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# THE ROLE OF APEC IN THE ACHIEVEMENT OF REGIONAL COOPERATION IN SOUTHEAST ASIA

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*The Asia Pacific Economic Cooperation (APEC) forum represents a major achievement of regional cooperation in Southeast Asia. APEC's successes have resulted from its informal and amorphous nature, and reflect the fact that the forum constitutes a process for cooperation, rather than an institution. The authors trace the origins and history of APEC, follow developments through the various ministerial meetings, and assess APEC's accomplishments in the areas of trade liberalization, dispute resolution, and the environment. The authors conclude, in view of the diverse interests of its members, that APEC's focus on openness, voluntariness, and decentralization will continue to foster regional cooperation among its members.*

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## I. INTRODUCTION

The countries of Southeast Asia, namely, Thailand, the Philippines, Malaysia, Singapore, Indonesia, Brunei, Vietnam, Myanmar, Cambodia and Laos, are located in the economically dynamic and fastest growing region of the Asia-Pacific.

Over the past quarter century, [this] region has been the most dynamic part of the world economy. Japan has emerged as a technological leader and the world's largest creditor country. The developing countries of East Asia have tripled their share of world income and trade. China has launched fundamental economic reforms that could one day make it the world's largest economy. The United States and Canada (and now Mexico) on the one hand, and Australia and New Zealand on the other, have entered into innovative free trade arrangements that may be models for future global pacts.<sup>1</sup>

The Asia-Pacific region holds much promise, despite the financial crisis in 1998 that caused economic and political turmoil among its members. Prior to 1998, the developing countries of East Asia were the "brightest spot in the growth picture."<sup>2</sup> They have maintained high growth rates through a combination of rising economic demand and intraregional trade. Back then, because of their rising incomes, these developing East Asian countries constituted the "most highly coveted markets for trade and investment for the indefinite future"<sup>3</sup> and, consequently, the most fertile ground for the establishment of trade relations.

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1. C. FRED BERGSTEN & MARCUS NOLAND, *Introduction and Overview*, in *PACIFIC DYNAMISM AND THE INTERNATIONAL ECONOMIC SYSTEM* 3 (Bergsten & Marcus eds., 1993).

2. *Id.* at 4. See also Melissa Gerardi, *Jumpstarting APEC in the Race to "Open Regionalism." A Proposal for the Multilateral Adoption of UNCITRAL's Model Law on International Commercial Arbitration*, 15 *NW. J. INT'L. L. & BUS.* 668 (1995).

3. Bergsten & Marcus, *supra* note 1, at 5.

The Organization for Economic Cooperation and Development (OECD) has estimated that “Asian economies are growing at five to six percent annually, while western economies lag behind at three percent or lower. At its current rate of growth, Asia will account for one-third of world production by 2010 and half of global output by 2040.”<sup>4</sup> The Asian-Pacific region today is the world’s largest trading region, comprising 41% of world trade and 53% of the world gross national product (GNP).<sup>5</sup>

The Asia Pacific Economic Cooperation (APEC) forum was born of the need to harness, promote and develop the burgeoning economic growth and increasing markets in the Asian-Pacific region. Currently composed of 18 member economies,<sup>6</sup> APEC is unlike any other regional grouping. It has no formal agreement or treaty binding upon its members;<sup>7</sup> it has no rule-making, interpretative, enforcement or adjudicative powers;<sup>8</sup> and it has no “unambiguous source of leadership.”<sup>9</sup>

APEC members are diverse in almost all aspects of economic development, political system, religious belief, ethnic background, and language.<sup>10</sup> This diversity keeps APEC from developing into a more structured or formalized grouping. While the members agree upon a common goal — of promoting

4. Kenneth W. Abbott and Gregory W. Bowman, *Economic Integration for the Asian Century: An Early Look at New Approaches*, 4 TRANSNAT’L L. & CONTEMP. PROBS. 187, 191 (1994).

5. Gerardi, *supra* note 2, at 670.

6. The APEC members are: Australia, Brunei, Canada, Chile, China, Hong Kong, Indonesia, Japan, Malaysia, Mexico, New Zealand, Papua New Guinea, the Philippines, Singapore, South Korea, Taiwan, Thailand and the United States. See Gerardi, *supra* note 2. On account of the membership of China, Taiwan (or Chinese-Taipei for APEC purposes) and Hong Kong, APEC’s members are denoted as “economies” rather than “countries” or “states.” Merit E. Janow, *Assessing APEC’s Role in Economic Integration in the Asia-Pacific Region*, 17 NW. J. INT’L L. & BUS. 947, fn. 1 (1997).

7. See Abbott & Bowman, *supra* note 4; see also Janow, *id.* at 948.

8. See Janow, *supra* note 6, at 948.

9. Yong Deng, *Headless Dragons: The Problem of Leadership in APEC*, 22 FLETCHER F. WORLD AFF. 65 (1998).

10. Gerardi, *supra* note 2, at 671; James M. Lambert, *Institution - Building in the Pacific - Canada in APEC*, 70 PAC. AFF. 195, 198 (1997); Martin Rudner, *Institutional Approaches to Regional Trade and Cooperation in the Asia Pacific Area*, 4 TRANSNAT’L L. & CONTEMP. PROBS. 159, 168 (1994); Deng, *id.* at 66.

open regionalism — they disagree on the means of achieving that goal.<sup>11</sup>

This paper analyzes the role of APEC in the achievement of regional cooperation in Southeast Asia. Part II will trace the beginnings and history of APEC, following developments of APEC through the various ministerial meetings. Part III will assess APEC's achievements in the areas of global and regional trade liberalization, dispute resolution and the environment. Part IV will endeavor to assess APEC's effectiveness in the achievement of its goals and, where possible, will discuss the latest developments in APEC. Finally, part V will conclude with a summary and thesis of this paper.

## II. WHAT IS APEC?

In a world that is increasingly becoming global, the proliferation of regional and subregional groupings to foster trade and cooperation is both inevitable and necessary. The end of the Cold War has seen the disappearance of the Berlin Wall and heard the cries for democracy in Tiananmen Square. The arms race of the Cold War era has given way to the trade and investments race of the post-Cold War era.

Indeed, the twenty-first century is ushering in a new world order, where borderlessness is the norm rather than the exception, and globalization in almost every aspect of human activity is not just an idea but a living reality. It is in this post-Cold War environment that APEC was born, in 1989.

### A. HISTORY OF APEC

The birth and development of APEC can be attributed to four related factors.

