governing offshore private equity funds, among others.

In maritime transport services, the Law of Ships was amended in December 2010 to increase the ceiling of the foreign investment ratio on registered ships to 50 percent.

### **Investment**

Chinese Taipei is adopting new measures to simplify administrative procedures for foreign investors. Restrictions in some sectors remain. However, Chinese Taipei revised the Negative List for Investment by Overseas Chinese and Foreign Nationals, removing restrictions on foreign investment in other machinery manufacturing and repair, air freight forwarders, and other services linked to transportation.

To foster investments, the corporate income tax was reduced from 25 percent to 17 percent for profit-seeking enterprises. Chinese Taipei also loosened restrictions on investment tax credits for private institutions participating in public infrastructure projects. In addition, the Company Act was amended in 2011 to improve the ease of doing business, strengthen corporate governance and enhance shareholders' rights. An Investment Service Center was set up to provide customized, one-stop solutions to investors to address investment obstacles.

### **Standards and Conformance**

Chinese Taipei continues its efforts to align domestic standards with international standards. In 2011, 687 food sanitation standards were established or revised. These standards were related to pesticide/crop combinations, veterinary drugs and food additives. WTO SPS Principles have been adopted for the implementation of food sanitary regulations.

### **Customs Procedures**

In 2009, Chinese Taipei launched five projects to facilitate and secure trade, the Authorized Economic Operator Certification System, the Advance Cargo Declaration System, the Cargo Movement Security System, the Inspection Techniques Modernization System, and the Integration and Enhancement of Single Window Functions. There were 401 AEOs in 2011.

Regarding automation of trade procedures, Chinese Taipei made good progress in various areas. The RFID e-Seals on Transshipment Containers were adopted at major harbors and the use of high tech Mobile X-ray Container Inspection Machines to substitute partial physical examination was implemented. In addition, Chinese Taipei established the Advance Ruling System on Valuation in September 2010. The Facile Trade Net, as a one-stop web-based electronic access to trade-related documentation and data transmission among 16 government agencies, is in operation, as well as a web-based electronic system for application and issuance of documents and certificates.

### **Intellectual Property Rights**

Several actions have been implemented recently to strengthen the protection of intellectual property rights. Many regulations on copyrights and royalties entered into force in 2010. The amendment to Copyright Act and the amendment to the Copyright Intermediary Organization Act were promulgated in February 2010. The amendment to the Trademark Act was promulgated

in June 2011 to conform international trends and better trademark protection. Later, the amendment to the Patent Act was passed in November 2011.

In the external front, the Patent Prosecution Highway Pilot Program was launched jointly with US Patent and Trademark Office, utilizing examination and searching results mutually to process requests for accelerated examination. In November 2011, Chinese Taipei and China commenced mutual acceptance of priority right for patents, trademarks, and plant varieties. Besides, Chinese Taipei partnered with the Internet Association to post notices on warning internet users against the online purchase or sale of counterfeit and pirated goods.

To improve transparency, an online search database of similar trademarks was made available for public free of charge from January 2011.

### **Competition Policy**

The Fair Trade Commission (FTC) assisted government departments in reviewing all laws and regulations under their respective jurisdictions in order to provide an environment for fair market competition and enforce competition policy. The FTC implemented the 2010-2011 Competition Advocacy Program to assess the effectiveness of its enforcement of antitrust laws and competition advocacy. In December 2011, a compliance program was held as part of the advocacy effort to improve cartel awareness.

The latest amendment to Fair Trade Act came into force in November 2011, including a leniency program and raising the maximum fine to 10 percent of the previous fiscal year's sales revenue of a company for any serious cartel violation. The Commercial Port Act was amended to implement separation of the administrative and business elements of navigation and harbor systems, so as to raise the competition and competitiveness of the ports.

### **Government Procurement**

Chinese Taipei submitted its revised offer and participated in the negotiation process to modernize WTO Government Procurement Agreement (GPA). With the entry into force of GPA, the coverage of the agreement for Chinese Taipei will be expanded.

### **Deregulation/Regulatory Review**

Comprehensive deregulation has been conducted as a means to revitalize the economy and strengthen international competitiveness. From May 2009 to January 2012, 736 activities concerning economic and financial deregulations were carried out. Working groups have been created to review regulation and create a business friendly investment environment. A website portal was set up to collect public suggestions on regulation matters.

