



## 2014 Annual Report

### Overview

The Asia-Pacific region remains a primary engine of global economic growth. Despite some signs of slowing growth in China and other markets, regional rates of growth remain by global standards robust and will power broader global growth for many years. Meeting in Manila this past March at its annual U.S.-Asia Business Summit, the Asia-Pacific Council of American Chambers of Commerce (APCAC) reaffirmed the vital importance of eliminating barriers that discourage trade and market access among the important economies of the Asia-Pacific region. APCAC therefore applauds the United States' ongoing pursuit of the Trans-Pacific Partnership (TPP) as a lynchpin of its trade strategy in the region. The TPP will ensure that the United States remains firmly anchored in Asia and is not left on the outside looking in. Beyond trade agreements like the TPP, the United States should energetically pursue bilateral advocacy of market-opening measures, encourage the transparency and predictability of local regulatory systems and the adoption of global best practices, and ensure that its own policies, including in the areas of tax, financial regulation, investment policy and others, are harmonized with global norms and put U.S. companies and individual workers on parity with their competitors. The United States can also work with its Asia-Pacific partners to advance growth through regulatory reform and pro-growth initiatives in particular sectors such as energy, data and telecom, healthcare and financial services among others. In all of this, the United States should also work actively in multilateral fora such as the Asia-Pacific Economic Cooperation (APEC) forum and the Association of Southeast Asian Nations (ASEAN).

### U.S. Engagement in Asia = U.S. Jobs

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 percent of U.S. exports. In addition, the region accounts for 60 percent of the world's GDP and 50 percent of global trade even though it contains only 40 percent of the world's population. More than fifty-seven million Americans work for companies that benefit from global exports, according to the U.S. Treasury. Promoting U.S. inclusion in the trade architecture of Asia is vital for increasing the number of high-quality U.S. jobs.

Asia's economic growth has created new opportunities for American companies and these opportunities mean more jobs for Americans back home. Although some critics argue that U.S. investment in Asia somehow outsources work that would otherwise be going to Americans, the reality is exactly the opposite. Investments in Asia are often designed to increase business in Asian markets, leading to expansion in companies' workforces in both Asia and the United States. For example, survey data shows that most

American companies operating in China almost exclusively produce for the local market. As ASEAN furthers its project of creating a unified market of 600 million people, American multinationals have a major opportunity to participate across the entire region. Japan, though it has experienced slower growth typically seen in developed countries, remains the world's third largest economy. Prime Minister Abe's pro-growth agenda of fiscal and monetary stimulus coupled with structural and regulatory reforms, dubbed "Abenomics", is now in a critical period and can, if successful, create substantial opportunities for U.S. businesses.

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. Data from the U.S. Bureau of Economic Analysis for the period 1988 through 2010 shows that employment at overseas affiliates grew by 4.6 million (or 71 percent to a total of 11 million), and employment in the U.S. parent companies also grew by 5.3 million (or 29 percent to a total of 23 million). Average compensation in the U.S. parent companies was 20 percent 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 sustain economic growth, the United States needs millions of high-paying jobs. These jobs 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 United States and other countries eschew the temptations of protectionism and tax policies that target the growth of multinational corporations and that make Americans less competitive to employ outside the U.S.

We therefore call on the U.S. Government to lead with respect to emerging institutions in the Asia-Pacific as well as agreements supporting regional integration and free trade. In addition, the U.S. Government should continue to support foreign direct investment by U.S. companies abroad and by Asian companies in the United States and facilitate the competitiveness of both U.S. companies and individual American citizens working in Asia.

## **U.S. Commercial and Trade Engagement with Asia**

APCAC believes that the U.S. Government's Asian trade policy can effectively strengthen the American economy by supporting the private sector with trade and investment initiatives oriented toward partnership with the region. We applaud President Obama's visit to the Asia-Pacific just this past April. While in Japan, the President continued the difficult but vital process of securing a bilateral agreement with Japan on a number of remaining TPP areas. Despite failure to reach a final agreement, the visit has boosted the intensity of efforts to reach a successful conclusion, one that will be a win-win not only for the United States, Japan and other TPP partners, but also for other countries that may eventually join.

At the same time, we encourage all governments in the Asia-Pacific region to act together through regional mechanisms, such as APEC, to enhance mutual growth. It is crucial to stand against protectionism. Enhanced trade and investment is mutually beneficial for the United States as well as Asia-Pacific nations and their people.

