



## USCIB 2008 APEC Priority Issues

### Background and Objectives

As the exclusive American affiliate of three key global business groups – the International Chamber of Commerce (ICC), the International Organisation of Employers (IOE), and the Business and Industry Advisory Committee to the OECD (BIAC) – USCIB provides business views to policy makers and regulatory authorities worldwide, representing 300 leading U.S. companies, professional services firms and associations whose combined annual revenues exceed \$3 trillion. USCIB provides a global business perspective to bilateral and regional discussions and welcomes the opportunity as a member of the U.S.-APEC Business Coalition to participate in the National Center for APEC's 2008 Executive Roundtable and provide input to the U.S. ABAC members as they develop priorities for the coming APEC year

### Executive Summary

USCIB appreciates the significant progress that has been made in the APEC process. There remain, of course, continued global business concerns that U.S. ABAC members could consider as they develop priorities and the 2008 ABAC Report to Leaders. USCIB members have identified several key issues and priorities that are detailed below covering areas concerning agricultural biotechnology, chemicals, climate change and energy, customs, financial services liberalization, food and agriculture, investment, intellectual property right enforcement, privacy, trade liberalization, and trade facilitation with ATA Carnets.

USCIB members support efforts to make the process related to **food and agriculture** issues in APEC more efficient, and support increased efforts towards international capacity building for food safety. USCIB members also recommend APEC to continue to focus discussions toward capacity building for **agricultural biotechnology**. USCIB members suggest further work related to **chemical** issues in the APEC process, particularly in the implementation of the Globally Harmonized System (GHS) of Classification and Labelling of Chemicals. USCIB members also suggest that leaders consider ways to broaden the North American agreement for enhanced regulatory cooperation in the area of chemicals under the Security and Prosperity Partnership (SPP) to the APEC process. While APEC members have recognized **climate change and energy** as priority areas, USCIB members encourage APEC to partner with the Asia Pacific Partnership for Clean Development and cooperate with the Major Economies process. We also urge the APEC members to support reducing tariffs and non-tariff barriers for environmental goods and services. USCIB members have experienced obstacles in the movement of goods due to the lack of transparency in several APEC member economies, and would suggest considering the addition of these **customs** issues to the APEC agenda. USCIB members appreciate the steps outlined so far in the APEC process on **financial services liberalization**, however, urge U.S. ABAC members to include and highlight the securities industry priorities as well.

As in the past, USCIB members continue to support and encourage the continued progress in established forums in the APEC process addressing **investment** concerns. USCIB continues to support the work related to **intellectual property right enforcement** in the APEC process. The primary issue for business continues to be a successful Doha Round, and USCIB members continue to urge APEC Ministers to work together towards ambitious and balanced **trade** liberalization results. USCIB continues its work with economies on implementing the APEC **Privacy** Framework. Lastly, as USCIB is the ICC affiliate that administers ATA Carnets in the U.S., USCIB continues to encourage all APEC countries to accept **ATA Carnets**, a process that facilitates international trade by simplifying customs procedures for the temporary importation of goods.

## **Suggested Key Issues for Inclusion in 2008 ABAC Report to Leaders**

### **Agricultural Biotechnology**

USCIB strongly supports an increased role for APEC in capacity building leading to the development of transparent and workable regulatory systems for agricultural biotechnology products around the globe. Many APEC member economies are in the process of developing their regulatory system for these products, and require assistance in building systems based on science, that do not burden or restrict trade, and are consistent with obligations under existing international agreements (e.g., World Trade Organization agreements). USCIB recommends that APEC focus discussions furthering these goals within the framework of the APEC Agricultural Technical Cooperation Working Group, the High Level Policy Dialogue on Agricultural Biotechnology, and the Sub-group on Research Development and Extension of Agricultural Biotechnology.