For example, based on this review process, Chinese Taipei simplified the application procedures for company startups by eliminating the minimum capital requirement and setting up a one-stop online application website. The Fundamental Science and Technology Act was also amended to loosen regulations governing technology transfer. The taxation system underwent reforms and many taxes were reduced.

### **Mobility of Business People**

Chinese Taipei established the Advance Passenger Information (API) system in July 2011 to allow air carriers flying to and from Chinese Taipei to transmit API information to the immigration agency. The Automated Immigration Inspection e-Gate System was launched in September 2011 for citizens, facilitating customs and immigration clearance through the use of facial imaging and fingerprint technology.

Chinese Taipei has introduced three different visas for foreigners, an employment pass card, an academic and commercial travel card, and a permanent residence card. The visa approval process was also simplified to facilitate the issuance of visas, work permits, and residence permits. Passport-holders from 42 economies, including eight APEC economies can enter Chinese Taipei without a visa for a maximum stay of 30 or 90 days.

### **Transparency**

All the laws, regulations and practices of government agencies are available for public access via internet.

### **RTA/FTAs**

Currently, Chinese Taipei has five agreements in force. The most recent one is the China-Chinese Taipei Economic Cooperation Framework Agreement which became fully in force from January 2011. Chinese Taipei is in the process of negotiating an economic partnership agreement with Singapore. A joint feasibility study on a bilateral economic cooperation agreement is currently under way between Chinese Taipei and New Zealand.

### **Supply Chain Connectivity**

In October 2010, Chinese Taipei launched the Action Plan for the Development of the International Logistics Services Industry, to be carried out from 2010 to 2013, aiming at strengthening the development of supply chains. The four main themes of this plan are the raising of customs clearance efficiency, the improvement of infrastructure, the enhancement of logistics services, and the promotion of cross-border development and cooperation.

### **Ease of Doing Business (EoDB)**

Since 2008, Chinese Taipei has referred to the World Bank Doing Business report for guidance in carrying out reforms in the areas included in this World Bank initiative. To date, some completed reforms to improve administrative efficiency include the elimination of the minimum capital requirement for business startup, the scrapping of the uniform certification system for profit-seeking enterprises, the creation of an internet portal for starting a business, and the setting up of a single window procedure for construction permit applications. The Company Act and Securities and Exchange Act were amended to broaden the liability of company directors, to increase information disclosure requirements for related party transactions, and strengthen minority shareholders' rights.

## THAILAND<sup>21</sup>

### Highlights of Achievements and Areas for Improvement

- Tariffs were reduced and eliminated for 38 tariff lines since 2009. However, high MFN tariffs still remain for some agricultural products.
- Import prohibitions or licensing are applied in some cases.
- Commercial presence with foreign equity participation is allowed in almost all business sectors, even though limitations on foreign equity participation still persist in some sectors.
- The investment promotion policy has been revised to ensure that it satisfies the needs of both investors and the government, and suits prevailing economic conditions.
- A One Start One Stop Investment Center has been established to offer a wide range of investment-related services on a range of topics by multiple agencies.
- A One Stop Service Center for Visa and Work Permits has been set up to facilitate the application process for stay, re-entry and work permits.
- Thailand aims to align its domestic standards to international standards. Room for improvement. Active participation in international standardization activities.
- Gradual development of a single window to facilitate customs procedures. Same for the Electronic Procurement Information Center (e-GP) to facilitate government procurement.
- On-line applications for trademark are now available.

### Summary of Updates

#### Tariffs

Thailand's simple average tariff measured at the HS 8-digit level was equal to 12.4 percent in 2011. Since 2009, tariffs were reduced or eliminated for 38 tariff lines such as natural gas, cocoa beans, malt extract, copper ores, crane lorries, gear boxes and parts, and automatic regulating or controlling instruments, among others. However, high MFN tariff rates still remain for some agricultural products.

Thailand is also reducing tariffs for the goods originating from Thailand's FTA signatory partners as agreed in the corresponding tariff liberalization schedules.

According to its commitment under the WTO, tariff rate quotas are applied and imposed for 23 agricultural products.

#### Non-Tariff Measures

Thailand prohibits the import of electrical and mechanical operations devices for gambling. In general, import prohibition measures are only applied to protect public morals, national security, human, animal and plant life, public health and intellectual property.

