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Structural Reform, Regulatory Practice and Digital Implications the APEC experience

Abstract

This article provides a brief history of APEC's work on structural reform under the various APEC instruments that have been agreed for these purposes. It then examines the progress made by individual APEC economies in implementing structural reforms themselves. It concludes that APEC members have made good progress in developing basic policies and institutions in such areas as competition policy and law, good regulatory practice and ease of doing business. APEC has been less successful in encouraging its members to reform heavily restricted sectors, where there is the potential for significant productivity gains. There are also worrying signs that recently the pace of reform in many economies has slowed. These issues are likely to be thrown into sharp relief by the growth challenges posed by Covid-19. Renewed efforts on structural reform will be required if APEC economies wish to return to a growth path based on the expansion of services and the application of digital technologies.

Keywords structural reform, competition policy, regulatory reform, good regulatory practice, ease of doing business, digital technologies

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History of structural reform in APEC

In APEC, 'structural reform' refers to the set of policy processes designed to address structural or 'behind-the-border' barriers in order to improve regional economic integration. 'Behind-the-border barriers', in turn, refers to domestic policies, rules and institutions that impede the efficient operation of markets and the capacity of businesses to access markets and operate more productively. The impediments that structural reform policies seek to address can take the form of poorly designed regulatory systems, competition frameworks or governance frameworks.

Right from its inception, APEC has recognised that policies to promote free and open trade and investment and structural reform are necessary complements in the achievement of regional economic integration. But a key feature of structural reform is that it must be developed in a manner that is specific to the circumstances of each individual APEC member economy and, as such, is dependent on unilateral action. Such reform can also be politically difficult, particularly as structural reform is not always distributionally neutral in its effects. APEC economies have proceeded on the basis that all economies can learn from each other in this field by sharing their experiences. They have also recognised that

there is scope for assisting each other through individually tailored capacity-building programmes.

APEC's work on structural reform has developed steadily since the 1995 Osaka Action Agenda mandated work programmes in such areas as competition policy, deregulation, domestic regulation of services, and cooperation between regulators and standards bodies. Work programmes in many of these areas continue to this day under APEC's Committee for Trade and Investment and its sub-bodies. In 1999, APEC's work on structural reform was given particular prominence when, under New Zealand's host theme of 'strengthening markets', APEC leaders endorsed the APEC Principles to Enhance Competition and Regulatory Reform.

This development laid the platform for APEC to create a separate work stream on structural reform issues. In 2004 APEC leaders agreed to the Leaders' Agenda to Implement Structural Reform (LAISR). By this stage member economies were steadily reducing tariffs and other border protection measures, meaning that behind-the-border barriers were becoming relatively more significant. In addition, APEC member economies were becoming aware of the potential of e-commerce, thanks to the growth of the internet and the early development of digital technologies.

Under the LAISR, leaders recognised that 'structural reform improves the functioning of market in order ... to realize the economic potential of the APEC region by raising our economic efficiency and increasing our competitiveness' (APEC, 2004, p.3). APEC's Economic Committee (which up to that point had a relatively narrow focus) was repurposed to take forward the new work programme on structural reform. The agenda identified five work areas: regulatory reform, strengthening economic and legal infrastructure, competition policy, corporate governance and public sector management. A sixth work area, 'ease of doing business' (EoDB), was added in 2009 when APEC leaders endorsed a target of achieving a 25% improvement in selected EoDB indicators by 2015.

The mandate extended by leaders under this agenda expired in 2010. After that time, two new instruments were agreed to

Figure 1: Initial work areas for the APEC Economic Committee



further progress APEC's structural reform work programme. These instruments widened the focus of APEC's structural reform work to include a range of issues that were also starting to be considered under APEC's trade and investment work programme. They were:

- the 2011 APEC New Strategy on Structural Reform (ANSSR): this widened the focus of APEC's structural reform work to focus on such areas as labour market opportunities, social and safety net programmes, and women's and small to medium enterprise development;
- the 2015 Renewed APEC Agenda on Structural Reform (RAASR): while stressing the importance of existing work areas such as regulatory reform, the RAASR further widened APEC's structural reform agenda to focus on new areas such as innovation (as the forerunner of digital policies), services, and the links between structural reform and inclusive growth.