### **Chemicals**

Implementation of the Globally Harmonized System (GHS) of Classification and Labelling of Chemicals: The benefits to any APEC member resulting from implementation of the GHS will be realized only with a high level of co-ordination within the affected industry sectors in the region. No APEC member can meaningfully implement the GHS in isolation. Therefore, we support a process within APEC that would result in a coordinated implementation of the GHS among its members in consultation with all affected sectors. To that end, industry welcomes the efforts of the Australian government to host a “virtual” forum for exchange of GHS implementation information within APEC. Further, as GHS implementation moves forward, we urge the APEC Ministers to recognize the unique needs of each end-user sector, requiring neither less nor more information than is appropriate on labels and safety data sheets. For example, consumers are served best through approaches to labelling that ensure the comprehensibility and relevance of the information being communicated on the label, considering both the hazards and use or exposure conditions. Regarding the process for developing changes to existing communication frameworks, APEC members should carefully consider the options for implementing the GHS and engage industry stakeholders in the implementation process prior to committing to implementation or timing decisions. It is essential that the transition period for changes be of sufficient length to minimize the need to make product and shipping label changes outside of the normal business intervals that these would occur in order to minimize consumption of resources to implement the changes.

North American agreement for enhanced regulatory cooperation in the area of chemicals under the Security and Prosperity Partnership (SPP): Announced in August 2007, the U.S., Canadian, and Mexican governments entered into the Montebello Agreement under the SPP. The Montebello Agreement is intended to increase the exchange of information and knowledge on chemicals in North America, leading to enhanced coordination of assessment and management programs. Under the program, the U.S. Environmental Protection Agency (EPA) has committed to assessing and initiating needed action on the over 9000 existing chemicals in commerce produced above 25,000 lbs/yr in the U.S. Industry believes this agreement will provide benefits across North America by supporting competitiveness and innovation while addressing concerns about chemical safety. The timing of these North American commitments has important international implications that must not be overlooked. First, the completion of the North American assessment work by 2012 compares very favorably to the REACH registration schedule of 2010-2018. In fact, REACH registrants and evaluators will benefit from the US and Canadian work that is completed before the first REACH registration deadline of 2010 for High Production Volume (HPV) chemicals. Second, the SPP Agreement is viewed as a regional implementation to the commitments under the Strategic Approach to International Chemicals Management (SAICM) to set a goal of achieving “by 2020, that chemicals are used and produced in ways that lead to the minimization of significant adverse effects on health and the environment.” Other countries including APEC members have expressed interest in the Montebello Agreement and have met with the US and Canada to learn more about the commitments. SPP Chemical Cooperation, augmented with other existing chemical initiatives, provides a comprehensive assessment/action framework under SAICM and offers a strategic and workable domestic and international alternative to REACH.

Registration Evaluation, and Authorization of Chemicals (REACH): The APEC Chemicals Dialogue has had a long-standing interest in the European Union's implementation of their new chemical regulatory system, known as REACH. The Dialogue has been particularly involved in understanding the implementation measures being prepared by the EU, individual economy actions in response to those preparatory steps, and engaging the EU Commission directly on REACH implementation. In October 2007, an APEC Chemicals Dialogue delegation met with the EU Commission to discuss APEC economy concerns about specific elements of the REACH program. USCIB supports the activities of the APEC Chemicals Dialogue and encourages its further work to enhance understanding of REACH implementation measures and practical regulatory alternatives to a REACH-like system.

### **Climate Change and Energy**

Ongoing APEC technical work in environmental matters, such as chemicals regulation in which USCIB members have participated, has yielded real results for U.S. business. As recognized in the Sydney Declaration, climate change and energy are priority areas for APEC members from economic and environmental standpoints. The APEC process could sponsor specific projects and technological solutions that will promote profitable business ventures and investments in developing countries, as they pursue a less greenhouse gas intensive economic growth track. We hope that APEC will partner with the Asia Pacific Partnership for Clean Development, and support its practical project-oriented approach. We also encourage APEC to cooperate with the Major Economies process as it develops national and long term objectives, encourages sectoral efforts, and promotes priority cleaner energy technology development and dissemination through public-private sector partnerships.

