

JOANNA SHELTON, THE UNITED STATES

RAPPORTEUR FOR SESSION TWO

The major themes of today's session, which, not coincidentally, also found their way into the discussions of yesterday in many ways, are the importance of the principles of **transparency** including consultation, **non-discrimination** and **competition**.

These principles not only represent the basic principles underlying virtually all international trade and investment rules today in the WTO, APEC and OECD or other fora but also apply to regulatory reform in the broadest sense whether talking about regulatory impact analysis, customs procedures or standards. Today's discussion elaborated upon these principles and helped us understand why they are so important to improved market access and to improved economic performance.

We learned more about the interlinkage of reform of customs procedures and harmonisation of standards on the one hand with market openness on the other; and the interlinkage of regulatory reform and trade liberalisation with domestic economic performance more broadly. Our panellists helped us understand why, as tariff barriers fall, customs procedures, standards and other domestic laws and regulations are not only more visible but also are relatively more important.

Most importantly, with all discussed today and yesterday, we have to keep in mind that our main goal is to help our economies perform better and compete better and through that to improve the lives and living standards of the people who make up our societies. As Mr. Mike Waghorne has reminded us repeatedly, we can never forget that it is people who are behind everything we do. Regulatory reform is just one means of reaching the objective of improved economic performance and higher living standards, but is certainly a very important means.

Now let me summarise some key points from today's presentations.

The first panel focused on the complementary relationship between regulatory reform and market openness. Mr. Anthony Kleitz from the OECD focused on the OECD's work in this area. He pointed out that there is a great synergy between market openness and regulatory reform. The decline of Tariff Barriers (TBs) world-wide makes Non Tariff Barriers (NTBs), including regulatory systems, more evident. He then described OECD's conceptual framework of six "principles of efficient regulation" in international trade and investment. They are **transparency** and openness of decision-making; **non-discrimination**; **avoidance of unnecessary trade restrictiveness**; **use of international harmonised standards** or **recognition of equivalency**; **streamlining conformity assessment procedures** and; **use of competition principles**. It is important to recognize that competition principles underlie both market openness and regulatory reform. As Mr. Kleitz pointed out, the same broad six principles also apply to customs regulations and to internationally harmonised standards and the equivalence of standards.

Mr. Gerardo Traslosheros, who is chairman of APEC's senior officials group, spoke broadly about APEC's initiatives in regulatory reform and broad lessons learned. He stressed that we need to make sure domestic regulations help ensure international competitiveness. He used the term of "regulatory improvement" and pointed out that regulatory improvement leads to greater market openness and greater competition, which in turn leads to greater efficiency, innovation and consumer welfare; all of which in turn lead to greater economic growth. He posed the question of how domestic regulations affect international trade and investment and outlined three key areas in response. First, onerous or outdated regulations impose undue costs on businesses and society at large and must be adjusted to minimise the negative impacts. Second, regulations might pose duplicative or divergent requirements. This increases costs for international businesses, especially for new enterprises and Small and Medium-sized Enterprises (SMEs), which in many of our economies are very important for employment and economic growth. In the area of divergent requirements, he said that if economic efficiency is valued by all of us, we should see convergence of regulations. It is in the area of social regulations where the case is stronger for divergent regulations due to

different values and cultural standards. However, as income levels and social values among countries converge, the case for greater convergence of these regulations also increases. Third, he pointed out an area where vested interests seek regulations as a protective measure. Countries should resist the use of regulations in this way, and international efforts can often help to address this issue.

Mr. Tang from China outlined in great detail the reform of China's laws and regulations in the area of foreign trade and investment to support China's entry into the WTO. He pointed out since the year 2000, two stages of review have been carried out. So far, about 40% of regulations have been abolished and others been amended. The key changes are to regulations in the areas of trade in goods and technology; foreign direct investment; intellectual property rights; and trade in services. He indicated that as the reform of regulation with respect to foreign trade and investment is proceeding at the national level, the central government is now resolved to promote the effective implementation of reform at different levels of local government, whose work will be essential for the success of the programme. He pointed out all these efforts should lead to a uniform transparent system throughout China and represents a new approach of China's government in its administration of trade and investment law. We all agreed that these changes were both far-reaching and impressive, especially considering that they were implemented over such a short period.