APEC's Economic Committee has continue to divide its work under the six work areas outlined above, but has widened

its focus to encompass the work areas mandated under the ANSSR and the RAASR. Under a series of chairs, it has developed a relatively apolitical style which focuses on the substance of the issues and on supporting member economies as they seek to take forward their domestic policies on structural reform. It maintains strong links with other APEC bodies, particularly the Committee on Trade and Investment (in such areas as services regulation and international regulatory cooperation) and the Finance Ministers' Process (in such areas as the regulation of infrastructure, financial markets and financial services).

A convention has also developed whereby structural reform ministers will meet every five years or so to set the work programme for the committee. The mandate provided under the RAASR expires in 2020 and structural reform ministers were due to meet in Malaysia this year to agree on a new instrument.¹

Implementing structural reform in APEC economies

As with APEC's work on trade and investment, the success of its work on

Table 1: Adoption of GRPs across APEC member economies, 2011-16

General regulatory practice	% change 2011–16	% of APEC economies adopting this GRP in 2011	% of APEC economies adopting this GRP by 2016
Ability to manage regulatory reform			
Adoption of national regulatory strategy	33%	57%	76%
Institutions tasked with managing a government-wide programme of regulatory reform	27%	52%	67%
Adoption of good regulatory principles across government	46%	62%	90%
Publication of an annual regulatory/legislative plan	30%	48%	62%
Systemic review of regulations for cost and effectiveness	0%	100%	100%
Adoption of regulatory impact assessment			
Is there a mandatory RIA process?	8%	57%	62%
Does the government use any form of RIA?	75%	38%	67%
Are trade and competition principles integrated into regulatory review and analysis?	NA*	NA*	43%
Public consultation and transparency mechanisms			
Are draft legal documents and RIAs published for comment before adoption?	50%	38%	57%
Publication is done on a central web portal rather than on individual ministry websites?	75%	38%	67%
Does the government use social media tools to notify stakeholders of regulatory activities or to consult?	NA*	NA*	67%
Is feedback given to stakeholders after consultation is completed?	20%	48%	57%
Is there a single online location for regulatory information across the whole of government?	NA*	NA*	62%

*This question was not included in the 2011 survey

structural reform can be assessed on the basis of the extent to which APEC members have taken the lessons learnt in APEC and unilaterally translated these into improved domestic policies. Where structural reform differs, however, is that APEC members do not generally have the opportunity to take a further step and entrench these policies in the form of internationally binding rules. For trade and investment this occurs through agreements reached under regional trade agreements and through the World Trade Organization, hence APEC's traditionally strong support for the WTO.

A full assessment of progress made by APEC economies in the area of structural reform has yet to be undertaken. However, some preliminary observations can be

made on the basis of existing material. These suggest that progress can be grouped under two broad headings:

- progress made by APEC members in developing the policies and institutions required to carry out structural reform;
- progress made in applying these policies and institutions to effect change in specific areas of the economy, particularly heavily restricted sectors with scope for significant productivity gains.

Putting in place structural reform policies and institutions

Since the Leaders' Agenda to Implement Structural Reform was agreed to in 2004, APEC economies, particularly developing economies, have in many respects made

good progress on adopting the key policies and institutions needed to achieve structural change. For example, the APEC competition policy and law database (maintained by Chinese Taipei) shows that 20 of 21 APEC members have now put in place competition laws and established enforcement authorities. Malaysia put in place a Competition Act in 2010, the Philippines' Competition Act was adopted in 2015 and the Vietnamese Competition Law was passed in 2018. Many of these laws have been adopted in parallel with APEC work and training programmes on the best approaches to competition law. The Philippines in 2015 and Vietnam in 2017 used the profile provided by their APEC host years to promote the advantages of competition law to their domestic audience.

At the same time, many APEC developing economies still lack experience in operating competition law. Their competition authorities have taken comparatively few cases and lack the expertise to take on more. Furthermore, the 'competition culture' in many APEC economies is still embryonic. 'Competition culture' refers to the group of people from government, academia and the private sector who understand and advocate the benefits of adopting pro-competition regulatory reforms across different policy areas. This has meant that adoption of such reforms in key sectors has often been slow. Further discussion on this follows in the next section.