### **Customs Transparency**

USCIB members have cited obstacles in the facilitation of goods movement stemming from the lack of transparency in many of the APEC member economies. This includes receiving different customs treatment at different ports within the same country, not being able to get accurate information on current applied tariff rates and rules of origin, sometimes not even being able to find out if a specific trade agreement has been implemented. USCIB members would be interested in hearing if other APEC businesses are experiencing similar issues, and if so, this issue could be added to the APEC agenda to be addressed.

### **Financial Services Liberalization**

On the specific issue of financial services liberalization, ABAC has sought to demonstrate how liberalization promotes economic development. We urge continued advice through the APEC process on tabling and negotiating financial sector offers in the WTO, and continued help in creating a list of barriers to FDI in the financial sector.

The attachment to ABAC's 2006 Report to APEC Economic Leaders contained a checklist for "Financial Services Liberalization: Goals and Best Practices", and was recommended to be used "...as a benchmark to assess the quality of [WTO] offers and as a means of encouraging higher quality offers..." The checklist, while substantively sound, included goals and best practices for banking, asset management, and insurance, but excluded those of the securities industry. We would like to ensure the inclusion, in any future report, of the views of the securities industry.

### **Food and Agriculture**

USCIB is currently reviewing the work in various forums in APEC related to food and agriculture issues, and would support a unified institute that would coordinate all the APEC food-related initiatives. USCIB members support the Food Safety Forum initiatives, and particularly the international capacity building efforts, and look forward to increased engagement on the range of issues of importance to USCIB members, particularly with respect to agricultural trade liberalization and, as appropriate, issues related to food safety.

### **Intellectual Property Rights Enforcement**

APEC has an innovation agenda in which some IPR issues are addressed. Given the priority the business community has placed on anti-counterfeit and anti-piracy efforts, we urge the U.S. government to explore all avenues for using the APEC framework, particularly as there are substantial enforcement concerns in many of the APEC member economies. USCIB's Intellectual Property Committee would welcome coordination with APEC and its member countries, as well as the US Government, in furtherance of our common goal to combat global intellectual property theft.

Additionally, USCIB supports the ICC launched BASCAP (Business Action to Stop Counterfeiting and Piracy), with the aim of providing broad-based support in the fight against counterfeiting and piracy, integrating all business sectors (130 business and trade associations have already been involved) and cutting across all national borders. BASCAP objectives include: 1) connecting ongoing activities and coordinating business strategies and messages, 2) producing information that has value to corporations and trade associations across sectors, 3) amplifying business messages to governments and consumers.

## **Investment**

Cross-border investment and openness of markets to receive such investment are essential to sustaining prosperity in developed and developing countries. APEC, the World Bank, and other international organizations have long recognized the benefits of foreign investment and open investment regimes. It is not just foreign firms that benefit from openness for foreign investment. Openness and rules to protect foreign investors, such as non-discrimination, fair and equitable treatment, and rules on expropriation have a spillover effect that benefit domestic investors as well.

USCIB has advocated investment liberalization, protection of foreign investors, and most recently, fighting investment protectionism. USCIB has actively supported the investment chapters in FTA's with APEC member countries--Mexico, Canada, Korea, Peru, Singapore, Chile, and Australia. These investment provisions closely track the investment provisions of the model BIT, which, we understand, have been accepted as a subject for a training seminar with APEC countries. We are hopeful that the seminar will inspire other APEC countries to consider favorably the benefits of engaging in BIT negotiations with the U.S. and to encourage higher standards of investment protection and liberalization.