Mr. German King from APEC/CTI outlined APEC's activity in trade and investment as well as Chile's experience. He pointed out that Non Tariff Barriers (NTBs) are now more important than Tariff Barriers (TBs). He then turned to APEC's activities on liberalisation and regulatory reform, with working groups on: Market access; Services; Trade and Investment; and Competition Policy and Deregulation. He pointed out that APEC has been heavily involved in trade facilitation. Chile's experience is that free trade agreements are very important but they are not sufficient to ensure that goods, services and investment flow freely. It is important to realise that domestic reform goes hand in hand with international liberalisation. He also stressed that Chile hopes to achieve its goal of greater international openness without giving up its national interests, which is certainly an objective for every economy represented in this room.

Mr. Andrea Camanzi from Telecom Italia, as a discussant, focused on transitional regulatory measures that have been put into place as economies liberalise. There is often a risk that they will become permanent. He urged all of us to look harder at this issue and to watch how regulatory authorities use their powers. He suggested that regulators make much better use of sunset rules, particularly in the area of transitional measures, which will force the authorities either to let the measures expire or to renew them. He went further to suggest that the OECD add a sunset clause principle to its principles of regulatory reform.

Panel 2 focused on the regulatory framework for internationally contestable markets particularly the case of customs procedures. Ms. Evdokia Moise from the OECD focused on the role of Regional Trade Agreements (RTAs) in implementing the principles of good regulations to achieve greater market openness and efficiency. She pointed out that objectives of border procedures are wide ranging and include revenue collection, health, safety, sanitary and environmental protection, control of illegal goods or collection of statistical information. All these objectives are legitimate as well as important but their implementation can impede international trade. Therefore the goal should be to achieve these objectives in the least trade restrictive manner. She said that costs to businesses due to inefficient border procedures range from 2 to 15% of the trade transaction value. Inefficient border procedures also raise serious problems for the administration and reduce government revenues, which is a problem particularly relevant to developing countries.

Mr. Dong from China Customs focused on China's efforts to improve customs procedures. The extent of the reforms and the high level of standards that have been achieved by China Customs were truly impressive. He first introduced the activities of the APEC Sub-Committee on Customs Procedures (SCCP) and its Collective Action Plan (CAP). He noted that the new challenges to Customs stem from increased international trade; greater use of information technology; the demand for greater customs efficiency; and a rapid increase in the volume and sophistication of international crime. As a result of these trends, Customs practices should be reengineered. Then he outlined the key APEC principles in Customs reforms: **facilitation, accountability, consistency, transparency, and simplification**. CAP in this area provides a guide for all member economies. The advantages of CAP are to set out: specific objectives for SCCP's work; specific target dates for implementation; framework for technical assistance and human resource building and; supportive programmes whereby more experienced economies providing experience and assistance to less experienced ones. He described in great detail the Shanghai Model Port Project (SMPP), which is a co-operative venture of China Customs and U.S. Customs Service (USCS) and US business sector. He also outlined China Customs' ambitious reform and strategic plan of modernising Customs to facilitate trade.

Mr. Peter Wilmott from the UK Simpler Trade Procedures Board (SITPRO) introduced the UK experience on trade facilitation. He first gave us a broad picture of the UK trading context and SITPRO's role. He focused on business needs from Customs thereafter. His conclusions were quite enlightening. He said Customs can be either a significant barrier to or a facilitator of international trade, depending on whether Customs gets things wrong or right. Second, facilitation is about much more than Customs; and an integrated approach should be adopted with respect to border issues. Economic integration offers some solutions but also creates new problems to trade facilitation. Next, he said, short-term issues will often override longer-term facilitation policies, and ministers seldom have facilitation as a priority goal. Lastly he said the price of free trade is eternal vigilance. Business and stakeholders should keep watching what the regulators are doing and should offer suggestions instead of merely criticising. It is important to keep in mind that organised voices are always more effective than separate ones.