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<sup>21</sup> This brief report was prepared with information from the Thailand's submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of Thailand's WTO Trade Policy Review from November 2011.

Discretionary import and export licensing is applied for some products on the grounds of public health and moral, financial security, conservation of domestic resources and treasuries, which are consistent with WTO. Import of fuel oils needs approval of the Department of Foreign Trade.

### **Services**

Commercial presence with foreign equity participation is allowed in almost all business sectors. Limitations on the amount of foreign equity participation are imposed on certain services sectors.

For financial services, the 2008 Financial Institutions Business Act, the consolidated financial act that replaced the 1962 Commercial Bank Act and a 1979 Act on financial services, allows foreign equity ownership up to 49 percent. However, foreign ownership between 25 percent and 49 percent requires prior approval from the Bank of Thailand. The Law also allows the Ministry of Finance to authorize foreign ownership greater than 49 percent if deemed necessary to support the stability of the overall financial system during an economic crisis.

Under the second phase of Financial Sector Master Plan (FSMP II: 2010-2014), which was approved by the cabinet in 2009, Foreign banks are allowed to open up to 3 branches (2 additional branches from the existing one) regardless of location from 2010 onward. In parallel with this, in 2012 the authorities will consider allowing newly converted and existing subsidiaries to open up to 20 branches and 20 off premise ATMs subject to the Ministry of Finance approval. Currently, subsidiaries are allowed to open up to 5 branches (2 branches in the Bangkok Metropolitan area and the remaining 3 branches outside the Bangkok Metropolitan area). Foreign management personnel are limited to six professionals in full branches and subsidiaries of foreign banks, however exceptions are often granted.

### **Investment**

Foreign investors are welcomed to invest in most businesses in Thailand. However, certain restrictions exist on businesses, in particular for those related to safety or security, arts, culture and traditions, natural resources and environmental matters.

The Board of Investment revises its investment promotion policy periodically to ensure that it satisfies the needs of both investors and the government, and suits prevailing economic conditions. The policies aim to enhance the efficiency and effectiveness of tax privileges; to promote development of quality and production standards and enhance competitiveness; and to give priority to small and medium industries and targeted industries. Those mentioned conditions are applied in line with international trade and investment agreements.

Furthermore, the One Start One Stop Investment Center has been opened to support private sector investment since January 2009, by providing guidance to interested investors in investment and investment-related services.

Thailand has signed 40 Investment Promotion and Protection Agreements so far, among which 36 already entered into force. Thailand also signed 61 Treaties for Avoidance of Double Taxation and the Prevention of Fiscal Evasion, among which 54 are already in effect.

### **Standards and Conformance**

Thailand aims to align its domestic standards to international standards, 50 of them are aligned with international standards. Most food standards have been aligned with Codex standards.

Thailand participates actively in international standardization activities, and is a signatory of the Pacific Accreditation Cooperation and the International Accreditation Forum Multilateral Recognition Arrangement, the Asia Pacific Laboratory Accreditation Cooperation and the International Laboratory Accreditation Cooperation Multilateral Recognition Arrangement (MRA), among others. Besides, Thailand currently participates in the APEC Electrical MRA Part I, APEC Food Sectoral MRA, and APEC Arrangement for the Exchange of Information on Toy Safety. A bilateral MRA on Automotive Products was concluded with Australia as well.

### **Customs Procedures**

Thai Customs Department provides electronic customs services for import and export. The National Single Window (NSW) Phase I is in operation since July 2008, and Phase II is in the development and to be completed by early 2012.

Thailand has improved the profiling system for risk management to facilitate trade flows. Also, a division working group was set up to implement express consignment procedures, taking into account global standards. The E-express program for exporters and importers was implemented in 2010.

### **Intellectual Property Rights**

To ensure the expeditious granting of Intellectual Property Rights (IPRs), the patent examination process was partially outsourced to foreign searching authorities, public universities, and governmental institutions. The Department of Intellectual Property (DIP) has introduced a guideline to reduce the average turnaround time of registration process. On-line applications for trademark have been introduced to provide easy access to IPR protection.

Campaigns increasing awareness on IP matters were implemented. For example, DIP prepared manuals with instructions on the fair use of copyright, including the fair use of work, without violating copyrights.