APEC is the most important Asian trade and cooperation mechanism of which the United States is a constitutive part, and indeed the TPP has long been seen as the nucleus of the long-term APEC vision of a Free Trade Area of the Asia-Pacific (FTAAP). The U.S. Government should continue to leverage the APEC process, led this year by China and next year by the Philippines, to achieve needed market reforms and trade liberalization in the region. One particular area of focus should be 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 both the U.S. Government as well as 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.

While overall progress on regional agreements (primarily the TPP) is vital, there is also a place for groundbreaking bilateral agreements with key trading partners, such as the Republic of Korea through the Korea-U.S. Free Trade (KORUS) Agreement. Early data illustrates the positive impact on U.S. exports of goods subject to tariff reductions under the KORUS. In order to continue these positive trends, it is essential that U.S. policymakers continue to emphasize the need for full and faithful implementation of KORUS FTA commitments by the Korean government. When understood correctly, and if implemented properly, KORUS will serve as an excellent argument for passage of a bold TPP.

Commercial engagement with Asia also involves the need to tap into expertise and capital in Asian markets, often bringing Asian employees to U.S. headquarters for training, as well as to encourage and facilitate investors from the region to invest in job-creating projects in the United States. The major economies in the Asia-Pacific have recorded multifold increases of foreign direct investment in the U.S., and the total number of jobs supported by U.S. exports is approximated to be over 11 million. It is becoming increasingly challenging; however, for foreign investors and visitors to obtain temporary business visas to the U.S. due to a complex application and an increasingly stringent approval process. In recent years, businesses in developing economies of the Asia-Pacific have been required to send representatives to the United States for training purposes with regard to the operation of new machinery and support equipment purchased from U.S. companies. The current U.S. visa policy, however, is much stricter than policies of our competitor economies which often expedite the process for investors or purchasers of significant volumes of capital equipment. APCAC strongly believes that business-friendly visa proceedings are prerequisite to more effective engagement with business and trading partners within the Asia-Pacific region, which in turn helps spur growth in the U.S. economy.

*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 and full implementation of high standard free trade agreements and bilateral investment treaties, and World Trade Organization (WTO)-consistent trade enforcement. The United States 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 of addressing “behind the border” issues such as transparency and level playing fields.
- We strongly support successful conclusion of the TPP and expanding it to include other APEC economies provided they join on the same terms as current members. The United States must seize this opportunity to work expeditiously towards a TPP deal or risk Asian economies shifting their focus to other multilateral trade arrangements that exclude the United States. The TPP must be done correctly, but it must also be pursued with urgency with substantive agreement being reached within the year.
- The U.S. Government should continue to work with U.S. industry and the Korean Government to ensure full and faithful implementation of the KORUS FTA.

- We encourage the United States to consider negotiating a Free Trade Agreement with ASEAN. ASEAN has already finalized FTAs with China, India, Australia, New Zealand and South Korea, and those FTAs give the participating countries' companies a competitive advantage over U.S. companies operating in or exporting to ASEAN.
- We recommend a continued increase in the level of engagement with Myanmar (Burma) which hosted the 24<sup>th</sup> ASEAN Summit earlier this year. Access to the country's economy for U.S. companies remains limited in the face of sanctions. In May, the administration renewed these sanctions via an extension of the National Emergencies Act which prohibits U.S. businesses and individuals from investing in the country or transacting with individuals involved in repressing the democracy movement since the 1990's. As a dynamic emerging economy with significant resources, integration of Myanmar into the regional and global trading system will create significant opportunities for a variety of U.S. companies, particularly in the energy, infrastructure, healthcare and telecom sectors. In addition, continued economic integration will establish the groundwork to advance key U.S. policies including an improvement of the country's overall labor standards. Making increased and continued engagement by the U.S. Government even more imperative is the fact that foreign companies are already making efforts to invest in Myanmar. A recent survey from United Overseas Bank (UOB) found that more than 70 percent of the 108 Asian firms polled indicated that they have plans to expand into the country within the next year. Half of the companies polled cited Myanmar's untapped domestic market potential as the central reason for expansion into the country while 39 percent pointed to other factors including relatively developed infrastructure. In addition, the Vietnamese government just announced new measures designed to promote Vietnamese investment in Myanmar including the licensing of Vietnamese banks in the country.
- The U.S. Government should continue to work with our Asian trading partners to ensure that their agricultural markets are open to U.S. products. Currently, one-in-three acres of American farmland is used to grow food that is exported to a growing global market - the fastest of which is the Asian agricultural market.
- The U.S. Government should streamline and facilitate visa issuance to investors and workers from the Asia-Pacific region.