Recently, the voices for investment liberalization have been challenged by those advocating investment protectionism. For example, UNCTAD, in its annual surveys of changes in national laws and regulations on foreign investment, noted that the proportion of these changes that made host countries less welcoming to foreign investment has been rising steadily from 5% in 2002 to a peak of 20% in 2005 and 2006. The trend of investment protectionism manifests itself in several ways: through legislation, the misuse of legislation, or consideration of legislation to tighten rules on foreign investment protection and enhancement of "national champions" impeding foreign investment, forcing the sale of a foreign investment to the state, the use of informal measures, and political pressure to impede or deny foreign investment. Among the factors cited by our members across sectors as affecting their investment decisions in certain key APEC countries are problems with the regulatory environment, including the lack of transparency in rulemaking and the judiciary process, the need for fair and independent regulators, market access, non-national treatment, and inadequate intellectual property laws and lax enforcement of intellectual property rights. USCIB members have also called on certain APEC member countries to provide sound regulatory environments for a host of sectors, including audiovisual, biotechnology, chemical, energy, express delivery services and logistics, publishing, software and telecommunications sectors. The best antidote for investment protectionism is investment liberalization.

We note with favor, the statement of APEC Economic Leaders of September 2007, emphasizing "...the critical importance of investment to economic growth and development..." and their agreement "...to improve the investment regime." The leaders stated that "...this will require liberalization of investment regimes". We could not agree more. We believe it is imperative to translate those words into credible and timely acts of investment liberalization.

## **Privacy**

Cross border data transfers are vital to conducting business in a global economy. Differing government regulations on data transfers create impediments to the flow of information across borders -- that is the lifeblood of the global economy. The APEC Privacy Framework, designed to address these concerns, was approved by APEC Ministers in November 2004, with strong business participation, including that of USCIB members. After several years participating through the US Government, in 2006, USCIB members began participating at the ECSG and its Privacy Subgroup as an official guest delegation through the ICC. Our members have been actively working with the member economies on implementing the Framework across borders, specifically by establishing mechanisms to recognize cross border privacy rules developed by companies and for cross border enforcement. Implementation of the Framework will ensure privacy protection while at the same time avoiding unnecessary barriers to the free flow of information throughout the region that is necessary for increased trade and investment. USCIB members, through the ICC, will be particularly engaged in the Pathfinder Projects approved in 2007 and will facilitate project 1 (development of self assessment guidance for organizations).

## **Trade/WTO**

The primary issue for business at present is a successful Doha Round. We urge all of the APEC Ministers to work together towards ambitious and balanced trade liberalization results. USCIB continues to work with and support the International Chamber of Commerce (ICC) high profile, high-level lobbying effort for a successful outcome. At the same time we are beginning to look beyond Doha to examine paths to achieve more trade and investment liberalization. USCIB is supporting examination on post-Doha approaches to liberalization in the dialogue between the Business and Industry Advisory Committee (BIAC) to the Organization of Economic Cooperation and Development (OECD) and OECD, with particular emphasis on services and non-tariff barriers, and on how to consolidate FTAs into regional trade agreements. USCIB would welcome seeing the outcome of the APEC study projects, especially those examining the options for the FTAAP.

We also urge the APEC members to support reducing tariffs and non-tariff barriers for environmental goods and services. Removing such impediments to cleaner energy technology cooperation would render real benefit to addressing climate and energy challenges throughout the APEC region.

## **Trade Facilitation/ATA Carnet**

Much work has been achieved in trade facilitation in the APEC process. USCIB has been a strong supporter of the APEC Common Action Plan to improve trade facilitation and the introduction of peer reviews. One particular interest to USCIB is the goal set for all APEC economies to participate in the ATA Carnet system by 2000. Mexico, Philippines, Papua New Guinea, Vietnam, Brunei, and Indonesia are still not part of the system. USCIB would like to see all APEC countries accept ATA Carnets (in the U.S. administered by USCIB as the ICC affiliate), a process that facilitates international trade by simplifying customs procedures for the temporary importation of goods.

## **Conclusion**

USCIB appreciates the opportunity to participate in the National Center for APEC's 2008 Executive Roundtable and to provide input to the U.S. ABAC members as they develop priorities for the coming APEC year. Program staff would be pleased to meet with the National Center for APEC staff, ABAC members, and officials at U.S. agencies to discuss recommendations and concerns at greater length.