### **Government Procurement**

Thailand is developing the Electronic Government Procurement System (e-GP) in three phases. The first phase, implemented in April 2010, involved the development of the Electronic Procurement Information Center, which improved transparency, worthy and efficiency of government procurement. Thailand is currently developing the second phase of e-GP, which will include an interface connecting agencies with a supplier grading system, contract management system, penalty calculations, among others. The third phase will implement two systems, the e-bidding for non-standardized goods or services and the e-market for standardized goods or services.

### **Dispute mediation**

Dispute settlement mechanisms are included in Bilateral Investment Treaties (BITs). Thailand has concluded BITs with 39 partners. Further reviews of BIT provisions are periodically conducted.

The Thai Judiciary is fostering the court-annexed mediation in the Court of Justice of Thailand, and has issued the President of the Supreme Court's Rules on Mediation B.E. 2554 (2011) which provides more protection for the confidentiality and the integrity of the mediation process.

### **Mobility of Business People**

A One Stop Service Center for Visa and Work Permits has been established to facilitate visa and work permit extensions and all related arrangements. The process of visa and work permit extension can be completed within only three hours.

### **RTA/FTAs**

Thailand has implemented 11 RTA/FTAs with 16 partners. It is currently in the process of negotiating the extension of the coverage for four existing RTA/FTAs and negotiating an additional new FTA.

## THE UNITED STATES<sup>22</sup>

### Highlights of Achievements and Areas for Improvement

- A high percentage of imports for consumption enter the United States duty-free. However, some MFN tariff peaks remain, especially in agriculture, which is subject to a number of non-ad valorem import duties.
- Liberalization of some services sectors such as accounting and air transportation services to selected partners through negotiations. Improved market information in broadcasting and telecommunications. Foreign ownership restrictions remain in some sectors.
- Acceptance of third party testing based on the International Laboratory Accreditation Cooperation recognition of laboratory accrediting bodies.
- The United States is implementing the Automated Commercial Environment, a single window to facilitate trade and strengthen border security.
- Nevertheless, there are some concerns that more intensive border checks and scanning requirements for containers may increase trade transaction costs.
- Effective patent reform legislation was promoted. Actions to improve IP law enforcement and raise awareness on IP matters.
- Increased transparency in competition agencies' enforcement of competition laws. Ongoing regulatory reform in independent regulatory agencies to reduce costs, simplify the system and eliminate redundancy and inconsistency
- Concerns have been raised with regards to the “Buy American” requirement in some government procurement programs.
- The United States passed legislation in November 2011 to issue ABTC cards to eligible U.S Citizens in the future.
- High transparency standards. Public notice of proposed rules and comments by interested parties, enables citizens to engage in the process to create, review and change rules.

### Summary of Updates

#### Tariffs

In 2010, 70 percent of imports for consumption entered the United States duty- free. The U.S. trade- weighted applied tariff average, including preferences and FTAs, was equal to 1.4 percent.

Nevertheless, some MFN tariff peaks remain in certain sectors, such as footwear, leather, textiles and clothing, and agriculture. Many agricultural products are subject to non-ad valorem tariffs.

#### Non-Tariff Measures

The Steel Import Monitoring and Analysis Program is extending its import licensing system until March 2013. The licensing system on trade in cement was terminated in 2009.

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<sup>22</sup> This brief report was prepared with information from the United States' submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of the United States' WTO Trade Policy Review from September 2010.

## Services

In accounting services, the United States has concluded a Mutual Recognition Agreement (MRA) with Hong Kong, China, establishing the basis for reciprocity for accounting professions. In addition, the Uniform CPA Examination, for individuals wishing to become Certified Public Accountants in the USA, is offered at select international locations since August 2011.

Regarding air transport services, 12 Open Skies Aviation Agreements have been concluded since 2009, liberalizing bilateral passenger and cargo transportation between signing parties. In broadcast and telecommunication services, a Spectrum Dashboard to provide more transparent access to information on spectrum allocation and assignment in the United States was introduced in March 2010. The Dashboard also provides search and map functions for licenses.

## Investment

The United States launched the SelectUSA Initiative to centralize the Federal Government's investment promotion infrastructure and resources, and to facilitate domestic and foreign investment. Investment promotion and liberalization are also carried out through inclusion of high standards of investor protection in FTAs and Bilateral Investment Treaties (BITs). Foreign ownership restrictions remain in some sectors such as air transport.