*Recommended Asia-Pacific Actions:*

- Governments around the Asia-Pacific region should work cooperatively through the APEC process, ASEAN, and other similar forums to realize open markets throughout the region and to promote specific capacity-building initiatives, as detailed in the sector-specific portions of this report.

## **Promoting a Conducive 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, other institutions with special privileges, and restrictive or unclear regulations that chill 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 including:

### 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 which affords new market entrants fair access and equal treatment. 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. This obviously supports Asia-Pacific 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 of implementation and invite the public to comment on such rules promote the rule of law and boost investor confidence in the regulatory system. Such procedures should also be followed by self-regulatory organizations exercising delegated authority such as industry associations and standards committees. The KORUS FTA provides an excellent basis for discussions in this arena.

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

A cardinal principle of legal transparency and predictability is that laws and regulations should be made effective prospectively with ample time for consideration and preparation of processes to comply with such rules. Laws or regulations should not be made effective retroactively as this undercuts the expectations of legal stability that are critical to investment decisions.

Transparency also extends to the availability of information. For example, in the financial arena, modern tools for risk management should be encouraged, particularly in the small and medium-sized enterprise (SME) and consumer lending sectors, such as 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 OECD norms and, as a practical capacity building measure, initiatives to train local taxing authorities in their even application.

### Investment and Taxation

Some countries in the region have direct, *de jure* restrictions on foreign investment such as foreign ownership caps. These not only deny U.S. firms access to these growing markets, but deny new products global providers can offer, and the benefits of competition, to consumers in these markets. In other cases, restrictions may be less apparent but work in practice to make it difficult for foreign companies to enter local markets. While some of these issues are being dealt with in the TPP, many remain unaddressed. Investment rules should provide level playing field access for U.S. firms subject to only narrow restrictions for highly sensitive areas such as national security.

Countries in the Asia-Pacific region should also ensure that their tax systems do not discourage foreign investment. For example, many countries in the region have a very short period for carrying forward net

operating losses. This makes it much more difficult for foreign companies to invest in new businesses in a tax efficient way since they may lose their ability to utilize these losses before the businesses turn the corner and become profitable. In addition, these foreign companies are at a disadvantage to large domestic competitors who can more easily utilize losses against the profits of affiliated entities. While mainly an issue in developing countries in the region, some of the most developed countries share this problem as well. Japan, for example, has a carry forward period of only 9 years, well outside of the norm for OECD countries. In addition, the U.S. and Canada have a 20-year carry-forward period, and most European countries as well as Hong Kong and Singapore have unlimited carry-forward periods. Japan and other Asian countries should follow their example, as longer carry-forward periods would stimulate investment and allow foreign companies to invest more efficiently in access to those markets.

### Anti-corruption

Corruption remains a serious problem in many Asian markets. The Foreign Corrupt Practices Act (FCPA) 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 with the FCPA. 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.

### Legal Services

Several Asian jurisdictions remain completely closed to U.S. law firms while others restrict the nature of the services they may provide. This denies a full range of legal services to consumers whether they are companies incorporated in the host country or U.S. and other companies investing there. The restrictions also deny career opportunities to both lawyers licensed in the host country as well as U.S. licensed lawyers. U.S. law firms should be permitted to establish offices fully integrated with lawyers licensed in the host country in order to provide a full range of services at an international standard, including advice on host country law as well as transactional and contentious matters involving the host country, on the basis of national treatment, and without cumbersome barriers to registration or operation.

### *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 meaningful opportunities for all market participants to offer input into the development of regulation.
- The principle of a level playing field, meaning like regulation for like services, 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.
- More facilitative tax policies to encourage investment and minimize de jure or de facto hurdles for foreign investors. Developed countries in the region such as Japan, Korea, and Taiwan, at a

minimum, should move their net operating loss carry-forward periods to align with OECD norms or at least 20 years.

- 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.
- Elimination of barriers to U.S. law firms establishing fully integrated offices including lawyers licensed in the host country throughout the Asia-Pacific region.
- Governments in the region should promote greater transparency in the regulatory process with particular emphasis on the promotion of level playing fields for both local and foreign market participants and the removal of barriers to cross-border investment flows should be priorities.
- Governments in the Asia-Pacific region should also promote regulatory exchanges and harmonization including the promotion of independent Central Banks whose activities are governed by domestic, regional and global economic conditions.