First, the increase in intra-regional investment and trade in the Asia-Pacific region in the 1980s and the corresponding growth of the Asian economies necessitated the creation of a

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11. Gerardi, *supra* note 2, at 671.

regional grouping which will maintain and promote this new phenomenon.<sup>12</sup> Cooperation and integration were beneficial because of the “high degree of economic interdependence and complementarity”<sup>13</sup> of the Asia-Pacific economies.

Second, the members are interested in maintaining an open international trading regime.<sup>14</sup> Most APEC members are export-oriented economies.<sup>15</sup> Therefore, a trading system free of tariff and non-tariff barriers is desired because of easy access to markets abroad, facilitating the export of products.<sup>16</sup>

Third, the members are anxious about the emergence of regional trading blocs elsewhere, such as the NAFTA and the European Union.<sup>17</sup> APEC members fear that these groupings would become inward-looking and protectionist and have an exclusionary effect upon the Asia-Pacific economies.<sup>18</sup> APEC was thus seen by its members as a needed alternative or counterbalance to these existing regional trading blocs.<sup>19</sup> APEC members were also concerned that the GATT Uruguay Round would fail, thus dooming the nascent Asia-Pacific economic expansion.<sup>20</sup>

Fourth, the growing number of trade disputes between the United States, Japan and China dominated the attention of APEC’s members.<sup>21</sup> Members needed a forum where disputes could be aired out and resolved, so as to foster cooperation and economic growth in the region.<sup>22</sup>

Indeed, “Asia Pacific Economic Cooperation (APEC) is the result of clear recognition of the importance of economic

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12. Janow, *supra* note 6, at 951.
  13. Abbott & Bowman, *supra* note 4, at 210.
  14. Janow, *supra* note 6, at 951.
  15. *Id.*
  16. Janow, *supra* note 6, at 951.
  17. Abbot & Bowman *supra* note 4, at 209.
  18. *Id.*
  19. *Id.*
  20. Janow, *supra* note 6, at 951.
  21. *Id.* at 952.
  22. *Id.* at 1001.

cooperation and consultation in the region to sustain its dynamic economic development."<sup>23</sup>

Regional economic cooperation in the Pacific Rim really came to the fore with the Hawke initiative in 1989.<sup>24</sup> In January 1989, Australian Prime Minister Hawke proposed the need for more effective Asia Pacific economic cooperation.<sup>25</sup> This led to a major Ministerial meeting in Canberra in November of 1989 which established APEC.<sup>26</sup> Twelve participants attended the first meeting, namely, Australia, Brunei Darussalam, Canada, Indonesia, Japan, the Republic of Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and the United States of America, each represented by their respective ministers.<sup>27</sup>

APEC Ministerial Meetings were held nine times. They are summarized as follows:

1. The First Ministerial Meeting in Canberra, Australia (1989)

At the Canberra meeting in 1989, APEC members reaffirmed their original goals of flexibility and voluntariness; and for their diverse membership, rather than a more rigid, compulsory arrangement.<sup>28</sup> The Joint Statement after the meeting ensured consistency with the GATT rules. "APEC maintained and extended its commitments to open multilateral trading, regional diversity, including differing social and economic systems and current levels of development and,

23. Jusuf Wanandi, *Asia Pacific Economic Cooperation: Ideas About Substance*, in ASIA PACIFIC ECONOMIC COOPERATION: THE CHALLENGE AHEAD 48 (Richard L. Grant et al. eds., 1990).

24. Yoshi Kodama, *Development of Interstate Cooperation in the Asia Pacific Region: Consideration For Regional Trade Compacts*, 2 FALL NAFTA: L. & BUS. REV. AM. 70, 104 (Kluwer Law Int'l 1996).

25. *Id.*

26. *Id.* at 103.

27. *APEC: An Introductory Note*, in 2 TRADING ARRANGEMENTS IN THE PACIFIC RIM: ASEAN AND APEC 1 (Paul Davidson ed., 1997).

28. Yoshi Kodama, *Asia-Pacific Region: APEC and ASEAN*, 30 INT'L LAW. 367, 367 (1996).

finally, work programs<sup>29</sup> for concerted action on a number of trade and development areas.

## 2. The Second Ministerial Meeting in Singapore (1990)

The second meeting at Singapore clarified APEC's goal.<sup>30</sup> The Joint Statement set trade liberalization and regional cooperation as APEC's main objectives.<sup>31</sup> "[T]he Statement prohibited protectionism and therefore, observance of the most-favored nation principle (MFN) under GATT."<sup>32</sup>

The Ministers also agreed on the framework of the following work projects, which included: (1) review of trade and investment data, (2) trade promotion, (3) expansion of investment and technology transfer, (4) multilateral human resource development, (5) regional energy cooperation, (6) marine resource conservation and prevention of marine pollution, and (7) telecommunications.<sup>33</sup>

## 3. The Third Ministerial Meeting in Seoul, The Republic of Korea (1991)

The third meeting was significant for its development of APEC's subsequent activities and structure.<sup>34</sup> Ministers clarified APEC's objectives and procedures by their Joint Statement and APEC Declaration. The Joint Statement also set out and authorized ten work programs, which included the work programs agreed at the Second Ministerial Meeting and three additional work programs: fisheries, transportation, and tourism.<sup>35</sup>

To achieve APEC's aims, the Seoul Meeting called for: (a) an annual ministerial meeting to determine the direction, nature, and implementation of APEC's activities, (b) a senior officials' meeting to develop the APEC process in accordance with the

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29. *Id.* at 371.

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.* at 372.



decisions of the ministerial meetings, and (c) a work program, organized by a working group composed of representatives from the participants.<sup>36</sup>

#### 4. The Fourth Ministerial Meeting in Bangkok, Thailand (1992)

The meeting in Bangkok basically followed the previous meeting, along with some additional important institutional developments.<sup>37</sup> The meeting established the APEC Secretariat in Singapore. The APEC Secretariat facilitates and coordinates APEC's activities. The parties also agreed that APEC needed a budget to cover administrative and operational costs.<sup>38</sup>

In addition, the Ministers also agreed to establish a small Eminent Persons' Group (EPG) as an advisory body, consisting of academics.<sup>39</sup> The EPG was established to enunciate a vision for trade in the Asia-Pacific region to the year 2000, identify constraints and issues which should be considered by APEC, and report initially to the next Ministerial Meeting in the United States in 1993.<sup>40</sup>

#### 5. The Fifth Ministerial Meeting and the First Leaders' Meeting in Seattle, United States (1993)

The meeting in Seattle reconfirmed APEC's objectives and basic principles, particularly its commitment to regional trade liberalization.<sup>41</sup> Both the Joint Statement and the Declaration on an APEC Trade and Investment Framework called for GATT consistency, consensus-building, flexibility, and diversity.<sup>42</sup>

The Fifth Ministerial Meeting modified some work programs. The permanent Committee on Trade and Investment (CTI)

36. *Id.*

37. *Id.* at 373.