Similar progress is evident in the area of regulatory reform. In 2017 the United States Agency for International Development, on behalf of APEC, measured progress in implementing good regulatory practices in APEC economies (Jacobs, 2017). (Good regulatory practices are essentially institutions that APEC member economies can put in place that are designed to ensure the quality of regulatory policy processes.) Table 1 shows that good progress has been made in three key areas: the ability to manage regulatory reform; adoption of regulatory impact assessment; and public consultation mechanisms. Yet the report also highlights that many of these institutions are embryonic and lack expertise, particularly in developing economies, and that there

are significant gaps of coverage in individual APEC member countries.

A third area where progress can be shown is in ease of doing business (EoDB). Two APEC EoDB action plans have been undertaken using the World Bank's doing business indicators for five priority areas: starting a business; dealing with construction permits; getting credit; trading across borders; and enforcing contracts. The results of these programmes were:

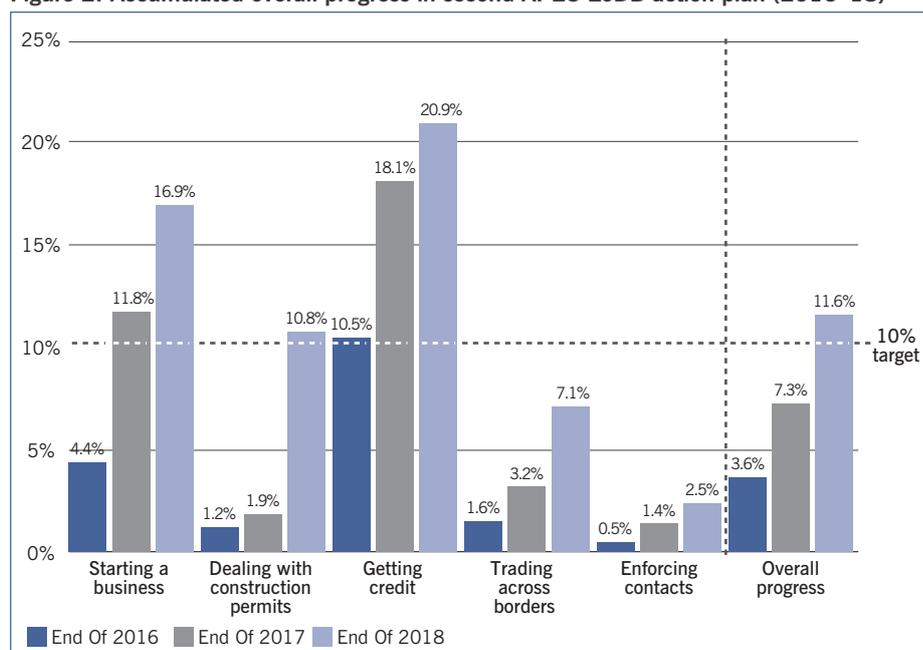
- a 14.6% improvement was shown for the first APEC EoDB action plan, which ran from 2009 to 2015 (against a target of 25%) (APEC Policy Support Unit, 2016b);
- as detailed in Figure 2, an 11.6% improvement was shown for the second APEC EoDB action plan, which ran from 2016 to 2018 (against a target of 10%) (APEC Policy Support Unit, 2019a).

EoDB improvements are based on regulatory reforms that deliver tangible and meaningful improvements for business. They also draw heavily on innovations such as the use of digital technologies to deliver such improvements. Across the APEC region over the period of the second action plan, the time taken to register a new company fell from 16.9 to 10.1 days; the average time required to obtain a construction permit was reduced from 139 to 129 days; the average time needed to export and import goods fell by seven and eight days respectively; and more than a third of APEC economies experienced an improvement in the perceived quality of their judicial processes for enforcing contracts.

Current structural reform challenges for APEC economies

While the previous section has shown that APEC economies have made good progress in putting in place the key institutions needed for structural reform, there is less evidence that APEC economies as a group have made significant progress over the past decade in implementing structural reform policies in key areas where significant efficiency gains can be made. This applies strongly to large services sectors such as telecommunications, energy and transport.

