



ACHIEVING THE NATIONAL EXPORT INITIATIVE: CREATING EXPORTS AND JOBS THROUGH TRADE

RECOMMENDATIONS FROM AMERICANS
WORKING IN ASIA

The Asia-Pacific Council of
American Chambers of Commerce



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DEAR POLICY-MAKERS AND BUSINESS LEADERS:

We are pleased to present to you this updated recommendation report for 2010 from the 27-chapter organization of American Chambers of Commerce, known as the Asia-Pacific Council of American Chambers of Commerce (APCAC). In this report, American business leaders across Asia Pacific offer their recommendations for advancing the competitiveness of American products and services in the fastest growing region of the world.

Our thanks this year goes to AmCham-China, who is the host of the 2010 APCAC Spring Conference. Our conference in Beijing will bring together business leaders and U.S. and regional government officials to evaluate and plan for future economic opportunities for American business. We are indebted to APCO Worldwide for their help with our report again this year.

We hope this report will continue to be a useful guide for business and government leaders, and we look forward to a continuing dialogue on these and other important issues during the year.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristin Paulson', written in a cursive style.

Kristin Paulson
Chairman, APCAC

EXECUTIVE SUMMARY

The APCAC focus in 2010 is supporting the U.S. National Export Initiative:

- Globalization in the form of American companies operating successfully abroad is positively correlated with growth in American jobs and exports.
- U.S. support for the competitiveness of Americans working abroad is in our national interest.
- U.S. government commercial engagement with Asia should be based on active leadership in the Asia-Pacific Economic Cooperation, Congressional approval for the U.S.-Korea Free Trade Agreement, and progress toward joining the Trans-Pacific Partnership on mutually beneficial commercial terms.
- We support efforts to open markets, improve transparency, standardize and harmonize regulations, and combat corruption.
- The U.S. economy can particularly benefit from improving the business environment in the areas of Energy and the Environment; Financial Services and Investment; Infrastructure Development; the Internet Economy; Pharmaceuticals, Medical Devices, and Diagnostics in Healthcare; and Logistics and Express Delivery Services.
- Asia and the United States remain closely coupled, and Asia is a current and future engine of growth. As stimulative fiscal and monetary policy is gradually normalized, we must turn to building future prosperity on a regional Asia-Pacific basis as well as within individual countries and markets.

I. RECOVERY FROM CRISIS

President Barack Obama, in his 2010 State of the Union Address, outlined the trade goals and strategy of the United States:

“We will double our exports over the next five years, an increase that will support two million jobs in America. To help meet this goal, we’re launching a National Export Initiative that will help farmers and small businesses increase their exports, and reform export controls consistent with national security.... We will strengthen our trade relations in Asia.”

We strongly support and commend the National Export Initiative.

APCAC specifically supports a substantial increase in the budget of the U.S. and Foreign Commercial Service. U.S. companies of all sizes operating abroad rely on the assistance they receive from the Foreign Commercial Service’s Commercial Counselors, officers, and country trade experts. Support for the U.S. and Foreign Commercial Service is especially critical to small and medium-sized U.S. businesses, which may not have the resources to mount marketing operations abroad, and particularly important in the Asia-Pacific region due to the economic growth of many key emerging markets.

The remainder of this paper offers suggestions for realizing the goal of doubling U.S. exports over the next five years, beginning with the role of U.S. corporations and individuals in Asia, then considering commercial engagement with respect to trade policy and specific industrial sectors.

II. U.S. EXPORTS AND BUSINESS IN ASIA

Asia and the United States are inextricably connected by historical ties and common security interests as well as by cross-border movement of people, data, goods, services, and capital.

The Asia region is the destination of 60% of U.S. exports. The region accounts for 60% of the world’s GDP and 50% of global trade, even though it contains only 40% of the world’s population. More than 57 million Americans work for companies that benefit from exports, according to the U.S. Treasury. Leveraging these dense connections is crucial to sustaining the recovery in both Asia and the United States.

