

## **Business Mobility Standards: A Key to Building Capacity**

Ratified by the APEC Business Mobility Group, 5/26/01, Shenzhen, China

### **I. Introduction.**

Transparent and predictable business mobility procedures are essential to a stable and open trading regime.<sup>1</sup> For this reason, the increasing volume of business travel globally will ensure ongoing scrutiny of the means individual APEC economies use to accommodate the mobility of business people with its resulting opportunities for trade, investment, and economic well being.

2. Across the APEC economies, the substantive requirements for processing requests for temporary business entry and residency are significantly different, reflecting each economy's economic, social, and political environment, its immigration goals, and its analysis of the costs and benefits associated with various means of achieving those goals. Accordingly, the APEC Business Mobility Group (BMG) has focused on achieving progress in streamlining the application process for temporary business residency and reducing processing times at the point of entry. In addition, consistent with APEC principles supporting a consensual and non-binding discussion of options for achieving regional goals, the BMG has engaged in broad discussions of electronic technologies, and travel facilitation and information sharing systems.

3. Recognizing the need to facilitate the movement of key skilled personnel between APEC economies in its 1997 Report to Leaders, the APEC Business Advisory Council (ABAC) expressed concern that progress be made in "improving the parameters governing business residency visas. Unnecessarily complex procedures in this area add significantly to the cost of international business and present a disincentive to cross-border investment."

### **II. The Role of Standards in Capacity Building.**

4. A lack of capacity may make it more difficult for developing and least developed members of the World Trade Organization (WTO) to meet their obligations under WTO agreements. A lack of capacity prevents many developing economies from participating fully in, and thus benefiting from, open, global, rules-based trade and investment. Since the conclusion of the Uruguay Round of multilateral trade negotiations, the WTO and the international community have focused more sharply on the need to enhance the capacity of developing members of the WTO to implement their obligations under trade agreements. As recently noted in a discussion paper by Japan:

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<sup>1</sup> "Businesses need simplicity, transparency, and predictability in the processing of requests for temporary business residency." Paragraph 1.7, Paper of the Working Group on Temporary Residency for Business People of the Asian Pacific Economic Cooperation (APEC) Informal Experts Group on Business Mobility.

“APEC economies have been strong supporters of the WTO. They recognize it as a principal instrument to advance the objectives of APEC to promote a system of open trade and investment relationship among APEC economies. More than half of the members of APEC are developing economies. The question of the capacity of developing members of APEC to implement WTO obligations therefore bears importantly on the capacity of APEC to attain its basic economic goals.”<sup>2</sup>

5. APEC members seeking to enhance the capacity to facilitate the business mobility essential to trade should focus technical assistance primarily on the following three broad areas within individual economies: (1) expanding technical knowledge and skills, (2) creating the legal framework for domestic implementation, and (3) providing the necessary infrastructure for domestic implementation. Because of the diverse immigration schemes in place among the APEC economies, capacity building can succeed only on the basis of individually tailored plans for developing capacity.

6. To determine the needs of an economy in these broad areas, it is first necessary to describe the level of technical knowledge and skills, also called “core competencies,” that will serve as a basis for its framework and infrastructure. This benchmark can serve as a standard of what the economy should strive to have in place if it is to process requests for temporary business entry and residency in a manner that is effective for trade facilitation. This benchmark is also a standard against which the needs of the individual economy can be identified. Having agreed on a capacity standard as a goal to strive for, an economy can develop an individual training strategy to obtain the training and expert assistance needed to make changes to its legal framework and to acquire the infrastructure necessary to achieve that goal.

7. Thus, the description of standards is essential to achieving the overall goal of capacity building within the APEC framework. What individual economies need to arrive at the described benchmark of capacity to facilitate the mobility of business people will vary widely among the APEC economies. Needs and requirements will vary depending on an economy’s current state of development, the nature of its existing technical support, legal and physical infrastructure, and other factors. Based on the benchmark goals, each economy can (1) identify its needs through self-assessment and (2) develop an individual training strategy tailored to meet its specific, individual needs. If necessary, such a strategy can prioritize needs and requirements to be fulfilled in order to achieve the capacity to facilitate business immigration.