38. *Id.* at 372.

39. *Id.* at 373.

40. *Joint Statements of the First through Seventh Ministerial Meetings, 1989-1995, in 2 TRADING ARRANGEMENTS IN THE PACIFIC RIM: ASEAN AND APEC 8-10* (Paul Davidson, ed., 1997).

41. Kodama, *supra* note 28, at 373.

42. *Id.* at 374.

replaced the previous informal group on regional trade liberalization (RTL).<sup>43</sup> Further, the work of the Ad Hoc Group on Economic Trends and Issues (ETI) was recognized as essential to the development of national policies and regional cooperative initiatives, as well as to the promotion of open trade and investment throughout the Asia-Pacific region.<sup>44</sup>

#### 6. The Sixth Ministerial Meeting in Jakarta, Indonesia and the Second Leaders' Meeting in Bogor, Indonesia (1994)

The 1994 meetings showed some important progress in cooperation . . . In the APEC Leaders' Declaration of Common Resolve, leaders agreed to the goals of regional liberalization and established specific deadlines. APEC members should achieve free and open trade and investment by the year 2020. The deadline for industrialized economies is 2010 and the deadline for developing economies is 2020.<sup>45</sup>

The meetings also achieved the formulation of APEC Nonbinding Investment Principles that had been developed by the APEC Committee on Trade and Investment (CTI).<sup>46</sup> They outline the principles for regional investment based upon liberalization and fairness. "This document stipulates that non-APEC investors should be treated equally with APEC investors and with indigenous investors under the principles of nondiscrimination and national treatment."<sup>47</sup>

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43. *Joint Statements of the First through Seventh Ministerial Meetings, 1989-1995*, *supra* note 40, at 41.

44. Kodama, *supra* note 28, at 373.

45. *Id.* at 375.

46. *Id.*

47. *Id.* at 375-76.

### 7. The Seventh Ministerial Meeting and the Third Leaders' Meeting in Osaka, Japan (1995)

The 1995 meetings reconfirmed existing APEC principles and evidenced the start of the liberalization program under the Bogor Declaration. Members reconfirmed the principle of voluntary liberalization.<sup>48</sup>

The Osaka Action Agenda was designed to implement the Bogor Declaration.<sup>49</sup> It reconfirmed that "the outcome of trade and investment liberalization in the region will be the actual reduction of barriers not only among APEC economies but also between APEC economies and non-APEC economies."<sup>50</sup> The Agenda also specified "that considering the different levels of economic development among the APEC economies and the diverse circumstances in each economy, flexibility will be available in dealing with issues arising from such circumstances in the liberalization and facilitation process."<sup>51</sup>

### 8. The Eighth Ministerial Meeting and the Fourth Leaders' Meeting in Manila, Philippines (1996)

The members created a new organization, the APEC Business Advisory Council (ABAC), as requested by the Pacific Business Forum. This Council strengthens the influence of business concerns in a formal way within the APEC process. Five areas of ABAC major concern are: (1) infrastructure, finance and investment; (2) small and medium enterprise; (3) human resources development; (4) the facilitation of cross-border flows, and; (5) deepening a sense of community in the Asia-Pacific region.<sup>52</sup>

48. *Id.* at 376.

49. Janow, *supra* note 6, at 965.

50. Kodama, *supra* note 28, at 375, quoting from APEC Secretariat, Selected APEC Documents 1989-1994 (1995).

51. Kodama, *supra* note 28, quoting from APEC Secretariat, 1995 Joint Statement, Action Agenda, 1995.

52. *Trading Arrangements in the Pacific Rim: ASEAN and APEC*, Selected Documents IIA, APEC TEXTUAL MATERIAL – AN INTRODUCTORY note 5 (1997); see Document II B6 d, THE EXECUTIVE SUMMARY OF THE 1996 ABAC REPORT TO THE ECONOMIC LEADERS.

## 9. The Ninth Ministerial Meeting The Seventh Ministerial Meeting and the Fifth Leaders' Meeting in Vancouver, Canada (1997)

The Ministerial Meeting reviewed certain economic projects, such as trade, environment, transportation, energy and small and medium-sized enterprises. The APEC Leaders' Agenda discussed progress and remaining obstacles on trade and investment liberalization, reviewed APEC business facilitation activities, and gave further impetus to APEC's work program on economic and technical cooperation.<sup>53</sup> The 1997 meeting reviewed developments in international trade with a focus on defining how APEC could best continue to support the multilateral trading system under the World Trade Organization (WTO).<sup>54</sup>

### B. GOALS AND OBJECTIVES OF APEC

Cooperation within APEC is based on the principle of mutual benefit and a commitment to open dialogue and consensus building. The APEC Declaration provides that:

APEC will operate through a process of consultation and exchange of views among high-level representatives of APEC economies, drawing upon research, analysis and policy ideas contributed by participating economies and other relevant organizations including the ASEAN, the South Pacific Forum (SPF) and the PECC. Recognizing the important contribution of the private sector to the dynamism of APEC economies, APEC welcomes and encourages active private sector participation in appropriate APEC activities.<sup>55</sup>

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53. Lambert, *supra* note 10, at 201.

54. *Trading Arrangements in the Pacific Rim: ASEAN and APEC*, Selected Document IIB 4b(2), MEETING OF APEC MINISTERS RESPONSIBLE FOR TRADE, Montreal, Canada, May 8-10, 1997, p. 1.

55. *Trading Arrangements in the Pacific Rim: ASEAN and APEC*, Selected Document IIA, APEC TEXTUAL MATERIAL - AN INTRODUCTORY, note 2 (1997).