Figure 2: Accumulated overall progress in second APEC EoDB action plan (2016–18)



Source: APEC Policy Support Unit, 2019a

The extent of the challenge was laid out in a seminal 2011 econometric study by the APEC Policy Support Unit, which examined the effects of structural reforms to remove barriers to competition in air, maritime and road transport, electricity and gas, and telecommunications across all APEC economies (APEC Policy Support Unit, 2011). The study outlined a package of reforms which, across the APEC region, would have the effect of creating \$175 billion in additional real income (in 2004 dollars). The gains from these reforms alone would be almost twice as large as the total gains that could be achieved from the complete liberalisation of mercantile trade. In terms of productivity effects, the reform would lead to productivity gains of between 2% and 14% across the sectors studied. The largest gains would occur in developing economies, such as Indonesia, Malaysia, Mexico, the Philippines, Chinese Taipei and Vietnam.

Other APEC work on services corroborates these findings. The 2016 APEC economic policy report on structural reform and services (APEC Policy Support Unit, 2016a) argued that if APEC was to maintain current growth rates, future growth would need to be based on services rather than on manufactured products. However, the report showed that making this transition was difficult for APEC developing members, given that the size of services sectors was small, trade in services

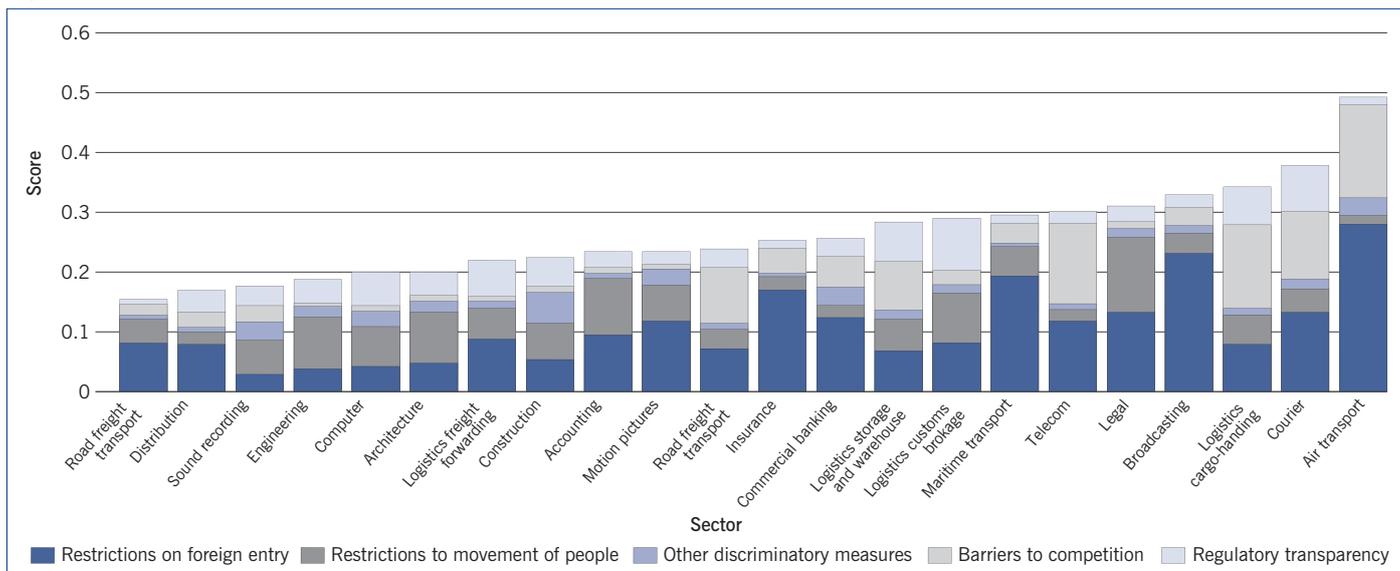
low (especially when compared to trade in manufacturing) and key services sectors were heavily restricted when compared to developed economies both within and outside APEC. Addressing these restrictions would require significant structural reform.