## **Sector-specific recommendations**

### 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. Many of these technologies, including in the thermal power supply area, oil and gas exploration and extraction, development of renewables and smart grid technology, play to the strengths of U.S. companies and represent significant opportunities. Public policy must therefore support technological innovation by protecting intellectual property and facilitating investment through efficient capital markets and a sound legal framework. Regulation should also encourage development of new energy sources. The United States itself is now capable of serving as a major exporter of energy resources due to the shale gas revolution which will enable the country to improve its balance of trade while strengthening our economic relationships with countries in the region.

#### *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. APCAC fully supports and applauds the strong steps taken by the successful APEC agreement to reduce tariffs on environmental goods and services to 5 percent or less by 2015 - signed at the APEC Summit in Honolulu - and the appendix of covered environmental goods and services (EGS) items agreed to in September 2012 in Russia. This agreement should be implemented swiftly while negotiation continues to further reduce and ultimately eliminate those tariffs.
- Further improve GHG reduction measures and energy security. Every country has opportunities to substantially increase the share of renewables in their respective 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.
- The United States should continue to set a positive example for trade liberalization in the region by continuing to authorize the export of Liquefied Natural Gas (LNG). LNG exports provide a boost to the US trade balance, cement economic and strategic relationships with US trading partners and serve to reduce dependence on coal and other fossil sources that have more negative environmental impacts than clean gas technology.

- 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, and enact policies to promote combined heat and power, intelligent grids, smart meters, low energy use buildings, and efficient appliances to achieve this objective.

### Agriculture

Economic growth in the Asia-Pacific and the emergence of a strong middle class represents a unique opportunity for U.S. agricultural producers to boost agricultural exports to the region. According to USTR, the current TPP countries are the fourth largest goods and services export market of the United States. U.S. goods exports to the broader Asia-Pacific totaled \$895 billion in 2011 representing 60 percent of total U.S. exports. In the way of agriculture, U.S. exports of agricultural products to the region totaled \$98 billion in 2011 representing 72 percent of total U.S. agricultural exports. Despite already strong numbers and escalating demand, significant tariff and non-tariff barriers to American agriculture and food producers remain in the Asia-Pacific, including import/export restrictions based on arbitrary or non-scientific criteria.

As we seek fair access to markets in the Asia Pacific and the elimination of protectionist measures, the U.S. Congress and the Administration should not pursue or implement programs that will undermine the principle of free trade. Such measures weaken the U.S. industry case for expanding market access to the critical economies in the Asia-Pacific. Protectionist programs, like the USDA Catfish inspection program in the 2014 Farm Bill, should be avoided.

#### *Recommended U.S. Actions:*

- Continued engagement by the U.S. Department of Agriculture's Foreign Agricultural Service in the Asia-Pacific region. Recently, USDA's under secretary for Farm and Foreign Agricultural Services completed a mission to northeast China promoting U.S. agricultural products. These and similar engagement comport with the administration's *Made in Rural America* export and investment initiative designed to help rural businesses and leaders take advantage of new investment opportunities and access new customers and markets abroad.
- The U.S. Government should urge all TPP countries to ensure that any restrictions on agricultural products are based on sound scientific principles and are reasonably proportionate to risks involved.

### 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 throughout the region as well as American, European, and Japanese firms already operating regionally.

As APCAC conducts its 2014 Washington Doorknock, the organization and its members recognize the critical role played by U.S. Treasury in helping to promote modern, transparent and stable financial systems, incorporating global best practices throughout the region. 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 the APEC forum has become a strong mechanism for regional public-private sector coordination on financial issues, notably through the APEC Business Advisory Council, and the APEC Finance Minister-endorsed Asia Pacific Financial Forum (APFF). Since its launch in Sydney in April 2013, the APFF has developed particular work streams in critical areas such as improving the legal infrastructure for lending, promoting trade finance capital market development and others.

APFF has already developed clear recommendations around such issues as promotion of more transparent and accessible full file credit information systems and improving legal systems to perfect security interests in collateral and assignment of claims that would facilitate asset-based lending and factoring which are important sources of liquidity for SMEs and others. These measures will not only promote other important APEC goals such as financial inclusion, but also create opportunities for US financial services firms with experience in these areas.