The main objectives of Asia-Pacific Economic Cooperation (APEC), embodied in the Seoul APEC Declaration of November 14, 1991, are as follows:

- (a) to sustain the growth and development of the region for the common good of its peoples and, in this way, to contribute to the growth and development of the world economy;
- (b) to enhance the positive gains, both for the region and the world economy, resulting from increasing economic interdependence, to include encouraging the flow of goods, services, capital and technology;
- (c) to develop and strengthen the open multilateral trading system in the interest of Asia-Pacific and all other economies; and
- (d) to reduce barriers to trade in goods, services and investment among participants in a manner consistent with GATT principles, where applicable, and without detriment to other economies.<sup>56</sup>

In the early APEC meetings, participants stressed the informal nature of the association and rejected the idea of APEC as a trading bloc.<sup>57</sup> All of the participating nations also agreed that the underlying principle of the new grouping would be to liberalize trade, and that APEC would be outward-looking in perspective.<sup>58</sup>

### C. MEMBERSHIP OF APEC

At the 1993 Summit in Seattle, APEC's leaders reached a compromise regarding the structure of APEC and its relations with other Asia-Pacific organizations such as the East Asian

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56. *Seoul APEC Declaration*, 14 November 1991, in 2 *TRADING ARRANGEMENTS IN THE PACIFIC RIM: ASEAN AND APEC* (Paul Davidson ed., 1997).

57. ANDREW ELEK, *TRADE POLICY OPTION FOR THE ASIA-PACIFIC REGION IN THE 1990'S: THE POTENTIAL OF OPEN REGIONALISM* (1992).

58. See Kodama, *supra* note 28, at 371.

Economic Caucus (EAEC)<sup>59</sup> and the Association of Southeast Asian Nations (ASEAN).

The emergence of APEC was seen by the members of the ASEAN as a threat to its existence. They feared that the creation of APEC as a new institution would overshadow, divert, dilute or supplant the ASEAN. In order to allay the fears of the ASEAN members, a structural compromise was reached by the APEC leaders.<sup>60</sup>

This structural compromise consists of the following features. First, "APEC will remain an informal organization, without any formal treaty or other constitutional document."<sup>61</sup> Second, "APEC will remain institutionally decentralized and non-hierarchical."<sup>62</sup> Although APEC has a permanent secretariat in Singapore, it has no central decision-making body, and its members vote by consensus, thus granting each member veto power.<sup>63</sup> Third, APEC will not supersede, but rather will complement and coordinate with, other organizations within the Asia-Pacific region, such as the EAEC and the ASEAN.<sup>64</sup>

The membership issue regarding APEC's structure is fundamental to the future of APEC because APEC needed to balance the effectiveness and progress of its detailed cooperation programs.

The initial Australian proposal did not include the United States or Canada; however, the Japanese insisted that the North American countries be included so as not to jeopardize

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59. The EAEC (formerly known as the East Asian Economic Group) was created by the initiative of Malaysian Prime Minister Mahathir Mohamad, who saw it as an alternative to APEC. Prime Minister Mohamad objected to the membership of the United States and Japan in APEC, arguing that these two giant economic powers would dominate the forum. He envisioned an organization that would exclude non-Asian nations and Japan and unify Asian countries against the European Union and the United States. See Abbott & Bowman, *supra* note 4, at 211-12.

60. Amos A. Jordan & Richard L. Grant, *Overview, in ASIA PACIFIC ECONOMIC COOPERATION: THE CHALLENGE AHEAD 3-4* (Richard L. Grant et al. eds., 1990).

61. Abbott & Bowman, *supra* note 4, at 213.

62. *Id.* at 214.

63. *Id.*

64. *Id.*

trans-Pacific trading relations.<sup>65</sup> Furthermore, the Asian members of APEC considered the United States as a bridge between the Atlantic and Pacific countries. It was possible that the European Union may, in its desire to build economic strength and competitiveness in the global market, become protectionist in its trade policies. However, the U. S. market remained important to the EU. Consequently, U.S. participation in APEC neutralized the EU's inward-looking policies and prevented it from engaging in trade protectionism. This result was possible, however, only if the U.S. remained committed to and actively engaged in promoting free trade in the Pacific Rim.<sup>66</sup>

The twelve countries that met in Canberra in 1989 were: Australia, Canada, Japan, New Zealand, South Korea, the United States, and the members of ASEAN — Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand. In Seoul at the November 1991 Ministerial Meeting, China, Hong Kong and Taiwan were admitted as full members. Mexico and Papua New Guinea were admitted at the November 1993 Ministerial Meeting in Seattle, and with the November 1994 Ministerial Meeting in Jakarta, Chile was admitted.

The 1991 Seoul APEC Declaration set out the general criteria for new members. However, it also provided that admission of new participants would eventually be decided by consensus among existing members. In general, effective cooperation requires a certain level of equal economic performance, and a minimum development level, along with economic interdependence, may be necessary before members are admitted.<sup>67</sup>

At the 1993 meeting in Seattle, members recognized that APEC needed to develop a "more systematic means of addressing the issue of new members."<sup>68</sup> At that meeting,

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65. Nicole Gallant & Richard Stubbs, *APEC's Dilemmas: Institution-Building Around the Pacific Rim*, 70 PAC. AFF. 208 (1997).

66. Jordan & Grant, *supra* note 60 at 6-7.

67. Kodama, *supra* note 28 at 378.

68. *Joint Statements of the First through Seventh Ministerial Meetings, 1989-1995*, *supra* note 40, at 44.

APEC Ministers imposed a 3-year moratorium on the admission of new members, and asked senior officials to conduct a study of membership policy and provide recommendations to the Ministers, on an ongoing basis, on the criteria for the admission of future members.<sup>69</sup>

It was not easy for senior officials to agree on the recommendations that should be made to the ministers. At the 1995 Osaka summit, officials decided to continue their consideration of the issue of membership to the 1996 APEC Ministerial Meeting in the Philippines, but the process was again delayed. However, officials did agree to announce the criteria for membership at the Vancouver Summit in 1997; the decision as to which economies should be admitted at the Malaysia Summit in 1998; and the actual admission of new members at the New Zealand Summit in 1999.

### III. ACHIEVEMENTS OF APEC

The ambiguity<sup>70</sup> surrounding the nomenclature of APEC, in the absence of a descriptive noun such as “forum” or “organization,” has not infected its achievements. Even the absence of a “clear and decisive leadership”<sup>71</sup> among its members has not prevented it from achieving relative success.

In general, APEC has been successful in promoting regional security and economic cooperation among its members by providing a geopolitical forum for dialogue, diplomacy and confidence-building.<sup>72</sup> For instance, APEC was able to maintain high level contacts between China and the United States, contacts which would have been impossible without APEC.<sup>73</sup>

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69. *Id.* at 44-45.

70. Rudner, *supra* note 10, stating the ambiguity as follows: “Asia Pacific Economic Cooperation’ relates to what type of forum, or organization?”

71. Deng *supra* note 9, at 76.

72. *Id.* at 77; see Janow, *supra* note 6, at 996.