Figure 3 is drawn from this report and shows the restrictiveness levels in individual services sectors using OECD data that is available for 11 APEC economies under the OECD's trade restrictiveness index. This index measures restrictions in such areas as foreign entry, discriminatory measures, regulatory transparency, the movement of people, and other barriers to competition. Figure 3 shows that restrictions are particularly high in such sectors as air and maritime transport, logistics and courier, and telecommunications and broadcasting.²

Furthermore, there is little evidence that APEC members have moved to reduce these restrictions over time. Figure 4 shows changes in services trade restrictiveness for selected APEC economies between 2008–11 and 2016. While there has been a slight drop in restrictiveness for some economies (such as China), for developing economies such as Thailand, the Philippines, Malaysia and Indonesia most have remained about the same and stayed high.

The evidence on the slow pace of structural reform in the services sectors of APEC economies is corroborated more broadly by a recent IMF study. The IMF's

Figure 3: Selected APEC data from the OECD Services Trade Restrictiveness Index



Source: APEC PSU computations based on OECD data for 11 APEC economies

2018 World Economic Outlook (IMF, 2019) shows, based on empirical analysis, that the pace of structural reform has slowed markedly in the past decade, and that this is having real implications for growth and convergence. At current growth rates it would take more than 50 years for a typical emerging market economy to close half of its current income gap with developed economies. Furthermore, the rate of slowdown has been greater for emerging markets and developing economies in the Asia-Pacific region than it has for other regions in the world (other than sub-Saharan Africa). Overall, the study found that a structural reform package across six areas might double the speed of

convergence, raising annual GDP growth by about one percentage point for some years.

Structural reform and digital technologies

As the Asia-Pacific region emerges from the health shocks of Covid-19 and seeks to address the massive economic challenges the pandemic has caused, there is general agreement that digital technologies have a critical role to play. Digital technologies have played a key role in allowing APEC economies to continue to function during the pandemic, albeit at a reduced level. There is also agreement that digital technologies will be pivotal as drivers of increased productivity as the region seeks

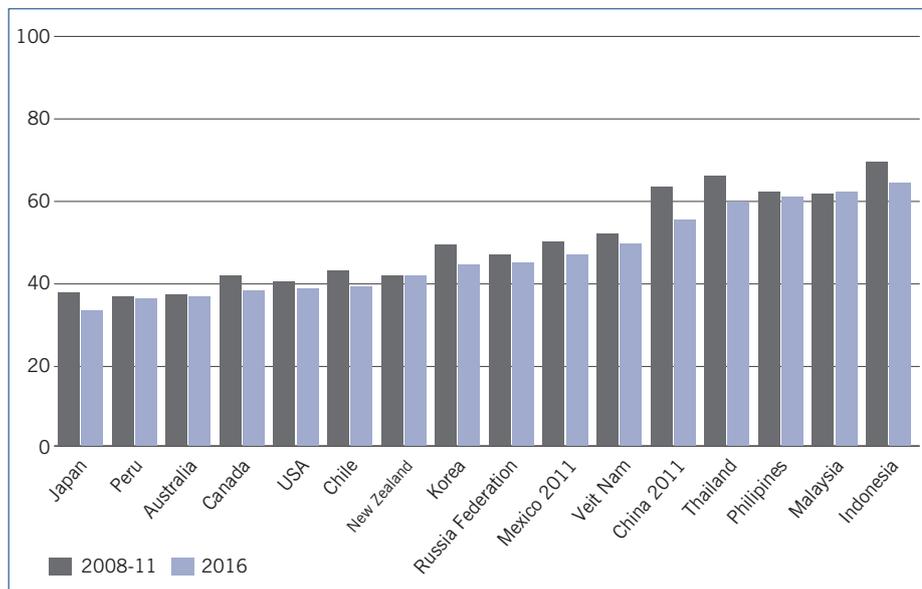
to return to a positive growth path. This potential is all the greater thanks to recent rapid growth in areas such as 5G and artificial intelligence. It is likely, therefore, that the region’s governments will seek to spend considerable resources on the development of digital infrastructure and skills to facilitate this growth path.