#### *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 which in turn 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. 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. Indeed, insurance deserves similar attention to that which has been received by banking and finance in the financial inclusion context where both "bankability" and "insurability" should be considered when promoting trade and regulatory reforms to increase financial inclusion.

#### *Electronic Payment Services*

The Asia-Pacific region has much to gain by ensuring that the market for electronic payment services (e.g. credit and debit cards) remains open and competitive. Electronic payment services have been an important contributor to Asia-Pacific development and economic integration. Electronic payments offer opportunities for un-banked as well as under-banked consumers to store value and conduct transactions

in a secure manner. APCAC urges Asia-Pacific governments to maintain open markets for electronic payment services to ensure that their banks, merchants and consumers enjoy access to the most competitive and innovative payment services available.

#### *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 ensuring consumer confidence and preventing 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 noted below.
- As the key U.S. Government agency involved in these APEC processes through the APEC Finance Ministers' process, U.S. Treasury can help advance this important agenda in cooperation with U.S. ABAC and other representatives of the U.S. business community. APCAC is well aligned with these goals and able to supply specific follow-up and support through its presence throughout the region and would thus appreciate the opportunity to engage with Treasury officials on how to drive the APFF and related financial services agendas to successful outcomes in 2014 and beyond.

#### *Recommended Asia-Pacific Actions:*

Governments around the Asia-Pacific 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 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 for the introduction of new products and services to markets where they do not currently 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, capital and data flows by, for example, removing unnecessary restraints on cross-border commercial borrowing, and ensuring that restrictions on cross-border data flows are generally limited to reasonable data security and privacy protections.

## 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, rails, logistics, telecommunications, and other infrastructure to a country's overall capability to attract capital and investment and ensure growth. In addition, infrastructure investment and development is critical to promoting increased regional connectivity and economic cooperation. According to the East Asia Forum, however, inadequate infrastructure in the region serves as one of the primary non-tariff barriers to trade in the Asia-Pacific. Per the Asian Development Bank, the Asia-Pacific will require about \$8 trillion USD in additional investment between 2010 and 2020 to meet the region's infrastructure needs. Several institutions such as the ASEAN Infrastructure Fund the Asian Development Bank already serve as coordinate sources for infrastructure funding; however, current funding levels are inadequate to meet the region's projected growth - the region's estimated annual GDP growth rate is 6% from 2014 through 2018. It is also worth noting that China has proposed the formation of an Asian Infrastructure Investment Bank (AIIB) with initial capital of \$50 billion USD. Overall, increased focus and coordination between countries throughout the region as well as by outside partners on infrastructure development is needed to fully capitalize on rising demand in the region. Per the World Bank, a ten percent increase in infrastructure provision raises long-term growth by one percent. In promoting these efforts, the United States can open new markets to American goods and services both during and after the development phase and improve overall economic development as well as the lives of ordinary people in the region.

### *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 position of companies in the region.
- The U.S. Government should pursue and facilitate more public-private development partnerships in the region by (i) reviewing and streamlining the process for establishing partnerships, (ii) exploring greater donor coordination with allies in the region, and (iii) expanding overall foreign assistance utilizing the economies of scale. The Lower Mekong Initiative (LMI), designed to enhance cooperation in the areas of environment, health, education, and infrastructure development in Cambodia, Laos, Thailand, and Vietnam, illustrates the success of public-private partnerships.

### *Recommended Asia-Pacific Actions:*

- Continue to promote and advance the proposed APEC Multi-Year Plan on Infrastructure Development and Investment. The plan, designed to improve comprehensive connectivity throughout the region, articulates steps for boosting private sector involvement in the sector by 2016. Points of emphasis include regulatory reform, planning improvements, the identification and generation of a pipeline of bankable projects, and creation of a more investor-friendly financing and funding environment.

## Internet Economy

An increasing portion of trade in goods and services depends on or is facilitated by new Internet-based channels throughout the Asia-Pacific region. Consumers are increasingly willing and able to work with global service providers; however, questions remain as to which 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. Amidst the ongoing debate about data surveillance by governments, the U.S. business community wishes to clearly underscore that the free flow and exchange of data is essential for securing innovation and that unreasonable impediments to this

flow significantly hinder the creation of new enterprises and can impede future economic growth. In this context, it is concerning that some countries are seeking to restrict cross-border information flows and create requirements for on-shore data warehousing of all data related to subjects in that country. These measures erect hurdles to development of an open regional architecture for the Internet economy and for the free flow of information necessary for everything from financial services, credit bureaus, manufacturing, and even the ability to comply with anti-money laundering and risk management protocols.