## Standards and Conformance

In 2010, the United States started to accept third party testings based on the International Laboratory Accreditation Cooperation recognition of laboratory accrediting bodies. In February 2011, the American National Standards Institute issued the Third Edition of the U.S. Standards Strategy, which recognizes the need for standards designed to meet stakeholder needs irrespective of borders and reflects a standardization environment that incorporates new types of standards development activities, more flexible approaches and new structures.

A MRA between the United States and Mexico on Conformity Assessment of Telecommunications Equipment was concluded in May 2011. This MRA will facilitate the sale of American products in Mexico, as Mexican authorities will accept tests performed by recognized U.S. laboratories to determine the conformity of telecommunications equipment with Mexican technical requirements.

Some concerns remain with regards to certain sanitary and phytosanitary measures and technical regulations. It is perceived that some of these measures are unduly trade restrictive.

## Customs Procedures

The United States is implementing the Automated Commercial Environment (ACE), a single window commercial trade processing system, to facilitate trade while strengthening border security. The ACE provides a single, centralized, online access point for communications and information related to cargo shipments. The International Trade Data System (ITDS) is a program to ensure inter-agency participation in ACE, collecting and sharing data with agencies that are responsible for compliance of imported and exported cargo with U.S. laws. Deployed in phases, ACE will be expanded to provide cargo processing capabilities across all modes of transportation and will replace existing systems with a single, multi-modal manifest system for land, air, rail, and sea cargo.

The United States has also enhanced its capabilities to pre-screen trucks and shipments to ensure the safety and security of incoming cargo, and to provide a consolidated view of rail and sea shipment manifest and entry data at the bill of lading or container level to facilitate the identification of shipments that may pose a risk and expedite the pre-arrival processing of legitimate cargo. There are some concerns that trade transaction costs may increase due to the more intensive border measures and the scanning requirement for containers.

An Anti-Dumping Countervailing Duty (AD/CVD) case management system is in place to improve the ability to track life cycle of an AD/CVD case and to facilitate trade compliance efforts by centralizing of more information.

### **Intellectual Property Rights**

In the past several years, the U.S. Government has promoted effective patent reform legislation. The American Invents Act, signed into law in September 2011, supports U.S. efforts to improve patent quality, reduces the backlog of patent applications, reduces domestic and global patenting costs of U.S. companies, provides greater certainty in patent rights, and offers effective alternatives to costly and complex litigation.

Many of the efforts in recent years have been related to improving law enforcement and enhancing awareness at the domestic and international levels concerning IPR. Several actions to combat Intellectual Property (IP) theft are refining the IPR risk model to enhance targeting and interdiction of infringing shipments; establishing two Centers of Excellence and Expertise to facilitate the timely resolution of trade compliance issues across ports of entry; initiating Operation In Our Sites, an approach to target the sale the illicit items through the internet; increasing intra-agency coordination in investigations on possible illicit activities; developing model practices for enforcing IP in international posting and courier facilities; and deterring future violations by administering audits of companies with a high-risk of importing counterfeit and pirated goods, among others.

### **Competition Policy**

In August 2010, the U.S. competition agencies, the Federal Trade Commission (FTC) and Department of Justice (DOJ), issued revised horizontal merger guidelines to provide a better understanding on how they analyze mergers, to identify and challenge competitively harmful mergers while avoiding unnecessary interference with mergers that have no or beneficial competitive impact. The DOJ, in June 2011, released an updated version of the Antitrust Division's Policy Guide to Merger Remedies, which provides transparency to the approach taken by the Antitrust Division to merger remedies. The guide reflects the changes in the merger landscape and the lessons the Division has learned from the remedies it has entered into since the issuance of the original guide in 2004, ensuring that it accurately details the Division's merger remedy practices.

The Federal Trade Commission closely follows and litigates against pay-for-delay agreements, in which a branded drug company pays its potential generic competitor to abandon a patent challenge and delay offering a cheaper generic version to patients.

Since 2009, the DOJ and FTC have signed Memoranda of Understanding on antitrust cooperation with the competition agencies of Russia and China, and an antitrust cooperation agreement with Chile's competition agency. In September 2010, the FTC, together with competition agencies from Mexico, Chile and Panama, also led the effort to establish the Inter-American Competition Alliance with the objective of establishing regular cooperation among antitrust agencies in the Americas. Both FTC and DOJ have actively participated in the Alliance's informal monthly teleconferences.