### **III. Benefit of Standards.**

8. Within an APEC economy, meeting a benchmark of business mobility standards will improve facilitation of business mobility requests by ensuring that business mobility laws, regulations, and administrative guidelines and procedures are (1) publicly available in a prompt and accessible manner, (2) clear and simple so that business travel can proceed without undue burden, and (3) implemented consistently and uniformly.

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<sup>2</sup> Discussion Paper by Japan, “Capacity building in APEC related to the Implementation of WTO Agreements Interim Report.” SOM 2, 2000

9. Standards will also ensure that applications for temporary business entry and residency are administered in a timely fashion and in accordance with all essential immigration control responsibilities. This paper recognizes that developing economies may face difficulties in achieving the material and legal infrastructure and technical equipment necessary to facilitate business travel; standards may be developed in the future in these areas. At the same time, as infrastructure and equipment is put in place, standards provide both goals and measures so that officials may be accountable to their economy for their actions. A transparent and easily accessible process of administrative and/or judicial review may provide an additional internal means to safeguard an economy's standards. Within an economy, standards are a key management tool and may be used by the economy as a way both to provide to all individuals seeking immigration services from the government fair and equitable treatment and to protect the public interest at large.

10. Additionally, clear standards are critical in the broad multi-lateral context that is a developing economy's route to the full advantages of foreign trade. In the APEC context, of course, common standards are non-binding on any member economy. However, as agreed-upon goals, standards provide a basis for an ongoing policy dialogue among the economies within the BMG about their individual self-assessments of standards capacity, problem areas and difficulties, proposed solutions, plans for applying those solutions, training strategies, and the evaluation of progress in achieving and implementing standards. In the context of designing realistic objectives for its individual training strategy, each member economy considers its unique social, political, economic and operating environment. In this way, appropriate, built-in systems for measuring progress toward meeting standards can be created as a platform for true regional cooperation on business mobility travel identification and facilitation.

#### **IV. Common Standards.**

11. In this process, the BMG can remain focused on the key areas in which standards will increase the mobility of business people. BMG members can share and learn from each other with regard to their plans and the experience in undertaking improvements and meeting goals, and in learning what works and what doesn't. Seminars and conferences can target specific standards issues and "best practices" for discussion. Common standards, when coupled with this kind of collective and cooperative approach, may accelerate progress by providing a platform for individual action and commitment to improvement that may be supported by advice and assistance on specific areas of standards development where needed from other APEC members.

12. The common standards emerging from this dialogue will increase the certainty and understanding among the APEC economies that is critical to regional trade, investment and business mobility facilitation. The clarification of key common standards will also improve the recognition of, and communication about, training needs and simplify the development and implementation of individual training strategies. Common standards will make training easier to provide and consistent across economies within the

BMG. Common standards will facilitate the evaluation of actual training and its impact on skills transfer, systems, and procedures essential to business mobility. Common standards will enable the design and utilization of equipment necessary to achieve the capacity to facilitate business mobility. Finally, common standards will also improve communication with the business community about regional goals and objectives for business mobility.

## **V. Agreed-Upon Standards**

13. The BMG has moved toward common standards in a number of areas already. In its paper “Temporary Residency for Business People,” the BMG has developed key terms to define certain categories of business persons seeking temporary residency, and agreed to streamline processing arrangements for intra-company transfers consistent with each economy’s immigration regime and to consider whether such streamlining should be extended to specialists. In addition, the paper recommends certain target service standards for processing applications, suggests the ways these service standards can be introduced, and identifies examples of best practices in the processing of business temporary residency applications. Further, the BMG has developed two handbooks on business entry and residency requirements, available through the APEC website, to ensure that requirements for business temporary residency and entry are published and readily available to the public. These efforts to move toward common standards recognize that across "economies there are significant differences in processing, entry and stay arrangements for foreign workers that are intended to achieve" (TRBP at para. 1.7) a balance of economic, political, labor and other interests within each economy. Common standards are non-binding and will be achieved only within the regulatory framework of each economy (TRBP at para. 1.11). Nonetheless, standards are useful in collective discussions as descriptions of recognized levels of technical knowledge, skill, infrastructure or capacity established by general agreement as goals and as a basis for measuring capacity in immigration facilitation.