However, there are a number of structural reform issues that APEC economies will need to address if they wish to fully achieve the potential productivity benefits of digital economies. In its advice to the G20, the OECD has consistently stressed that a precondition for realising potential productivity gains from digital technologies is workable competition in a converging communications sector (i.e. the sector that represents the coming together of telecommunications, broadcasting and ICT) (OECD, 2017, p.8). The presence of such competition affects both the costs to businesses and individuals seeking to use digital technologies, and the ease with which firms can enter markets to compete by using new technologies. As noted in the previous section, these sectors are subject to competition restrictions in many APEC economies, and costs for internet connection, mobile and other technologies are relatively high.

Other structural reform challenges faced by APEC economies with respect to digital technologies are:

- ensuring that sectoral regulations are ‘technology neutral’, so that firms seeking to use new technologies can

Figure 4: Comparison of services trade restrictiveness indexes for 16 APEC economies in 2008–11 and 2016



Source: WTO

effectively compete with firms using existing technologies;

- gaining a greater understanding of the market power of digital platforms: this area is controversial due to the increasing concentration and vertical integration of these platforms on the one hand, and the potential for competition from new technologies to (eventually) sweep away such platforms on the other;
- addressing network and natural monopoly issues around spectrum and broadband as the backbone of the digital economy;
- seeking to develop cross-cutting capability in areas such as payment systems, electronic identities and communications systems; and
- providing cross-border interoperability or harmonisation of regulatory approaches to data flows, data privacy and cybersecurity.

Again, the gains for APEC economies in addressing these challenges will be significant, as restrictions on competition exist in all the areas listed above. Some are illustrated in data from the ECIPE Digital Trade Restrictiveness Index set out in Table 2, showing that many APEC economies have relatively high levels of restrictiveness. It was for this reason that the most prominent recommendation of the 2019 APEC economic policy report on structural reform and digital technologies was that APEC economies should ‘get core structural reforms right with respect to the digital economy’ (APEC, 2019b).

Yet APEC has been slow to get going on its collective work in this area. APEC’s main instrument on digital technologies, the APEC Internet and Digital Economy Roadmap, is light on structural reform elements. One provision calls for ‘promoting coherence and cooperation of regulatory approaches affecting the Internet and Digital Economy’ (APEC, 2017, p.2), but none address tackling barriers to competition in the digital space. Furthermore, there is no evidence of a work programme emerging as yet to tackle even this more limited focus.

Structural reform and Covid-19

A key question now facing APEC economies is what role should structural reform play in responding to the economic

Table 2: ECIPE digital trade restrictiveness for APEC economies

Rank	DTRI		Type of restrictions			
	Economy	Index	Fiscal restrictions & market access	Establishment restrictions	Restrictions on data	Trading restrictions
1	China	0.7	0.6	0.77	0.82	0.63
2	Russia	0.46	0.4	0.4	0.63	0.43
4	Indonesia	0.43	0.43	0.36	0.44	0.48
5	Vietnam	0.41	0.22	0.50	0.43	0.51
10	Thailand	0.35	0.27	0.54	0.29	0.28
11	Malaysia	0.34	0.20	0.45	0.35	0.35
15	Korea	0.31	0.33	0.25	0.39	0.28
18	Mexico	0.27	0.24	0.30	0.26	0.27
22	USA	0.26	0.37	0.38	0.15	0.12
23	Ch. Taipei	0.25	0.13	0.46	0.12	0.30
27	Australia	0.23	0.25	0.28	0.25	0.15
29	Canada	0.23	0.10	0.29	0.25	0.26
32	Philippines	0.22	0.27	0.34	0.11	0.17
50	Japan	0.18	0.21	0.35	0.04	0.11
56	Chile	0.15	0.28	0.17	0.04	0.12
57	Singapore	0.15	0.02	0.24	0.25	0.11
58	Peru	0.15	0.11	0.24	0.22	0.05
61	HK, China	0.13	0.02	0.07	0.16	0.27
65	New Zealand	0.09	0.08	0.07	0.22	0.00

Source: Ferracane, Lee-Makiyama and van der Marel, 2018, pp.15–16

challenges posed by Covid-19. Eventually the fiscal responses to the crisis will hit natural limits as government budgets and borrowing capacity are depleted. Similarly, there appear to be limits to the stimulus that monetary policy can provide in today’s low inflation, low interest rate environment.