### **Government Procurement**

The Government amended the Federal Acquisition Regulation which aims to enhance competition among multiple award contract holders for task and delivery orders over 5 million USD; to limit the number of single award task and delivery orders; and to clarify the ability of contractors to protest the awarding of task and delivery orders, among others.

Some concerns have been raised with regards to the "Buy American" requirements in government procurement programs and other measures at the sub-federal level.

### **Deregulation/Regulatory Reform**

In June 2010, the Government issued a Memorandum on 'Disclosure and Simplification as Regulatory Tools' to provide guidance on how to achieve regulatory objectives by disclosing relevant information to the public at the right moment in time, and reducing complexity, ambiguity, and paperwork burdens, or selecting appropriate starting points or 'default rules'.

In October 2010, the Office of Information and Regulatory Affairs issued a checklist to assist agencies in producing regulatory impact analysis (RIAs). In July 2011, the President of the United States issued the Executive Order 13579, Regulation and Regulatory Agencies, which, requires each independent regulatory agency to develop and release to the public a plan, consistent with law and reflecting its resources and regulatory priorities and processes, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. In August 2011, U.S. Government released final regulatory reform plans, including hundreds of initiatives that will reduce costs, simplify the system, and eliminate redundancy and inconsistency.

### **Mobility of Business People**

The United States has deployed the DS-160 online non-immigrant visa application worldwide, which facilitates the visa application process. Trusted Traveler Programs continue to expand. Under the program, travelers undergo an extensive background check to determine their eligibility as low-risk, trusted travelers. Global Entry members can access the Global Entry Kiosks at 24 U.S. international airports to complete their immigration and customs processing.

In November 2011, legislation was passed to issue the ABTC to eligible U.S. citizens.

Some concerns remain with regards to the visa restrictions that are perceived to affect the supply of mode 4 services.

### **Transparency**

Federal agencies are required to publish rules, as well as notices of proposed rules in the Federal Register. Public notice and comment rulemaking resulting in a final rule, based on the facts presented in the public record, is the basis of the adoption of final regulations. In that way, the system enables citizens to participate in the process to create, review and change rules. Proposed and final regulations are available in the internet.

The United States also notifies the WTO of certain draft technical regulations and conformity assessment procedures for comment by other WTO members.

### **RTA/FTAs**

The United States has implemented FTAs with 19 economies, including six agreements with seven APEC economies, and secured Congressional approval for a trade agreement with Panama. The United States is currently involved in the negotiations of the Trans-Pacific Partnership Agreement.



## VIET NAM<sup>23</sup>

### Highlights of Achievements and Areas for Improvement

- Viet Nam has reduced its average tariff in recent years, but high MFN tariffs still remain for both agricultural and non-agricultural products.
- Many quantitative and other non-tariff restrictions have been eliminated in recent years. Nevertheless, some import prohibitions and import licensing requirements still remain.
- Measures in services sectors such as telecommunications, banking and energy aiming to increase competition.
- Viet Nam is encouraging the private sector to invest in infrastructure projects.
- Active participation in international organizations for standards, metrology and quality. Nearly half of domestic standards follow international standards.
- E-customs procedures have been implemented to facilitate trade. However, there are some concerns about the length of the customs clearance process.
- Efforts to streamline government procurement process.
- Structural reforms to simplify administrative procedures and review legislation.

### Summary of Updates

#### Tariffs

Viet Nam is implementing the preferential tariff schedules agreed in the ASEAN Trade in Goods Agreement, the ASEAN-China FTA and the ASEAN-Korea FTA for the period 2012-2014.

Viet Nam's average tariff has fallen in recent years. In fact, Viet Nam reduced its tariffs after its accession to WTO in 2007. Nevertheless, high MFN tariffs still remain for both agricultural and non-agricultural goods.

#### Non-Tariff Measures

In May 2010, the Ministry of Trade and Industry issued a circular stipulating the application of automatic import licensing to a number of agricultural products including meat, fish, shellfish, sugar, cocoa, cereal goods, wine and spirits, among others.