As Asian economies have prospered, American companies are realizing new opportunities to produce for the markets in the region, not simply for export to Europe or the U.S. Their tested ability to operate in a large number of countries, bringing global standards of excellence and sensitivity to local cultures and economic conditions, is a powerful competitive advantage. Survey data shows that most American companies operating in China, for example, are there to produce for the local market. As the Association of Southeast Asian Nations (ASEAN) furthers its goal of creating a unified market of 600 million people, American multinationals have a major opportunity to participate across the entire region.

American firms in Asia have led in developing integrated supply chains that are efficient and highly responsive to shifts in demand. Contrary to U.S. public perception, the process of globalization produces employment growth in high quality jobs at home. U.S. Bureau of Economic Analysis data for the period 1988 through 2007 show that employment at overseas affiliates grew by 5.3 million (82%) to a total of 11.7 million, and employment in the U.S. parent companies also grew by 4.3 million (24%) to a total of 22 million. Average compensation in the U.S. parent companies was 20% above the average for all other jobs in the U.S. economy. Investing abroad is highly correlated with investment and an increase in well-compensated jobs at home.

To climb out of recession, the U.S. needs millions of high-paying jobs. They will be created more rapidly if U.S. policy, and that of other countries, supports the free movement of goods and capital through expanded regional trade and investment agreements, and if the U.S. and other countries eschew the temptations of protectionism and tax policies targeting the growth of multinational corporations, and tax policies that make Americans less competitive to employ outside the U.S.

We therefore call on the U.S. government to lead with respect to the emerging new institutions and agreements supporting regional integration and free trade, to support foreign direct investment by U.S. companies abroad and by Asian companies in the U.S., and to facilitate the competitiveness of both U.S. companies and individual American citizens in Asia.

III. AMERICANS ABROAD IN ASIA

Taxation of Americans Working Abroad

U.S. policy is often unintentionally harmful to Americans who are on the front lines of the sales forces in Asia and elsewhere promoting U.S. exports. For instance, the U.S. is the only developed country to tax its citizens on their worldwide income. The U.S. tax system, coupled with recent changes to U.S. tax law, has weakened the competitiveness of individual Americans relative to non-Americans.

Consequently, in many American multinationals in Asia, there are fewer Americans among their expatriate staff each year. One company in the services sector, for example, has 4,200 employees across the region, among them approximately 200 expatriates, of whom only two are Americans. Yet we know that Americans working abroad directly support U.S. employment by promoting our exports, and drawing on their U.S. connections in their professional lives.

Moreover, during the current economic downturn it is especially important to encourage U.S. companies to hire Americans for overseas positions, as every American moved to an overseas office means one more open position in the U.S. that could be given to an unemployed American.

Healthcare

Although Americans living abroad pay U.S. taxes, as foreign residents they are ineligible to receive federal health care benefits from programs such as Medicare. The recently passed Health care legislation may compound this basic unfairness by subjecting Americans abroad to new requirements while simultaneously making it difficult or impossible to access benefits.

APEC Business Travel Card

The APEC Business Travel Card (ABTC) was developed in response to the need for business people to gain streamlined entry to the economies of the Asia-Pacific region.

There are 18 economies currently participating in the ABTC Scheme: Australia, Brunei Darussalam, Chile, China, Hong Kong (China), Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, PNG, Peru, the Philippines, Singapore, Chinese Taipei, Thailand, and Vietnam. The United States and Canada are Transitional Members of the scheme.

Cardholders from all participating economies are now entitled to use 'fast-track' immigration lanes (currently designated for air-crew) at international airports.

There are currently 57,000 cardholders; none are American.

Since September 2007, the U.S. has allowed use of special lanes by current card holders from other APEC economies, but the U.S. does not yet issue the APEC Business Travel Card to its own citizens. This is not a security issue. It is simply that no legislative authority exists to allow issuance of the cards to Americans.

Counting Americans Abroad

The number of Americans living abroad is estimated at 4.3 to 7.2 million. The exact number is unknown because we are not counted by the U.S. Census.