Sometimes cloaked as consumer privacy measures, these rules often aim at protecting local IT industries or forcing foreign companies to place regional data centers in their country. This represents a “beggar thy neighbor” policy that, if adopted by countries throughout the region, would create a siloed information environment at odds with APEC’s vision of regional economic integration.

*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 and to ensure that cross-border data flows remain unimpeded. Such an approach can include support for voluntary industry initiatives and models to address valid concerns such as online identity, content filtering and the collection and usage of online consumer behavioral data.
- As economies in the region consider new personal data protection law or revisions to existing laws, they should ensure that these laws allow for the appropriate use of data in commerce, allow flexibility in use of “depersonalized” or anonymized information, which is useful for statistical analysis allowing better risk management and product delivery, while having minimal if any effects on privacy. In addition, laws should ensure that creation of new data privacy authorities do not generate redundancies or potential conflicts with existing regulations (e.g. financial service or healthcare regulators).
- Authorities are increasingly concerned with the growing boldness and pervasiveness of cybercrime. Consultations should focus on common enforcement efforts and offer models and expertise to other governments in the region with the goal of promoting e-commerce across borders through 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 might also be discussed with an emphasis on interoperability, data portability and service level agreements (SLA).
- In pursuing the above initiatives, all governments should fully engage the private sector as a key stakeholder in the process and ensure that any new proposed rules are promulgated through an inclusive advanced notice and public comment process.

Health Policy

*Increase Worker Productivity & Sustainable Growth through Better Health*

Governments and the private sector throughout the Asia-Pacific region should cooperate to strike a balance among improving cost efficiency in health care delivery, ensuring public access and supporting innovation. The pharmaceutical, medical device and diagnostic industries aim to play a constructive role in improving the health and welfare of people particularly by driving economic growth and job creation. These are not mutually exclusive goals - the right balance needs to be found based on conditions in

each society.

In addition to the burden of infectious disease, the rising prevalence of preventable chronic disease is a primary driver of increased health care spending in the region. Individual and family member health problems cause worker absenteeism, lower productivity and greater disability which in turn all reduce economic output. The good news is that promoting targeted investments in health that both improve health outcomes and boost labor productivity can help prevent an excessive rise in healthcare costs and boost sustainable economic growth. A longer, healthier lifespan means people work longer and are more self-sufficient and less of a burden on families and society. In addition, spending on research & development not only leads to innovative products and services that better meet health needs but can also lead to job creation and export growth.

#### *Investing in the Healthcare System & Infrastructure*

We support investment and reform programs 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 to minimize the occurrence of healthcare-associated infections (HAI). Chronic, non-communicable diseases are also taking an increasing toll on overall quality of life, worker productivity and economic growth, and new efforts are required to combat them. We support an increased focus on prevention, early detection and 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.

#### *Medical Product Regulatory Convergence*

Asia-Pacific countries should facilitate collaboration across the private, academic and public sectors and allow for efficient translational pre-clinical and clinical development that supports investment in research and development that has the potential to lead to innovative new medical solutions. Asia-Pacific economies should promote regulatory systems that are transparent, predictable, and efficient and that minimize country-specific standards and practices through harmonization of medical product regulations. This will afford patients timely access to effective medicines and medical devices.

#### *Protection of Intellectual Property Rights*

The fundamental concepts of regulatory data protection/data exclusivity, patent linkage and patent protection are not sufficiently applied in many economies. Their absence reduces the incentives for the development of innovative new medicines, diagnostic tests and medical devices that meet unmet patient needs. While generic medicines should be promoted as a cost-saving measure after expiration of data exclusivity and patent periods, the prices of patent protected medicines should be kept sufficiently high to provide an incentive for innovation and to cover manufacturing but also research and development costs.

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

#### *Fighting Corruption and Unsafe Counterfeit Medical Products*

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. We support active cross-border cooperation among enforcement agencies attacking intellectual property rights (IPR) infringement, especially the global trade in counterfeit pharmaceuticals. More and more industry associations in the Asia-Pacific region are countering corruption by adopting voluntary ethics codes based on the APEC Kuala Lumpur Principles and the APEC Mexico City Principles. However, there are still many that do not have any code of ethics at all.

