

Australia

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

Deregulation agenda

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

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

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

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

Structural and microeconomic reform

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

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

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

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

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

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

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

Federal financial relations

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

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

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

Public sector administration

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

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

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

Regulatory reform

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

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

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

Strengthening Economic and Legal Infrastructure

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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