RECOMMENDED U.S. ACTIONS:

- APCAC urges Congress to reverse the provisions of the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), which significantly raised taxes on Americans working overseas. Legislation that threatens to reduce or eliminate the Foreign Earned Income Exclusion should be opposed because it increases Americans' competitive disadvantage for jobs overseas that support U.S. exports.
- For individual mandates on insurance coverage, an exemption limited to the time they are overseas should be available to Americans living abroad, unless a full range of plans designed for U.S. citizens residing abroad is available. Such plans should include an option for U.S. citizens living abroad to obtain worldwide health care coverage so that they can be covered on return trips to the U.S.
- U.S. citizens returning from abroad should have immediate full rights of residency, and insurance companies should be required to cover such individuals as they would if the person never left the U.S.
- Medicare coverage and benefits should be available regardless of location to all Americans who paid into the U.S. system during their working years and would otherwise be qualified to receive benefits in the U.S.
- APCAC encourages the Congress to pass pending legislation to authorize the Department of Homeland Security to issue APEC Business Travel Cards to Americans.
- We urge that new procedures be developed and tested in time to include the substantial population of Americans living abroad in the 2020 census.

IV. U.S. COMMERCIAL ENGAGEMENT WITH ASIA

APCAC believes that the U.S. Government's Asian trade policy can best strengthen the American economy by supporting the private sector with trade and investment initiatives oriented toward partnership with the region.

At the same time, we encourage all governments in the Asia-Pacific region to act together through regional mechanisms such as the Asia-Pacific Economic Cooperation (APEC) to enhance mutual growth. It is crucial to stand against protectionism. Enhanced trade and investment is mutually beneficial for the U.S., other Asian-Pacific nations, and their people.

President Obama's visit to Asia in November 2009 to attend the APEC Summit and visit Japan, Korea, and China reaffirmed the U.S. commitment to remaining engaged as a vital member of the Asia-Pacific region. The affirmation of achieving a Trans-Pacific Partnership (TPP) and eventually a Free Trade Area of the Asia-Pacific (FTAAP), as well as moving forward on the U.S.-Korea Free Trade Agreement (KORUS FTA) provides clear goals worthy of pursuit. However, these stated goals must be followed up by clear action to promote regional economic integration with the U.S. as a key part of the Asia-Pacific architecture.

The two-year period in which APEC will be led first by Japan in 2010 and then by the U.S. in 2011 provides a clear opportunity to further American engagement with Asia. APEC is the most important Asian trade and cooperation mechanism of which the U.S. is a constitutive part. The U.S. Government should leverage the APEC process to achieve needed market reforms and trade liberalization in the region, especially by supporting capacity-building measures for which APEC has demonstrated a strong competency.

For our part, U.S. businesses in Asia pledge to work cooperatively with the U.S. Government and regional governments to support an active APEC agenda. The APEC Business Advisory Council will attract a high degree of participation if APEC itself is vibrant and active.

RECOMMENDED U.S. ACTIONS:

- The guiding objectives for the Office of the United States Trade Representative (USTR) should be promotion of open markets and national treatment, negotiation of high standard free trade agreements and bilateral investment treaties, and World Trade Organization (WTO)-consistent trade enforcement. The U.S. should ensure that higher labor and environmental standards in trade agreements encourage sustainable development and do not restrict trade or close the U.S. market.
- The U.S. Government should leverage its role in APEC at the leader, minister, and working group levels with the aim of building consensus on policies that promote trade and investment among the APEC economies, and addressing "behind the border" issues such as transparency and level playing fields.
- We strongly support negotiation of the proposed Trans-Pacific Partnership with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru, and Vietnam. In time, the TPP could become the nucleus of a FTAAP.
- We strongly support and urge Congressional ratification of the KORUS FTA, because it would materially improve access to a large market and is the most commercially relevant opportunity to stimulate U.S. exports and employment. We also support consideration of the FTAs that have been in discussion with Thailand, Malaysia, and Taiwan.