#### *Recommended U.S. Actions:*

- Make the completion of the TPP a high priority including high-standard provisions for transparency and IP protection and the complete elimination of tariffs for all medical products.
- Promote the development of innovative new medicines to meet unmet patient needs, encourage region-wide adoption of 20-year patent periods, patent linkage systems, and regulatory data protection/data exclusivity (including biologics) of 12 years.
- Safeguard the investment in research and development and the resulting hard-won discoveries by promoting a strong IPR regime and high standards for transparency and due process.
- Promote sharing of best practices on the adoption of preventive medicine, vaccines and early detection throughout the region to help reduce the growing economic burden of disease in rapidly developing and aging societies.

#### *Recommended Asia-Pacific Actions:*

- Enforce an intellectual property rights system that fully provides protection for inventions and data as well as transparent, predictable and effective means of enforcement and redress. This should include patent protection, patent linkage and data exclusivity (12 years or more).
- Establish pricing systems that fully recognize the value of innovation in transparent, predictable and efficient harmonized regulatory processes that maximize patient access and physician choice.
- Strengthen healthcare infrastructure and expand health insurance coverage with a combination of both public and private funding sources. This should include robust prevention and early detection of disease, not only its treatment after the fact.
- Promote medical device and drug regulatory convergence by 2020 based on the APEC Regulatory Harmonization Strategic Plan with a priority for implementation of the multi-regional clinical trial and biotherapeutic roadmaps.
- Reducing the economic burden of chronic disease based on the APEC Non-Communicable Disease Action Plan and the “Healthy Asia-Pacific 2020 Goals” framework. Priority should be given to implementation of the 2014 WHO Hepatitis Resolution and the WHO Framework Convention for Tobacco Control.
- Establish goals for both the management and reduction of Healthcare Associated Infections, as appropriate according to the level of resources, based on the APEC Healthcare Associated Infection Action Plan. Reducing the unnecessary transmission of infections that cause complications and extended hospital stays can save significant amounts of money while improving health outcomes.

- Counter corruption by strengthening medical sector codes of conduct. This includes making the adoption of the APEC Kuala Lumpur Principles and the Mexico City Principles a priority for industry associations.
- Combat counterfeit (unsafe) medical products based on the APEC LSIF Anti-Counterfeit Medicines Action Plan.

### 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 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 percent by 2010 and 70 percent 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 the elimination of foreign ownership restrictions via high standard Free Trade Agreements and Bilateral Investment Treaties.

#### *Recommended Asia-Pacific Actions:*

- Recognize and work to address the threat from disguised protectionism raising new barriers "behind-the border" 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 percent 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.

### Leisure and Tourism

The tourism industry is a vital economic sector in both the U.S. and countries throughout the Asia-Pacific. U.S. leisure and tourism companies are global leaders that can bring best practices in leisure development, integrated resorts, and growth opportunities to countries throughout the region. Leisure and tourism investment brings growth and jobs to the countries where located, profitable returns to investors, and promotes greater trade and mutual understanding among economies and citizens in the Asia-Pacific. According to a recent report commissioned by travel technology firm Amadeus and conducted by forecasting firm Oxford Economics, the Asia-Pacific is set to overtake Europe as the region whose tourists spend the most money overseas within 10 years. Spending by tourists from the Asia-Pacific will reach nearly \$753 billion by 2023 increasing the region's share of global spending to 40%, up from 25% in 2012. In addition, visit flows from the Asia-Pacific are forecasted to grow at an annual average rate of 15% - nearly double the preceding 10-year period and faster than any other region.

Further opening Asian-Pacific economies to increased tourism related investment, streamlining applicable regulations to promote development, and promoting the industry both within the United States and the Asia-Pacific will yield substantial economic benefits for all parties involved. In the United States, the number of foreign visitors has risen from 55 million in 2009 to 70 million in 2013. Recently, President Obama launched an initiative to attract 100 million international visitors annually to the United States by 2021. As part of the initiative, the President directed the Commerce Department as well as the Department of Homeland Security to develop and implement plans over the next four months at the nation's 15 largest airports to improve the entry process into the United States. To that end, DHS will also expand automated passport control kiosks at airport while six other agencies will work to attract tourists by working with the public-private partnership Brand USA to launch campaigns in 10 international markets including the Asia-Pacific.

## **American Workers and Companies Abroad**

### Create a Fair Taxation Regime

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 United States 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. We are deeply concerned that legitimate efforts to widen the tax base and eliminate "loopholes" might wrongly target the few remaining protections that exist to protect overseas U.S. workers against the worst effects of double taxation and the unfair burdens of a global taxation regime.