73. *Id.*



In particular, APEC has succeeded in achieving both global and regional trade liberalization through the concept of "open regionalism." Indeed, the promotion of free trade is the quickest means of promoting economic growth. Consequently, APEC seeks to achieve not only a regional, but also a global trading system that is open and accessible to all.<sup>74</sup>

In addition, APEC is on the way to establishing a dispute resolution mechanism, albeit on a voluntary basis. It would appear that this mechanism would be in the form of mediation or other extrajudicial or non-legal means. Like other forms of international dispute resolution, such as adjudication under the International Court of Justice or institutional or ad hoc arbitration, the APEC model is based on the consent of the parties to the dispute.

Finally, in the environmental area, APEC has focused on building common norms and developing the management capacities of its poorest members.<sup>75</sup> Undoubtedly, trade and economic globalization resulting from APEC will have an effect on the environment. Already, China and other developing countries in APEC are suffering from environmental stress and damage. Consequently, the "greening" of APEC is a goal worth achieving.

#### A. TRADE LIBERALIZATION

"The APEC forum has repeatedly emphasized the importance that it attaches to multilateral trade liberalization and WTO-consistent liberalization within APEC."<sup>76</sup> APEC has addressed global trade liberalization, regional trade liberalization, and dispute resolution.

##### 1. Global Trade Liberalization

"At the Seattle Summit, APEC's support for multilateral trade liberalization served as a concrete boost to the Uruguay Round

74. See Jordan & Grant, *supra* note 60, at 6.

75. See Lyuba Zarsky, *The Asia-Pacific Economic Cooperation Forum and the Environment: Regional Environmental Governance in the Age of Economic Globalization*, 8 COLO. J. INT'L ENVTL. L. & POL'Y 323, 356 (1997).

76. Janow, *supra* note 6, at 968

negotiations, as APEC members identified those areas in which they were prepared to undertake additional tariff concessions.<sup>77</sup> As a result, when the Uruguay Round came to a close, all of the APEC countries that were members of the GATT ratified the Uruguay Round Final Act by December of 1994.<sup>78</sup>

APEC intends to use the free trade principle to maintain the nations' economic development. The free trade principle has two aspects, the promotion of internal liberalization of trade and investment and the maintenance of free trade with outside economies. APEC can achieve this second aspect by maintaining its compatibility with GATT-WTO principles. Specifically, APEC can expand its liberalization process using the most-favored nation (MFN) principle.<sup>79</sup>

The very concept of "open regionalism" hinges on the notion that APEC undertakings will be consistent with multilateral rules. Although the Bogor Declaration creating a free trade arrangement with the deadline of 2010 and 2020 that went beyond consistency with WTO disciplines, it endorsed the notion of acceleration of Uruguay Round commitments. The rule is that any partial liberalization at a regional level shall extend to all outsiders, no matter whether they are developed or developing countries.<sup>80</sup>

Another likely contribution of APEC to the enhancement of multilateral trade disciplines in the context of the Uruguay Round negotiations was on basic telecommunications services.<sup>81</sup> For most of the postwar period, services have been highly regulated. Beginning in the 1980s, services became part of the international trade policy agenda.<sup>82</sup>

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77. *Id.*

78. *Id.* at 969.

79. Kodama, *supra* note 28, at 370.

80. *Id.* at 375.

81. Janow, *supra* note 6, at 971-972

82. *Id.* at 972.

Within the context of the General Agreement on Trade in Services (GATS), the parties to the negotiations were able to agree on general principles covering trade in services i.e., for financial services, telecommunications, maritime and audio-visual.<sup>83</sup> The negotiations focused on three elements: firstly, obtaining commitments from countries to liberalize market access; secondly, national treatment restrictions; and finally, efforts to reach agreement on a set of regulatory principles that are to guide domestic regulatory practices.<sup>84</sup>

## 2. Regional Trade Liberalization

Regional trade liberalization is the centerpiece and one of the pillars of the APEC process. Albeit controversial, regional trade liberalization is now thinly in the APEC agenda. The Bogor Declaration established APEC's long-term goal of free trade in the region. The Osaka Action Agenda, on the other hand, advanced an approach for achieving those goals. However, it offered only a few initial proposals. Lastly, the Manila APEC meetings witnessed the presentation of individual action plans.<sup>85</sup>

Closely related to the issue of the APEC modality for liberalizing trade and investment is the manner of taking both collective and unilateral actions. APEC members such as the United States, Canada, Singapore, and Hong Kong prefer the use of collective measures in the belief that this would encourage liberalization. Other members, such as China, Thailand, and Malaysia, favor unilateral measures based on their desire to preserve policy flexibility and their ability to protect their domestic industries until they have become internationally competitive.<sup>86</sup>

### B. DISPUTE RESOLUTION

Economic, political, and cultural differences among APEC members continually impact trade relations among them. In

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83. *Id.* at 973.

84. *Id.*

85. *Id.* at 978.

86. *Id.* at 979.

fact, at the 1994 Bogor Meeting, APEC Economic Leaders agreed that trade and other economic disputes among APEC economies have negative implications for the implementation of agreed cooperative arrangements as well as for the spirit of cooperation.<sup>87</sup> “Trans-Pacific trade relations have spawned many rancorous international disputes over issues relating to market access, intellectual property protection, labor, and human rights. One of the keys to APEC’s success will be its ability to better manage or avoid these disputes.”<sup>88</sup>

Since all APEC members are also members of the World Trade Organization (WTO), they are subjected to the WTO rules regarding trade in goods and services as well as certain trade-related aspects of investment and intellectual property. “The WTO, of course, has well developed and powerful mechanisms for dispute resolution in these areas. Those mechanisms are available not only to deal with breaches of WTO obligations but also to remedy other actions or situations that nullify or impair benefits accruing under the WTO agreements.”<sup>89</sup>

To make practical improvements to dispute resolution mechanisms, both the Eminent Persons Group (EPG) and the Pacific Business Forum (PBF) recommended the establishment of dispute resolution mechanisms.<sup>90</sup> The EPG Report indicated that the APEC dispute resolution mechanism should supplement that of the WTO’s, thus implying that it be applied only to non-WTO matters.<sup>91</sup> “On the other hand, the EPG makes it clear that APEC dispute resolution could be used for matters not covered by APEC rules. For its part, the PBF recommended that APEC establish panels to assist in dispute resolution prior to taking disputes to GATT.”<sup>92</sup> “Both recognized, however, that there is little or no support in APEC

87. *Trading Arrangements in the Pacific Rim: ASEAN and APEC*, SELECTED DOCUMENTS, APEC MEETING OF MINISTERS RESPONSIBLE FOR THE ENVIRONMENT, Vancouver, March 1994, p. 1 [hereinafter *Trading Arrangements*].