- We encourage the U.S. to consider negotiating a Free Trade Agreement with ASEAN. ASEAN has already finalized FTA negotiations with China, India, Australia, New Zealand and South Korea, which will give their companies a competitive advantage over U.S. companies operating in or exporting to ASEAN.
- We support the review by the U.S. Government of its policy toward Myanmar (Burma). We recommend an increasing level of engagement with Myanmar (Burma) and a close examination of the impact of U.S. sanctions on American firms with a view toward achieving more effective support of that country's social and economic development.

RECOMMENDED ASIA-PACIFIC ACTIONS:

- Governments around the Asia-Pacific region should work cooperatively through the APEC process, ASEAN, and others to realize an open market throughout the region and to promote specific capacity-building initiatives, as detailed in the sector-specific portions of this Report.
- Greater transparency in the regulatory process, provision of level playing fields for both local and foreign market participants, and removal of barriers to cross-border investment flows should be priorities.
- Promote regulatory exchanges and harmonization, including the promotion of independent Central Banks whose activities are governed by domestic, regional, and global economic conditions.

V. PROMOTING A CONDUCTIVE CLIMATE FOR TRADE AND INVESTMENT

The more open a country's economy is to innovation, the greater the benefits to consumers and the overall economy. Greater transparency and regulatory predictability attract investment.

Unfortunately, open markets and level playing fields are hampered by limits on foreign investment, with some countries having formal limits on foreign ownership stakes in domestic companies, including financial institutions and others. Furthermore, soft barriers, such as state-sponsored enterprises and institutions with special privileges, and restrictive or unclear regulations that hamper innovation and competition, discourage market entry. Such soft barriers should be addressed in a way that promotes open trade and investment.

While it is clear that some differences in regulations from country to country reflect local conditions, there should be broad agreement on several overarching themes and goals:

Regulatory equality

Participants in any market should be subject to the same laws in the same manner. A level playing field enhances consumer choice by bolstering competition among existing market participants, allowing new market entrants fair access, and giving equal treatment for all. Governments across the Asia-Pacific should avoid policies that unfairly benefit domestic enterprises -- including state-owned enterprises -- at the expense of foreign or new entrants to the market. Further, countries should adopt international standards when possible, rather than resorting to the creation of country-specific standards. This obviously supports Asian companies' regional and global presence, as well as the ability of each country to provide regional services. It also enables regional economies of scale and participation in technological innovation.

Transparency

Open processes, by which regulatory agencies publicize proposed rules well in advance and invite the public to comment on such rules, promote the rule of law and boost investor confidence in the regulatory system. More specifically, when new laws, rules and regulations are being contemplated, the relevant government authorities should: 1) involve all stakeholders in the rule-making process from start to finish; 2) put all of the relevant details of the proposed rules out for public comment and allow sufficient time for responses; and 3) make sincere efforts to incorporate meaningful comments into the final versions of the new/revised rule or regulation. Such procedures should also be followed by self-regulatory organizations exercising delegated authority, such as industry associations and standards committees.

Improvement of legal institutions, including clear regulatory frameworks governing companies and products and full implementation of existing laws, serves to promote legal certainty and the investor confidence that rides on such certainty. Clear systems to enforce creditor rights in a timely way are also necessary to incentivize lending to the corporate sector.

Transparency also extends to the availability of information. For example, in the financial area, modern tools for risk management should be encouraged, particularly in the Small- and Medium-sized Enterprise (SME) and consumer lending sectors, including the promotion of accessible, full-file credit bureaus that allow the development of credit scoring to reduce loss, and comply with prudent lending norms.

Uneven and unpredictable application of transfer pricing rules is a disincentive for global companies to share technologies and solutions across borders, as it leads to unintended technology transfers, risks of double taxation, and other costs. Transfer pricing rules, including with reference to intellectual property, transfer of rights, and services, should be made clearer through an APEC initiative to provide greater guidance on Organisation for Economic Co-operation and Development (OECD) norms and, as a practical capacity-building measure, initiatives to train local taxing authorities in their even application.