Finally panel 3 provided an in-depth discussion of issues related to the use of internationally harmonised standards and the recognition of equivalence of foreign measures.

Mr. Koichi Noda, from the JETRO Geneva office, gave us a description of Japan's efforts in adapting international principles to address technical barriers to trade. He outlined the Mutual Recognition Agreements (MRAs) between Japan, the EU and Singapore. He then talked in depth about APEC's Sub-Committee on Standards and Conformance (APEC/SCSC), which is actively involved in harmonisation of standards, and outlined the eight areas of the Sub-Committee's work.

Mr. Brian Jenkinson from the European Commission provided a review of EU's policies in facilitating trade in the fields of technical regulations, standards and conformity assessment. The EC has negotiated six MRAs. There are a number of benefits to MRAs as a tool to facilitate trade: they reduce approval costs; they reduce duplicate testing; provide more predictable market access; allow a faster time to markets; and provide increased transparency. He also described a range of other measures available to facilitate trade, including regulatory co-operation, harmonisation, recognition of equivalence, voluntary agreements, and support for the development of international standards. Depending on their needs and specific economic and regulatory environments, countries should seek the most suitable and cost-effective method in this toolbox to facilitate trade.

Mr. Graeme Drake from the International Organisation for Standardisation (ISO) focused on regulations, conformity assessment and international standards. He provided some helpful advice for formulating regulations. First, you have to identify the problems accurately before you try to develop a solution. The wrong approach can worsen the problem. Second, you must link regulation to a policy context. What is the intent of the regulation? What is that you want to achieve? He also gave some concrete and useful recommendations for conducting conformity assessment including the roles of MRAs in this area. He concluded that as we head towards more international standards and MRAs, we are heading towards more intense competition in the area of conformity assessment. There probably will be a handful of recognised testing bodies around the world operating in any given sector. He said, therefore, that as countries develop their standards and regulations today, they must try to discern what the trend is in the international arena and make sure that their producers still will be competitive in 3 to 5 years.

Mr. Sohn from the Korea Institute for International Economic Policy examined the actions and roles of APEC, OECD and WTO in the area of standards and conformance. He gave an interesting example of travelers who own two razors, one for domestic use and the other for international use. This may seem to be very reasonable, but it is an example of duplication, which increases inefficiency and costs. He pointed out there have been about 3500 standards-related complaints filed at the WTO, and standards are the second biggest obstacle to furthering the EU single market. He focused in detail on the different approaches to standards taken in APEC, OECD and WTO. However, he noted, dialogue among these organisations is increasing; and this fact, coupled with other efforts, could lead to an efficient, well-integrated and internationally harmonised system in this area.

Finally, we had Ms. Charlotte Nyberg from the Swedish business sector as a discussant. She said business feels as if it is “held hostage” to different regulatory systems. The goal of reform of standards should be “Approved once, Accepted everywhere”. We need a stronger political commitment towards that end. Among other measures, she also suggested that governments could institute a “bonus system” as an incentive for regulators to ensure that they pursue high quality regulations. She concluded that harmonisation should lead to less, not more, regulation.

During the question and answer session, it was noted that the benefits of harmonisation are well known but there are some concerns that need to be considered. The first is there is a wide public perception that harmonisation leads to downward harmonisation. This might not be true in most cases, but governments need to be sensitive to this concern. The second concern related to competition. One speaker argued that different standards among countries may be useful in promoting innovative approaches, adding that international harmonisation may reduce this competition of ideas and lead to average or lower quality regulatory systems. There was not a consensus around this point during our discussion.