88. Carl Green, *APEC and Trans-Pacific Dispute Management*, 26 LAW & POL’Y INT’L BUS. 719 (1995).

89. *Id.* at 722-723.

90. *Id.* at 726.

91. *Id.* See also Kodama, *supra* note 28, at 381.

92. Green, *supra* note 88.

for a NAFTA-type dispute resolution mechanism that could be used in place of the WTO process.”<sup>93</sup>

To assist in resolving such disputes and their recurrence, leaders agreed to examine the possibility of a voluntary consultative dispute mediation service. APEC is not a rules-based organization, so it cannot establish a formal binding dispute settlement mechanism.<sup>94</sup> “The EPG recommended that APEC should create a Dispute Mediation Service (DMS) that would operate on a voluntary basis to provide assistance in resolving (and thus, over time, perhaps avoiding) economic disputes among its members.”<sup>95</sup> Disputes mediation is focused on ways in which disputes can be solved through dialogue and increased understanding.<sup>96</sup> “For this reason, APEC’s trade and investment committee subsequently appointed a working group to develop a dispute settlement system.”<sup>97</sup>

The objectives of dispute meditation extracted from the APEC Economic Leaders’ Meeting in Osaka, Japan held on November 19, 1995 (hereinafter, “Osaka Action Agenda”) are as follows:

- (a) to encourage members to address disputes cooperatively at an early stage with a view to resolving their differences in a manner which will help avoid confrontation and escalation, without prejudice to rights and obligations under the WTO Agreement and other international agreements and without duplicating or detracting from WTO dispute settlement procedures;
- (b) facilitate and encourage the use of procedures for timely and effective resolution of disputes between private entities and governments and disputes between private parties in the Asia-Pacific region; and

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93. *Id.* at 726.

94. *See Trading Arrangements, supra* note 87, at 1.

95. *Green, supra* note 88, at 726.

96. *Trading Arrangements, supra* note 87.

97. *Green, supra* note 88, at 727.

(c) ensure increased transparency of government laws, regulations and administrative procedures with a view to reducing and avoiding disputes regarding trade and investment matters in order to promote a secure and predictable business environment.<sup>98</sup>

Expert Group Meetings are examining information from APEC members on arbitration, mediation, conciliation and other alternative dispute resolution services available in the APEC region and relevant domestic laws and procedures.<sup>99</sup> Moreover, Expert Group Meetings were held in Vancouver in June 1995 and Singapore in April 1996 to review the possibilities. Discussion was held on a broad range of issues, including four aspects of dispute resolution in the APEC region: government-to-government, private-to-government, and private-to-private, as well as the avoidance of trade disputes through increased transparency.<sup>100</sup>

#### C. IN THE AREA OF THE ENVIRONMENT

The flipside of economic success is ecological degradation, air and water pollution, and the depletion of natural resources such as forests, wetlands, fisheries, flora and fauna.

“In the Asia-Pacific, trade and investment flows are overwhelming[ly] intraregional, thus multilateral regional institutions, most prominently APEC, may be effective vehicles to promote better environmental governance in the age of globalization.”<sup>101</sup> There are four broad types of environmental management issues that are most relevant to APEC’s promotion of environmental governance: “(1) energy growth and energy-related pollution; (2) resource degradation, including that of forests and fisheries; (3) the loss of agriculture-based communities and agriculturally productive

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98. *The Osaka Action Agenda: Implementation of the Bogor Declaration - APEC Economic Leaders’ Meeting, Japan, November 1995*, in 2 TRADING ARRANGEMENTS IN THE PACIFIC RIM: ASEAN AND APEC 24 (Paul Davidson ed., 1997).

99. Trading Arrangements, *supra* note 87.

100. *Id.*

101. Zarsky, *supra* note 75, at 356.

lands, with concomitant impacts on rural-urban migration; and (4) industrial pollution.”<sup>102</sup>

Environmental issues have been discussed among APEC members virtually since its inception. At the founding conference in 1989, the Ministers agreed to examine, at a national level, issues related to energy, fisheries, and marine pollution. In 1991 the scope of APEC was expanded to include the goals of equity and sustainable growth. In 1993, with the launching of the Sustainable Development Dialogue by APEC heads of state, environmental issues moved unmistakably onto the organization’s radar screen.<sup>103</sup>

In 1994, environment ministers met for the first time in Vancouver to discuss the role of APEC in the achievement of environmental cooperation. They recognized the following: (1) the importance of technology transfer to the achievement of global sustainable development; (2) the role of good regulation in stimulating technological innovations; (3) the importance of active involvement of the private sector, including investment and joint ventures; (4) the importance of clean energy production and energy conservation technologies to environmental technology initiatives; (5) the importance of institutional capacity building training and technical information exchange to improving environmental technology cooperation; and (6) the value of exchanging information APEC members’ experience with innovative and renovative technologies.<sup>104</sup> They agreed that environmental issues would not be separated, but instead would be integrated into the work program of all working groups and committees.<sup>105</sup>

The environment ministers at the 1994 Vancouver meeting came up with nine Principles for Sustainable Development (Principles). In August 1994, APEC environmental experts drafted recommendations that focused on the use of market

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102. *Id.*

103. *Id.*, at 345.

104. *Trading Arrangements in the Pacific Rim: ASEAN AND APEC, Selected Documents IIB 4c, supra note 52, at 5.*

105. Zarsky, *supra note 75 at, 346.*

instruments to make effective the Principles in APEC's Work Program. These recommendations and Principles were subsequently endorsed by the APEC ministers at their meeting in Bogor, Indonesia in November 1994. In February 1995, environmental issues were included as part of the reporting requirements of APEC's two committees and ten working groups.<sup>106</sup>

Additional progress was made at the July 1996 meeting in Manila when the Ministers designated regional priorities for common action on sustainable development for the first time, such as clean technology, sustainable cities, and sustainability of the marine environment. In June 1997, the environment ministerial meeting in Toronto approved an action program in each of these three priority areas.<sup>107</sup>

"A comprehensive and dynamic approach to regional environmental governance should be built on solid foundational principles. . . . [T]here are four (4) key principles that APEC should adopt to make significant progress toward regional environmental governance."<sup>108</sup>

The first is the integration of trade and environment diplomacy. "APEC needs to go further and espouse the principle of trade-environment integration. . . . Trade and investment policies should aim not only to increase growth but to maintain (or enhance) the resilience of ecosystems. Action plans designed to reduce trade and investment barriers should also include commitments to raise environmental management capacities."<sup>109</sup>

The second is mutual responsibility. To achieve environmental cooperation among APEC members, the gaps between developed, industrializing, and developing countries need to be closed. Developing countries, which are poorer than developed countries, must improve their environmental performance. On

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106. *Id.*

107. *Id.* at 346-347.