Anti-corruption

Corruption remains a serious problem in many Asian markets. The Foreign Corrupt Practices Act has been useful in reducing corruption by widely publicizing the legal liabilities U.S. companies and individuals face if they violate it. We support vigorous enforcement and a strong compliance environment among American companies. Stronger enforcement by the EU and Japan of relevant laws governing their companies would be welcome. We also support sunshine laws, improvements in transparency, and better enforcement throughout the region. Simplification and harmonization of customs regulations and procedures, and of licensing and certification requirements, materially reduce the opportunities for corruption. As tariffs are gradually reduced by free trade agreements, we urge governments to turn their attention to non-tariff barriers in the conviction that more efficient and open procedures will improve the business environment by reducing corruption as well as by making doing business easier.

RECOMMENDED U.S. AND ASIA-PACIFIC ACTIONS:

The U.S. Government and its APEC partners should cooperate to advance the following policy initiatives, including through the use of model standards under APEC:

- Greater transparency and participation in the regulatory and rule-making process, including such measures as public comment procedures, no-action letter requests, and opportunities for all market participants to offer input into the development of regulation from start to finish.
- The principle of a level playing field, such as like regulation on, and elimination of, preferential treatment or advantages among market participants providing like services.

- Liberalization or elimination of foreign ownership caps, including those applicable to the financial service sectors, with exceptions limited to areas of national security need.
- Greater harmonization and uniform application of transfer pricing rules to facilitate trade in knowledge-based goods and services, protect intellectual property, and avoid double taxation risks.

VI. SECTORS

Energy and the Environment

Energy policy is increasingly driven by the need to improve energy efficiency, reduce and mitigate greenhouse gas (GHG) emissions, and expand supply. Technology is at the heart of these needs, and addressing all three will require huge capital investments. Public policy must therefore support technological innovation by protecting intellectual property and facilitating investment by efficient capital markets and a sound legal framework.

RECOMMENDED U.S. AND ASIA-PACIFIC ACTIONS:

The U.S. Government and its APEC partners, cooperating with each other and through the APEC framework, should:

- Move rapidly to negotiate an agreement to eliminate customs tariffs and other trade barriers for products and services in the clean energy segment.
- Further improve GHG reduction measures and energy security. Every country has opportunities to substantially increase the share of renewables in its energy mix. This should be accomplished through setting goals for renewable energy growth and utilizing appropriate policies - such as feed in tariffs, production tax credits, and required grid access - to meet those goals.
- Ensure protections of intellectual property used in energy efficiency and GHG reduction measures, including in the development of renewables and alternative energy sources.
- Encourage the more efficient generation, transmission, distribution, and use of electricity, enact policies to promote combined heat and power, intelligent grids, smart meters, low energy use buildings, and efficient appliances to achieve this objective.
- Ensure that as new green growth policies are adopted, adequate attention is paid to possible unintended consequences for imported goods and services.

Financial Services and Investment

The modernization and harmonization of financial services regulations and promotion of trade in financial services are keys to advancing economic growth in both developing and developed economies. Such reforms will provide greater depth, stability, and dynamism to regional financial markets, facilitate trade in financial services, and ultimately provide the liquidity needed to boost domestic demand in countries across Asia, all of which will drive economic growth as well as more balanced flows of trade with the U.S.

We note particularly that as Asia regionalizes, the beneficiaries will increasingly be Asian financial services firms expanding to neighboring countries and throughout the region as well as American, European, and Japanese firms already operating regionally.

Capital Markets

The strengthening of capital markets-related services enhances competitiveness for domestic business, reduces the cost of capital, and improves the efficiency of capital allocation. Capital market access for foreign firms means deeper, more liquid local bond markets that enhance the effectiveness of domestic monetary policy, reduce economies' exposure to foreign currency-denominated debt, and contribute to the overall soundness of domestic financial systems. Debt and equity markets require state-of-the-art exchanges with an appropriate mix of oversight and self-regulation. A vibrant and innovative investment management industry is needed to efficiently make a range of investment products available to the public.

Commercial Lending

Commercial lending provides needed liquidity to businesses that enables job creation and growth. Innovative commercial lending products ensure that such liquidity is available not only to the established enterprises that are more likely to procure bank credit, but also to emerging and small businesses that are the seeds of future innovation. An example of regulatory transparency crucial for commercial lending is the presence of clear legal systems to perfect security interests in collateral (both movables and receivables) and assignment of claims. This would facilitate asset-based lending and factoring, which are important sources of liquidity for SMEs and others.