## **VI. Key Elements for Pre-Arrival, Entry, Stay and Departure.**

14. These key elements are written in the spirit of exploring opportunities to harmonize facilitation and training efforts within the APEC region.

- (a.) Requirements based on policy are clear, current, simple, transparent, and readily available.
- (b.) Improve processing through technology (practices, standardized forms, equipment, documents, signage, and systems), including exploring bio-metric technology and smart cards.
- (c.) Staff involved in business mobility are trained in professional conduct, ethics, courtesy, efficiency, and systems support.

- (d.) Governments and agencies (e.g., Customs) cooperate and coordinate to ensure information sharing, especially on lost and stolen travel documents.
- (e.) Staff have current, written guidelines and instructions and are trained by trained, qualified, expert trainers.
- (f.) Each economy issues travel documents that are secure against tampering and fraud and takes steps to prevent loss or theft prior to issuance.
- (g.) Each economy facilitates transit passengers quickly.

### **A. Pre-Arrival.**

**GOAL** is efficient, effective and professional application and decision-making process.

### **STANDARDS**

#### Efficient

- ◆ Provide the public with clear, readily available, and transparent information on entry requirements.
- ◆ Provide a simple and quick application process (including simple forms).
- ◆ Strive to utilize an appropriate and user-friendly technology in filing applications, for example, the Internet (external partners).
- ◆ Work cooperatively with carriers to ensure that carriers fulfill their obligations to screen passengers and provide passenger manifest information.

#### Effective

- ◆ Provide decision-makers with up to date information on lost and stolen passports and on persons of immigration concern.
- ◆ Provide points of inquiry for business persons or businesses with questions.
- ◆ Provide and make available application forms with clear instructions and detailed requirements.
- ◆ Strive for transparency in decision-making that is based on an economy's prevailing employment and immigration policies and procedures and, where applicable, provide decisions that are in writing and denials that provide reasons based on requirements and information on any right of appeal or waivers.
- ◆ Strive for establishing reasonable processing times for decision-making in an effort to avoid unnecessary delay or uncertainty on the part of business travelers.
- ◆ Undertake all necessary checks and clearances in processing applications.
- ◆ Ensure that decisions are consistent with published guidelines and requirements through regular quality control reviews.

## Professionalism

- ◆ Provide training for immigration officers that includes code of conduct and ethics training to ensure that employees are well informed concerning professional conduct and the ethical and integrity issues that may be encountered in the performance of duties.
- ◆ Provide immigration officers with current reference documents to support the decision-making process.

## **B. Entry**

**GOAL** is efficient, effective, and professional clearance process.

### **STANDARDS**

#### Effective

- ◆ Ensure secure Port of Entry facility.
- ◆ Ensure integrity of travel documents/visa.
- ◆ Control the entry of persons in accordance with domestic laws and requirements.

#### Efficient

- ◆ Provide speedy process time.
- ◆ Utilize advanced technology and equipment to improve efficiency.
- ◆ Provide clear airport signage and language to improve movement of passengers.
- ◆ Provide clear, simple and user-friendly forms and early distribution.

#### Professional

- Provide culturally sensitive service.
- Provide reference materials on processes.
- Cooperate and coordinate with other agencies and governments, as necessary.

## **C. Stay**

**GOAL** is to facilitate stay of eligible business travellers.

- ◆ Provide multiple entry visas or authorization as applicable for business temporary residents.
- ◆ Provide fast processing of extensions of stay when authorized and consistent with an economy's immigration regime.

## **D. Departure.**

**GOAL** is to facilitate departure of business travelers.

- ◆ Provide simple and clear documentation and easy procedure for departure.
- ◆ Economies cooperate on return and reentry of their own business travelers according to and consistent with their immigration regimes as necessary.