Consequently, in many American multinational companies operation in Asia, there are fewer Americans among their 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.

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 employed American in the continuing difficult domestic job market. Further, we know that U.S. competitors send thousands of employees to be trained on the ground in their U.S. operations. It is essential that the United States make a real effort to ensure that the future cadre of American business leaders gets hands-on training in those markets that are producing their toughest competitors. APCAC realizes that as the President and Congress work to reduce the federal budget deficit, there will be intense, and completely proper, scrutiny of various tax benefits, deductions and exclusions. However, this scrutiny should fully consider the above-noted benefits to U.S. exports and jobs of the many Americans employed overseas as well as the negative consequences for our competitiveness if budget negotiations reduce or eliminate the protections afforded by the Foreign Earned Income Exclusion under Section 911 or further limit the full crediting of foreign tax paid by Americans abroad.

Furthermore, U.S. companies currently operate at a distinct disadvantage to their foreign competitors. The United States is one of the few countries in the world that taxes its corporations on their world-wide income rather than adhering to a "territorial" taxation system. As one critical aspect of creating a level playing field, updating U.S. tax policy would help make American corporations competitive with foreign competitors. This includes adopting a territorial taxation system like other developed trading partners.

### APEC Business Travel Card

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

President Obama's signing of the ABTC legislation at the 2011 APEC Summit in Honolulu was a great step forward; and just a few weeks ago, U.S. Customs and Border Protection started issuing ABTC cards to U.S. citizens. APCAC appreciates that the Department of Homeland Security incorporated much of our previous feedback into the final procedure including having applicants self-certify that they are eligible for the program, requiring no additional application materials beyond what is needed to enroll in Global Entry, and mailing the ABTC to an international address are all positive developments for business travelers.

However, applicants still must provide their signature at an enrollment center – all of which are located in the United States. Providing an option for Global Entry interviews and ABTC signature collection at U.S. Embassies and Consulates would greatly increase the ease with which business travelers can benefit from the ABTC.

### 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 and Asia-Pacific Actions:*

- APCAC urges Congress to reverse the provisions of the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) which significantly raised taxes on working Americans 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 directly support U.S. exports.
- With an individual mandate on insurance coverage now in effect, an exemption limited to the time they are overseas should be made 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 United States.
- 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 United States.
- Medicare and Social Security coverage and benefits should be available, regardless of location, to all Americans and their spouses who paid into the U.S. system during their working years and would otherwise be qualified to receive benefits in the United States.
- APCAC encourages the Department of Homeland Security to explore options for using U.S. Embassies and Consulates as points of interviews or signature collection for Global Entry and the APEC Business Travel Card.
- We urge that new procedures be developed and tested in time to include the substantial population of Americans living abroad in the 2020 census.

## Ensuring Adequate Funding for U.S. Military Infrastructure in the Region

Although primarily and rightly viewed through the prism of U.S. national security needs, U.S. military deployments not only support peace and security in the region but also bring needed economic vitality to U.S. territories in the Pacific. The U.S. should work with key allies in the region to secure adequate support for U.S. military deployments, develop economic and security win-wins and increase economic development for U.S. workers.

### Support Funding and Eliminate Restrictions on Realignment Plans

APCAC supports investment in infrastructure on Guam as well as an elimination of restrictions on Government of Japan funding to support the realignment of Marines from Okinawa to Guam. Restrictions under section 2822 of the National Defense Authorization Act for Fiscal Year 2014 unnecessarily hamper the execution of the realignment of Marines and have an impact on U.S.-Japan relations. Support for robust funding for the realignment of Marines from Okinawa to Guam creates American jobs and provides economic opportunities in areas with historically high unemployment and underscores U.S. commitment to the region.

## Conclusion

From the global recession of 2008-09, we learned once again that Asia is not decoupled from the United States. The recession that began in the U.S. housing and financial markets spread quickly and with telling effect throughout the entire Asia-Pacific region. Nonetheless, Asia remains a dynamic engine of growth.

Fiscal and monetary conditions have gradually normalized; now the key needs are to preserve free trade and investment, 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 that is 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.



*APCAC comprises 26 member AmChams representing the growing interests of over 14,000 businesses throughout the Asia-Pacific region. These businesses employ over 10 million people in the region including over 50,000 overseas American workers. APCAC members manage annual trade volumes in excess of \$400 billion and direct investments of over \$600 billion.*

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