108. *Id.* at 348.

109. *Id.*



the other hand, the developed (richer) countries must provide the developing countries with technology and capital to achieve a degree of environmental cooperation. The promotion of environmentally sound trade patterns within the Asia-Pacific region will require all APEC members to make domestic policy changes and encourage technological innovation.<sup>110</sup>

The third is stakeholder participation. "The creation of sound approaches to regional environmental management requires APEC to open its doors to environmentalists, consumers, farmers, laborers, and other stakeholders. APEC must provide regular opportunities, both structured and informal, for stakeholders to participate in the design and implementation of regional trade, investment, and environment policies."<sup>111</sup>

The last key principle that APEC should adopt to make significant progress toward regional environmental governance is that of policy convergence.

APEC should aim to develop broad common policy frameworks for environmental management through the processes of regional discussion and consensus building. . . . APEC could aim to standardize information gathering and testing procedures as well as standard-setting methodologies such as environmental and health impact and risk assessment. APEC countries could also embrace common resource management priorities, such as a commitment to eliminate domestic energy and water subsidies.<sup>112</sup>

APEC's integration of environmental concerns into the trade liberalization process is among the first signs of progress in the area of environmental cooperation. In addition, consideration of

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110. *Id.*

111. *Id.* at 349.

112. *Id.*

environmental issues should continue to be treated as parallel to APEC's technical cooperation track.<sup>113</sup>

#### D. APEC AND THE ASIAN FINANCIAL CRISIS OF 1998

One instance where APEC's role has been implicated is the recent financial turmoil that sent several Asian economies crashing.

In February of 1998, Edsel Custodio, Philippine Secretary for Trade and Industry and current Chairman of APEC's Committee on Trade and Investment, stated that the Asian financial crisis "should reinforce our will to achieve more liberalization."<sup>114</sup> APEC agreed that the financial turmoil should not impede its free trade goals, but rather should improve market access in APEC economies.<sup>115</sup> Mr. Custodio further stated that slowing down on improving market access will impair the inflow of much needed foreign investment to survive the crisis.<sup>116</sup>

In March of 1998, former Australian Prime Minister Paul Keating criticized APEC for its failure to get involved in the economic problems its members faced as a result of the Asian financial meltdown.<sup>117</sup> On the other hand, current Australian Prime Minister John Howard defended APEC by stating that the organization is "dedicated to expanding trade"<sup>118</sup> and not an international financial institution.

True to APEC form, the recent financial crisis in Asia reflects the disagreements among APEC's members regarding the goals and functions of APEC, and the degree to which it should involve itself with economic and, often, political issues.

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113. *Id.*

114. M. Jegathesan, *Asian Financial Crisis Should Reinforce APEC's Free-Trade Plans*, AGENCE FRANCE PRESSE, Feb. 23, 1998.

115. *Id.*

116. *Id.*

117. *Costello to Argue Indon Case at APEC Finance Meeting*, AAP Newsfeed, March 26, 1998.

118. *Id.*

#### IV. PROSPECTS FOR THE FUTURE OF APEC

In the final analysis, the informal and amorphous nature of APEC shows that APEC is more of a process rather than an institution.<sup>119</sup> "Thus far, the APEC forum has kept its institutional mechanisms to a minimum."<sup>120</sup> APEC members consider the substance, rather than form, as more important to its identity and activities.

##### A. THE LEADERSHIP ISSUE: A CHALLENGE FOR APEC

Leadership is fundamental to the identity, success, direction, development and survival of any type of organization. Very often, whoever leads the organization determines how that organization behaves. The achievement of an organization's goals and purposes is a responsibility that its leader(s) must bear.

In APEC, however, there is no "clear-cut source of leadership."<sup>121</sup> The issue of leadership has not been addressed by the APEC members. Yet, without leadership, it remains to be seen how APEC can effectively achieve regional cooperation in the Asia-Pacific region.<sup>122</sup>

Currently, three major APEC members, are possible candidates for leadership positions: the United States, Japan and China.<sup>123</sup> However, because of past and present records and reputation of each member, they will unlikely accept, or be accepted into, leadership positions in APEC.

The Asian members of APEC want to involve the United States, but also want to preclude it from exerting its dominance over them. They would like to maintain the "Asianization"<sup>124</sup> of APEC, as well as ensure that the Asian voice is heard regarding the pace and structure of regional cooperation. "They

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119. Andrew A. Faye, *APEC and the New Regionalism: GATT Compliance and Prescriptions for the WTO*, 28 *LAW & POLY INT'L BUS.* 175, 183 (1996).

120. Janow, *supra* note 6, at 998.

121. Deng, *supra* note 9.

122. *Id.* at 67.

123. *Id.* at 35.

124. *Id.* at 68

are also concerned that the United States will use [APEC] to simultaneously promote its . . . foreign policy goals of human rights, trade and security . . . .”<sup>125</sup> On the other hand, the United States does not see the need to lead APEC as long as APEC fulfills the U.S. agenda, such as facilitating U.S. entry into Asian markets; serving as a forum for U.S. diplomacy in Asia; and providing the U.S. with a bargaining chip over the Europeans. “To the extent that APEC, in its present form, has served these purposes well, Washington sees no need to aggressively lead the APEC-centered regional economic cooperation, and risk triggering opposition from the Asian members.”<sup>126</sup>

For Japan, APEC is insurance in case exclusive economic blocs in other regions rise against it. Because of Japan’s behavior in World War II and its historical enmity with China, it has “too much of a legitimacy deficit to play a leadership role.”<sup>127</sup> Moreover, because of Japan’s dual-faced foreign policy — one face turning toward the West and the other toward the East — its identity is difficult to reconcile.<sup>128</sup>

China’s approach to APEC has been minimalistic.<sup>129</sup> China has an economic interest in APEC, since its top five trading partners — the United States, Hong Kong, Japan, Taiwan and South Korea — are APEC members. China, however, is an unlikely leader because, as a rising political and economic power, it is seen as a threat to the Asia-Pacific region.<sup>130</sup>

The absence of definitive leadership in APEC is both its asset and liability. APEC’s asset is the absence of “big power dominance”<sup>131</sup> that gives the “necessary impetus to APEC’s creation.”<sup>132</sup> APEC’s liability is the “lack of commonly accepted

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125. *Id.*

126. *Id.* at 68-69.