Insurance

A robust and competitive insurance industry supports efficiency and transparency in the allocation of risk, by providing insurance and risk-sharing products to individuals and institutions, as well as through their role as significant investors in institutional risk. Insurance regulation should allow innovation in new products and channels, promote competition, and ensure level playing fields, while protecting policyholders.

Consumer Finance

Underpinning a vibrant macro-economy is domestic consumer-led demand. This requires a robust, well-regulated consumer credit market. Proper disclosure of financial terms and promotion of financial literacy initiatives are prerequisites to ensure consumer confidence and prevent abuses, and are preferable to the imposition of non-market based restrictions such as lending caps or artificially low interest rate ceilings. Though well intentioned, such restrictions reduce the supply of credit, are recessionary, and displace many borrowers to the informal credit sector.

RECOMMENDED U.S. ACTIONS:

- Bilaterally and through its participation in APEC and other regional organizations, the U.S. Government should work to achieve the adoption throughout the region of measures designed to improve market access and promote the initiatives below.

RECOMMENDED ASIA-PACIFIC ACTIONS:

APEC members should support regional initiatives along the following lines, including implementing appropriate changes in local laws and regulations:

- Promoting by appropriate regulation the development of and appropriate access to modern, full-file credit information systems by all regulated lenders, and use of such systems for improved risk management and competitive risk-based pricing options for borrowers.
- Encouraging the provision of credit to the corporate and SME sector by improving the transparency and predictability of the legal architecture for secured lending, specifically through improving systems to perfect security interests in collateral (both movables and receivables) and assignment of claims, search existing liens, and enforce creditor rights.
- Promoting well-developed intermediary sectors, including a robust investment management industry and insurance industry. Regulation should be flexible, to allow the introduction of new products and services to markets where they do not exist, while providing regulatory oversight and investor protection.
- Promoting financial inclusion through a healthy consumer credit sector, with regulations that protect borrowers from abusive practices and ensure fair disclosure, but which otherwise allow flexibility to lenders to provide sufficient credit on market-based terms to support household consumption and broader economic growth.
- Encouraging cross-border funding and capital flows by, for example, removing unnecessary restraints on cross-border commercial borrowing.

Infrastructure Development

Many governments throughout the Asia-Pacific region are focusing on improvement of domestic infrastructure, recognizing the importance of state-of-the-art transportation, roads, ports, rail lines, logistics, telecommunications, and other infrastructure to a country's overall capability to attract capital and investment and to grow.

RECOMMENDED U.S. ACTIONS:

- In bilateral discussions, the U.S. Government should encourage and promote increased infrastructure development. Doing so will open new markets to American goods and services, both during and after the development phase, and improve economic development and the lives of ordinary people in the region.

Internet Economy

Governments and private companies are rolling out new Internet-based services all over the region and consumers are increasingly willing and able to work with global service providers. But what rules apply to this new area of economic activity? There is both a requirement and opportunity for collaboration on a range of issues essential to the rapid and healthy development of the Internet Economy.

RECOMMENDED U.S. AND ASIA PACIFIC ACTIONS:

- The APEC economies should jointly review the provisions of their respective laws and practices governing privacy on the Internet to ensure clarity and transparency in interpretation and enforcement. A regional approach is necessary for smooth transactions across borders. Such an approach should include support for voluntary industry initiatives and models, focusing on common concerns such as online identity, content filtering, and the collection and usage of online consumer behavioral data.
- Authorities are increasingly concerned with the growing boldness and pervasiveness of cyber crime. Consultations should focus on common enforcement efforts and offering models and expertise to other governments in the region with the goal of promoting e-commerce across borders through the creation of coordinating entities.
- Cloud computing depends on leveraging the power and flexibility of data centers often remote from the location of end users. Data compilation and its applied usage generate value. APEC economies should exchange views on their own deployment and use of “cloud services,” and the challenges to realizing the free and secure flow of data across borders. Best practices should also be discussed, with an emphasis on interoperability, data portability, and Service Level Agreement (SLA).
- Most APEC economies are investing heavily in Information and Communication Technology (ICT) as a means of rationalizing the delivery of government services and providing greater accessibility and transparency in service delivery for consumers. Discussions in this area can facilitate the sharing of best practices, highlight areas of cost-saving, and strengthen the infrastructure for a broader integration among the APEC economies.
- All APEC economies are concerned with how to teach students the skills they need for success in the Internet Economy of the 21st century, and how to train teachers and develop curriculums that can tap into the power of search and other applications linked to the Internet. The economies should share their experiences and budget priorities, and consider how the government and private sector might work together to deliver innovative education hardware, software, and content.
- The value of ICT in healthcare is widely recognized, whether it is new remote diagnostic aids, the use of digitized medical records to improve care and reduce costs, or the introduction of comprehensive health platforms that seamlessly link doctors, patients, and administrators in the interest of better health. But there is still a long way to go in deploying and utilizing these technologies. APEC member economies should share their plans for healthcare ICT and consider how to link these with actions by other economies within APEC.

Pharmaceuticals, Medical Devices, & Diagnostics in Healthcare

Governments and the private sector throughout the region should cooperate to strike a balance among improving cost efficiency in health care delivery, ensuring public access, and supporting innovation.

These are not mutually exclusive goals - the right balance needs to be found based on conditions in each society and in consultation with all stakeholders. We offer the following observations on the healthcare marketplace in the region as a basis for considering where cooperative efforts should be focused:

Healthcare delivery priorities

We support investment and reform programs, such as those currently underway in China, to improve health care delivery.

Non-traditional public health threats, such as avian flu, SARS, dengue fever, multi-drug resistant staphylococcus aureus (MRSA), and other infectious diseases with new or faster vectors of transmission require coordinated regional and global preparation for pandemics, including transparent monitoring and reporting, and cooperation on scientific research.

We support activities to spread best practices regarding how to minimize the occurrence of healthcare-associated infections (HAI).

We support an increased focus on prevention, early detection, early treatment, and the promotion of the appropriate use of the latest and most effective vaccines, medicines, medical technologies, diagnostics, and services available. Focusing health care spending and health care professional efforts earlier in the disease continuum can improve the quality of life for patients, increase the productivity of the workforce, and achieve multifold cost savings and efficiency gains for the overall health care system.

Rewards for Innovation

Investment in health care is a driver of economic development and productivity, not a lagging indicator that follows prosperity.

U.S. healthcare companies invest heavily in research and development in areas of medical science that have seen increasingly lower yields and more complex development pathways, in order to save and improve the quality of lives of patients around the world.

We believe that open market mechanisms based on fair competition and quality of products are the best determinants of pricing and reimbursement, and are desirable for both providers and payers to maximize efficiency.

Protection of Intellectual Property Rights

The fundamental concepts of regulatory data protection/data exclusivity and patent protection are not sufficiently applied in many economies. This reduces the incentives for the development of innovative new medicines, diagnostic tests, and medical devices that meet currently unmet patient needs.

Compulsory licensing of patented medicines should be a last resort and implemented only following appropriate consultation with rights holders as well as other stakeholders.

There is growing understanding that widespread counterfeiting of pharmaceuticals is a danger to public health and the safety of medicines, not only in the country of manufacture, but around the world, including in the U.S. Loopholes favoring counterfeiters should be addressed aggressively.

We support active cross-border cooperation among enforcement agencies attacking intellectual property rights (IPR) infringement, especially the global trade in counterfeit pharmaceuticals.

Pricing and reimbursement mechanisms are often opaque and unpredictable, with poor recourse for appeals in markets such as Taiwan and Korea. They also unduly favor local and generics manufacturers.

RECOMMENDED U.S. ACTIONS:

- Encourage region-wide adoption of regulatory data protection/data exclusivity and protection of patented medicines (including biologics) in order to promote innovation.
- Safeguard investment in research and development, and the resulting hard-won discoveries, by promoting a strong IPR regime throughout APEC.
- Promote the adoption of preventive medicine throughout the region.
- Promote international cooperation in enforcement.