There is little doubt, then, that structural reform will come to be seen as an important part of the toolkit for governments in responding to the crisis. Structural reform has the advantages that it seeks to improve the efficiency of markets and the productivity of factors of production. It was employed widely as part of the response to previous economic crises, such as the Asian financial crisis in 1997 and the global financial crisis in 2008. It was these crises that allowed governments to confront the political challenges of structural reform, in that they created winners and losers.

It appears that the process of structural reform may have already started in China, which experienced an economic

contraction of 6.8% of GDP in the first quarter this year. In a policy document released on 30 March 2020, the Chinese government announced deep structural reforms to be implemented in the aftermath of Covid-19 and aimed at making the economy more market driven and efficient. These included:

- removal of restrictions on how rural land can be sold and used for commercial purposes;
- significant labour market reforms, including the removal of the household registration system across much of China; and
- reforms to the banking system and stock market rules, including the integration of benchmark and deposit rates with market rates.

Commenting on the reforms, the chief economic commentator at Forbes Asia, Yuwa Hedrick-Wong, stated:

Ostensibly these structural reforms are needed, above and beyond the cyclical measures described, to revitalize an

economy ravaged by COVID-19. Upon closer scrutiny, however, it becomes clear that these are some of the deepest structural reforms that had been proposed and debated for the last two decades, and were strenuously resisted and successfully blocked by local governments. It appears that Beijing is taking advantage of COVID-19 and the unprecedented GDP contraction to ram through tough reforms that would otherwise be harder to do. (Hedrick-Wong, 2020)

In undertaking structural reforms, there are at least two issues that APEC economies need to think about. The first is the phasing of reforms. In this respect, it will be important to not seek to implement reforms until there is a decent prospect of economic recovery occurring. Otherwise there is a risk that reforms will cause further upheaval in APEC economies without the concomitant gains. It will also be important to give priority to reforms that provide the largest economic gains. In that respect, the types of reforms outlined earlier to promote the growth of key services sectors and the digital economy assume particular importance.

The second issue is that APEC governments will need to think about how to deal with the costs of structural reform, particularly as the impact of the economic crisis brought on by Covid-19 has been particularly hard on the region's vulnerable populations. A recent paper from the APEC Economic Committee, 'Structural reforms

for inclusive growth: three approaches' (APEC Economic Committee, 2018), outlined some thoughts on how this could occur. The paper noted that, in addition to undertaking core structural reform well, member economies could also:

- give priority to 'pro-inclusion' structural reforms: examples in this area could include improving competition regimes so that small businesses have improved access to digital markets, or seeking to benefit the general population by structural reforms in such areas as education, health and infrastructure provision; and
- seek to integrate structural reform policies with policies in other areas designed to achieve broader inclusion objectives: this could mean, for example, that structural reform policies are accompanied by industry policies designed to facilitate the growth of particular sectors, or skills development policies designed to equip workers with skills required in a new economic landscape.

Conclusion

This article has argued that since its inception, APEC has been successful in providing for the consideration of sensible structural reform policies within its member economies. It has also facilitated the development of specific structural reform policies and institutions, particularly for developing members, in such areas as competition policy and law, good regulatory practice and ease of

doing business. It has been less successful in encouraging its members to reform heavily restricted sectors, where there is the potential for significant productivity gains.

In more recent years there have been worrying signs that APEC economies have lost momentum in the area of structural reform. Even prior to the advent of Covid-19 it would have been necessary to quicken the pace of reform if individual economies wished to maintain their growth trajectories. This applied particularly to structural reform of key services industries, and of industries where digital technologies provided the potential for significant growth.

These issues have been thrown into sharp relief by the current economic crisis in the region brought on by the Covid-19 pandemic. Structural reform must now be seen as a priority if APEC economies wish to return to a growth path. APEC economies have shown that they can help each other significantly with this process through work undertaken in the Economic Committee and elsewhere. It does, however, mean that the next agreed structural reform instrument to take the work programme forward (due in 2020 as a successor to the RAASR) will be of critical importance and requires both significant thought and strong political support.

1 However, this meeting may be delayed because of the challenges posed by Covid-19.
 2 Restrictions would almost certainly be higher if data were available for all APEC economies, given that all economies for which data is not available are developing economies, where restrictions are generally higher.

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