127. *Id.* at 69

128. *Id.* at 70.

129. *Id.* at 71.

130. *Id.* at 72.

131. *Id.* at 76.

132. *Id.*

social purpose and new legitimizing principles [has] led to a highly contested and inchoate regime in Asia-Pacific."<sup>133</sup>

Because of the diversity inherent in the Asia-Pacific region, the leadership issue can be resolved by means of collective leadership rather than a hegemony. However, APEC members are comfortable without resolving the leadership issue. Consequently, this open-ended and evolving situation will likely continue."<sup>134</sup>

## B. POSSIBLE SCENARIOS IN APEC'S EVOLUTION

APEC is still in its nascent stages, and only time will tell the direction in which it may develop. Examining these possible scenarios in the evolution and development of APEC is worthwhile.

### 1. Maintenance of the Status Quo

"APEC members will continue to enhance their cooperative work programs and continue to liberalize their economies, largely through their own domestic initiatives but partly as a result of the APEC process."<sup>135</sup> Trade liberalization will likely be the result of market-driven forces rather than APEC initiatives.<sup>136</sup>

The maintenance of the status quo will likely require some degree of institutional development.<sup>137</sup> Thus, while retaining its commitment to open regionalism and the current consensual decision-making process, APEC may need to formalize and strengthen its institutional structure. One way of achieving this is to move towards a "more centralized, hierarchical institutional model."<sup>138</sup>

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133. *Id.*

134. *Id.* at 78.

135. Janow, *supra* note 6, at 1010.

136. *Id.*

137. *Id.* at 1011.

138. Abbott and Bowman, *supra* note 4, at 219.

## 2. Development into a Free Trade Area

APEC could develop into a traditional free trade area (FTA), abandoning the idea of open regionalism in favor of more inward-looking liberalization that discriminates against outsiders.<sup>139</sup> This idea has been suggested by Australia and the United States.

However, this scenario is unlikely because it runs counter to APEC's avowed goal of open regionalism. To the extent that a free trade area is discriminatory against non-members, it would "hamper the pursuit of the longtime goal of maximizing open foreign markets for Asian exports."<sup>140</sup> Furthermore, for economic and political reasons, an FTA would be undesirable and infeasible. First, trade frictions between Japan and the U.S. are beyond the remediable scope of an FTA. Second, the U.S. would unlikely enter into an FTA with China because it cannot compete with China's low-wage workers and because China's socialist economy does not conform to WTO standards.<sup>141</sup>

## 3. Stagnation and Disintegration

APEC could stagnate due to the disagreement among the members as to the "pace and scope of liberalization in trade and investment. . . . In the absence of meaningful momentum on at least some of the areas of the APEC agenda, it may prove difficult to sustain the attention of political leaders."<sup>142</sup>

APEC could also fall apart and disintegrate if a "regional recession"<sup>143</sup> drives its members' interests so far apart as to destroy consensus and complementarity.<sup>144</sup>

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139. *Id.*

140. *Id.*

141. Janow, *supra* note 6, at 1012.

142. *Id.* at 1013.

143. Abbott and Bowman, *supra* note 4, at 52.

144. *Id.*

## C. APPROACHES TO THE FUTURE DEVELOPMENT OF APEC

Due to the presence of both western and eastern members in APEC, two distinct approaches to APEC future development exist: the "Western" or "American" approach and the "Asian" or "ASEAN" approach.<sup>145</sup>

The "Western" or "American" view adopts an institutional approach which emphasizes legalistic structures, agreements and contracts, and operates under fixed schedules and time frames. Under such an approach, nations cede some of their national sovereignty to supranational entities in an effort towards binding and concrete multilateral decision-making.<sup>146</sup> In short, the "Western" or "American" view espouses formality and institutionalization. Applying the Western approach, the European Union would possibly be a model for the APEC.

The "Asian" approach, in contrast, is "evolutionary, cautious and conservative, resting upon consensus-building and peer pressure, and operating at a pace determined by the slowest member."<sup>147</sup> While the process is admittedly painstakingly slow, advocates of the "Asian" approach argue that, considering the interests of APEC members of such diversity, only this approach "can foster confidence and nurture reciprocity and voluntary concession-making."<sup>148</sup> Adherents of the "Asian" approach promote it as the only way by which the APEC can continue to grow.<sup>149</sup>

To achieve a reasonable compromise between these two conflicting views, an "amalgamation of the two views"<sup>150</sup> should be attempted. Without a central authority, no one in APEC can mandate the adoption of either view. However, in the interest

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145. Gerardi, *supra* note 2, at 679.

146. *Id.*

147. *Id.*

148. *Id.* at 680.

149. *Id.*

150. *Id.*

of economic cooperation, members should come to an agreement regarding the amalgamation of both approaches.<sup>151</sup>

## V. CONCLUSION

More than anything else, APEC is a reflection of Asian culture, values and tradition. This should not come as a surprise, considering that 11 out of 18 of its members are Asian. That APEC should favor the "Asian" approach described above is manifested in the nature of the organization. APEC is built on consensus and informality, rather than contract and formality. As mentioned earlier, APEC is heavy on process and light on institutions. No small wonder that APEC is referred to as a "forum."

The future of APEC is still unanswered, making it a lively topic for debate. However, several writers<sup>152</sup> on the matter speculate that APEC will preserve its basic principles of openness, voluntariness and decentralization. In short, it will most likely maintain the status quo with incremental institutional developments.

To the extent that APEC is distinctly Asian, APEC is a vehicle for regional cooperation among its Southeast Asian members. To the extent that APEC is based on openness, it is an example for future regional organizations all over the world.

The recent financial crises in Asia have tested the strength of APEC members' conviction to the proper role and effectiveness of APEC. The result was a great degree of support for APEC despite criticism from some members. Indeed, the result is a product of years invested in ministerial meetings and cooperation among officials and experts of the member countries.

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151. *Id.*

152. See Kodama, *supra* note 28, at 382; Abbott and Bowman, *supra* note 4, at 220; Janow, *supra* note 160; Deng, *supra* note 9, at 78.



Regional cooperation in Southeast Asia may finally be dawning. Trade liberalization and trade facilitation that APEC stands for may finally be the answer to Southeast Asia's ailing economies. At the same time, regional cooperation is also the answer to the West's stronger economies' search for growing markets and much needed labor forces. The symbiotic relationship between East and West is alive and well in APEC.

Regional cooperation begets economic wealth. Economic wealth begets strength. Consequently, the achievements of regional cooperation in Southeast Asia through APEC will lead to greater strength in the region, making it a force to reckon with in the near future, if not already.