RECOMMENDED ASIA-PACIFIC ACTIONS:

- Strengthen the global network of Centers for Disease Control to promote timely sharing of crucial information and a shift in health policy toward early detection, preventive medicine, and the appropriate use of vaccines in national immunization programs.
- Increase support for pharmaceutical and medical device regulatory harmonization activities of the Asia Harmonization Working Party, the Global Harmonization Task Force, and the International Conference on Harmonization to reduce behind-the-border regulatory obstacles.
- Increase focus on the projects under the APEC Life Science Innovation Forum (LSIF), including the LSIF Regulatory Harmonization Steering Committee's work in developing a multi-year strategic plan for achieving regulatory harmonization, the LSIF anti-counterfeiting plan, the LSIF Enablers of Investment Checklist, and the extension of the LSIF Framework Study on the returns to investment in healthcare innovation.
- Ensure fair and transparent product pricing and reimbursement systems that provide adequate reward for innovation.
- Promote international cooperation in enforcement.

Logistics and Express Delivery Services

While governments in Asia recognize the socio-economic importance of and have committed to the liberalization and development of the logistics sector (including express delivery services), this is often not carried through in their domestic policies. In several instances, increased protectionist measures, especially foreign ownership restrictions, have been adopted in domestic legislation. For instance, Indonesia's Postal Services Law (Number 38 of 2009) requires full or majority local ownership in courier and express delivery services, which contradicts its own Investment Law (Number 25 of 2007) and related Negative List of Investment. It also contradicts Indonesia's commitments in the ASEAN Economic Community Blueprint to allow for foreign (ASEAN) equity participation of not less than 51% by 2010 and 70% by 2013 for logistics services. Complex and duplicative regulations, in areas such as licensing and customs, also continue to hinder the flow of goods and services.

RECOMMENDED U.S. ACTIONS:

- Encourage governments to follow through on their liberalization commitments in order to reap the catalytic and multiplier benefits from logistics and express delivery services for their broader socio-economy.
- Promote cross-border trade and investment through high standard Free Trade Agreements and Bilateral Investment Treaties, towards the elimination of foreign ownership restrictions.

RECOMMENDED ASIA-PACIFIC ACTIONS:

- Recognize and work to address the threat from disguised protectionism-raising new “behind-the border” barriers to investment or to trade in goods and services, in the form of restrictive domestic legislation, regulations, and licensing requirements.
- Implement APEC 2009’s commitments to make it 25% cheaper (less cost involved in regulatory processes), faster (less time to obtain regulatory approval), and easier (fewer procedures) to do business in the region by 2015.

VII. CONCLUSION

A wide, deep, and global recession was countered effectively during 2009 by massive monetary and fiscal stimulus, demonstrating an unusual degree of policy consensus and coordination.

The global recession of 2008-09 demonstrated two key facts:

First, we learned once again that Asia is integrally linked with the U.S. The recession that began in the U.S. housing and financial markets spread quickly and with telling effect through the region.

Second, we learned that Asia remains a dynamic engine of growth. Thanks to adjustments made after the Asian financial crisis a decade ago, the region was able to withstand the shock of a global recession. Asia as a whole came out of recession first (some countries never experienced negative growth, merely lower than trend growth). In coming years the region will experience economic growth, social development, and changes in its trade and security institutions.

As fiscal and monetary conditions gradually normalize, the need will become more urgent to improve capital efficiency, shift toward private investment, increase consumption, foster the services sector, improve health care and education, and provide a more robust social safety net, especially by fully funding pension schemes.

Regional unity may remain a distant prospect, but regional integration of trade and investment are proceeding with gathering momentum across multiple platforms and organizations. For the United States, and we would argue, for other Asia Pacific economies as well, it is important that these changes support an open architecture, well-integrated with the global economy.

As an Asia-Pacific nation, the United States is committed to participate in building a secure and prosperous future together. Member companies of APCAC fully support this aspiration. We must now go forward together.



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The Asia-Pacific Council of
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