Many quantitative and other non-tariff restrictions have been eliminated in recent years. However, a limited number of products such as second-hand goods, firecrackers, right-hand drive motor vehicles, used spare parts and certain variety of meat cuts face import prohibitions. Also, some manufactures and agricultural products need to fulfill import licensing requirements.

#### Services

In the telecommunications sector, the Circular 11/2010/TT-BTTTT issued in May 2010 stipulated promotion activities for the sale of mobile phone services, which helped to increase competition and the number of subscribers in this sub-sector.

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<sup>23</sup> This brief report was prepared with information from Viet Nam's submission of 2012 APEC Individual Action Plan (IAP) template and USTR's 2012 National Trade Estimate Reports on Foreign Trade Barriers.

In the banking sector, the State Bank of Viet Nam allows foreign banks to participate in the domestic market. The Circular 40/2011/TT-BTTTT establishes that for branches of foreign banks, parent banks need to have assets for at least USD 20 billion in the year preceding the submission of the application to open the branch; generate profits for the previous five years and not having committed any serious violation of banking regulations in their home economy in the previous five years before the application.

In air cargo services, the Circular 26/2009/TT-BGTVT issued in October 2009 establishes the procedures for the approval of aircraft lease between Vietnamese and foreign organizations and individuals. It also guides the procedures to set representative or booking offices for foreign airlines.

In the energy service, the Circular 45/2011/TT-BCT, which became effective in February 2012, stipulates the operation of a competitive market in the generation of electricity

### **Investment**

Viet Nam is expanding the opportunities to invest in infrastructure. The Decree 24/2011/ND-CP, which came into effect in May 2011, encourages the development of infrastructure facilities in medical health, education and training, occupational training, culture, sports and offices of State bodies. The investment schemes in the forms of Build – Operate – Transfer (BOT), Build – Transfer – Operate Contract (BTO) and Build – Transfer Contract (BT).

### **Standards and Conformance**

From May 2010 to December 2011, Viet Nam published 700 standards, half of which were developed on the basis of ISO, IEC, ISO/IEC, Codex standards. In 2011, Viet Nam also published 103 technical regulations.

Viet Nam is participating actively in international organizations for standards, metrology and quality. As of December 2011, Viet Nam's competent authority had signed 23 Memoranda of Understanding and Cooperation agreements with foreign agencies and international organizations.

### **Customs Procedures**

Since 2011, e-customs procedures have been implemented for exports, imports and processing goods for export. The implementation of this electronic system increased the number of enterprises involved (117 times higher compared to 2009) and the number of e-customs declarations (136 times higher compared to 2009). However, there are still concerns about the length of the customs clearance process.

### **Intellectual Property Rights**

Viet Nam has been working on streamlining the process to apply for a registration of IP. The National Office of Intellectual Property, in collaboration with other agencies, drafted a series of documents to facilitate the applicant on the steps to follow, as well as to ensure transparency of the process of examination and review of industrial property applications.

Authorities in Viet Nam are implementing actions to enforce the respect of IPR. They have reported a reduction in pirated and counterfeit goods. Awareness on IPR matters is increasing among the population due to campaigns in mass media and the organization of learning programs.

### **Competition Policy**

In 2010, the Viet Nam Competition Authority released a Handbook on Competition Law to create awareness on the matter. Later, in 2011, a working group assessing the implementation of the Competition Law provided some recommendations to improve its effectiveness in the future. The reviews included the regulations on restrictive practices, unfair competition practices, economic concentration, and appeal procedures, among others.

### **Government Procurement**

Viet Nam has been implementing procedures to improve the government procurement bidding process. In July 2011, the Ministry of Planning and Investment issued the Circular 15/2010/TT-BKH to incorporate an online tender process.

### **Deregulation/Regulatory Review**

Viet Nam completed the “Master Plan on Administrative Reform 2001-2010”. This plan included a number of initiatives concerning deregulation/regulatory reform policies. During this period, efforts to simplify administrative procedures and review legislation were implemented. From 2009, proposals to create laws and ordinances by either the National Assembly Standing Committee or the Government require a preliminary impact assessment report.

### **Mobility of Business People**

Viet Nam approved issuing electronic passports to its citizens.

### **RTA/FTAs**

Viet Nam’s network of RTA/FTAs includes agreements in force with 15 economies. An FTA with Chile was signed in November 2011. Viet Nam is currently negotiating the TPP and involved in discussions for possible FTA negotiations with three economic blocs.