## **VII. Progress Towards Standards for Regional Travel Facilitation.**

15. The differences in substantive requirements across APEC economies ensure that the development of a common regional protocol for business traveller identification and entry facilitation will remain a high priority for ABAC. Such a protocol would increase the accuracy, certainty, speed and transparency of business mobility procedures while reducing the costs of doing business in the region.

16. The Planning Session at Glynco, Georgia (August 29-31, 2000) discussed the standards addressed in Section VI of this document. The Planning Session did not discuss standards for regional travel facilitation and defers that discussion to the BMG.

## **VIII. Standards and the TILF Proposal for APEC Capacity Building in Immigration Facilitation.**

17. The BMG's Funded Proposal for Capacity Building in Immigration Facilitation is divided into three phases that roughly correspond with the necessary stages of capacity building described in this paper.

18. **Phase One** is a planning phase. Phase One was conducted at Glynco, Georgia, August 29-31, 2000 and the planners included representatives from Australia, Peoples Republic of China, Hong Kong, Thailand, Malaysia, Philippines, and the United States. The planners identified the standards (or "skills") at Section VI of this document that every economy needs to have the capacity to process requests for temporary business entry and residency. In accordance with the APEC objective of achieving consensus, these standards should be discussed and ratified by the BMG as a whole. The transfer of these standards, which define capacity, is the objective of the training in capacity building.

19. In **Phase Two**, with assistance and guidance as necessary from the BMG, each economy is to assess its capacity needs and, from that assessment, devise its individually tailored action plan, or training strategy, for obtaining the immigration skills, processes and systems so that it will meet the standard. The Planning Session designed a self-assessment form. Where helpful, individual economies may wish to request ongoing mentoring to achieve a successful outcome in Phase Two.

20. **Phase Three** involves coordinating the training needs expressed in individual training strategies with training providers and providing the actual training. Training should include an evaluation at the time that the training is conducted.
21. Identifying and agreeing to a common standard that supports APEC business mobility goals in the Phase I planning session will enable the BMG to provide coherence in the development and implementation of individually tailored training strategies. The BMG can compile self-assessment responses and evaluate the requests for assistance proposed in the training strategies developed in Phase II. It can prioritize those requests, determine the economies best suited to provide particular forms of assistance, and oversee the development of training and assistance programs by assistance-providing economies. It could, for example, ensure that “most-needed” training is scheduled so that all who need it can attend one, uniform session.
22. Beyond Phase Three as outlined in the proposal, it is suggested that the BMG will play an important role in certain follow-up phases. Specifically, **Phase Four** should include training assessment and monitoring implementation of each economy’s action plan. (Training that is adequate for one economy’s action plan may prove inadequate for another, for reasons that should be determined and addressed as necessary.) As previously noted, with common standards in place, the BMG can more effectively measure the training and assistance provided, ensure that materials are centrally located and available, and continue to provide ongoing training needs assessment and assistance as necessary to achieve capacity.
23. **Phase Five** should involve evaluating each economy’s implementation, or application, of the technical knowledge and skills acquired in the training provided, and corresponding needs for ongoing mentoring. The assessment of standards capacity achievement should be ongoing. Where necessary, the BMG could facilitate ongoing mentoring, or shepherding programs so that, after an economy receives assistance and training, standards implementation proceeds smoothly and progress toward broader regional business mobility objectives is achieved.
24. **Phase Six** may include an evaluation of the improvements in service by the APEC business community.

## **IX. Conclusion.**

25. Business mobility standards common to all APEC economies will provide a basis for the capacity building necessary to regional trade facilitation. Common APEC business mobility standards are a key prerequisite to a capacity building process and will provide a basis for an ongoing policy dialogue within the BMG. By providing a platform for individual action and commitment to improvement that can be supported by advice and assistance as needed on specific areas of standards development, common standards will accelerate progress in achieving business mobility within the APEC economies.