

**Speech by Anthony Nightingale
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**The Facilitation of Trade and Investment - a Hong Kong
Business Perspective**

Thank you Stephen, and good afternoon ladies and gentlemen. My thanks, too, to KC Kwok and Charles Barrett for their very valuable insights.

The facilitation of trade and investment is a very important topic not only for those of us assembled here, but for all of society.

Commerce is, after all, the basis of wealth creation and the environment in which commerce operates greatly affects business outcomes and ultimately levels of general prosperity.

Geography, it has to be said, plays its part, as the great trading entrepôts of the world have demonstrated - from Venice in the thirteenth and fourteenth centuries to Hong Kong today.

But advantage in location is to some extent made, rather than naturally occurring. The swamps of Venice and the barren rock of Hong Kong did not always appear promising - except perhaps to pirates - and they became great cities precisely through the facilitation of trade and investment by the actions of businessmen and administrators.

Physically, this has meant the development of the natural harbour to accommodate ever larger vessels and good transport links to connect to the port. In our day, it has meant building a modern telecommunications system and now an electronic commerce platform.

As fundamentally, it has meant nurturing a variously skilled and healthy workforce, without which economic growth quickly meets constraints.

So too, efficient customs and immigration procedures are needed to facilitate the flow of goods and people, which is at the very heart of commerce. I will return to this in a moment.

Another essential ingredient is a comprehensive system of laws and regulations - not only sound in their conception but also consistent and free of corruption in their application. Business needs to operate within a clearly defined framework if it is to invest today for future returns.

As other speakers have indicated, the more open an economy the more it prospers. An open economy means an economy which welcomes foreign investment and which facilitates doing business. Liberalization of foreign investment is an important subject and one which as a businessman operating in many countries in this region I 100% support. But it is not our subject today and liberalisation often runs up against the problem of national interest.

Trade and Investment facilitation benefits foreign and domestic investors alike and should be easier for everyone to support but it in turn runs up against a second obstacle, balancing the public interest with creating the most beneficial environment for business to flourish. And administrators, politicians, labour leaders, respected academics and businessmen do not always have the same perception of public interest. Which is why it is so important, as Stephen indicated, for these issues to be debated and resolved between public and private sector in a spirit of cooperation and partnership.

I am going to spend a few minutes on some of the issues which concern businessmen operating in this APEC region, and then zero in briefly on Hong Kong and while I do so I will offer some thoughts on ways forward.

Let me start by addressing the movement of goods and people. For cross border transactions a key issue is customs clearance and what businessmen want is a quick, efficient and clean process. Port cities like Hong Kong and Singapore have already made great strides forward but the ideal to which we are working both inside APEC and ABAC, the businessmen's group which advises the APEC leaders, is the single window where one comprehensive set of documents will handle all the customs clearance procedures.

Another area where APEC and ABAC are focussed is the harmonisation of standards. Think of the extra time spent and cost wasted by having to comply with so many different sets of standards in our region and indeed across the world and think of

the savings if we could somehow persuade all countries to adopt a common regime of standards.

Movement of people can be divided into several parts. For business people travelling to overseas markets reducing the time, uncertainty and cost of visa applications is an important area of business facilitation. So too is reducing the queues at immigration counters, which are the persistent bugbear of many regional executives. The APEC Business Travel Card scheme attempts to address this issue and I would advise any of you in the audience who do not have one to put in your application now!

Even more important is to have efficient programmes to import labour when there are insufficient resources in an economy. This covers both skilled professionals and contract workers. ABAC is now doing some pioneering work on the mobility of contract workers who are playing a hugely important role both in the receiving countries and, through their remittances, in the countries from which they come.

Investment facilitation is as important as the facilitation of physical trade. Issues like how easy is it to start or close a business, the number of licenses required to operate and the time taken to process them, labour laws and contract enforceability all differ widely from economy to economy. Policy predictability, legal certainty and an absence of corruption all make for an environment in which business and society can flourish.

I would like now to turn to Hong Kong. Charles Barrett referred to the World Bank's annual study - Doing Business, which benchmarks economies around the world in a number of areas of regulation affecting business. This ranked Hong Kong a respectable fifth on a global basis in 2007.

But we should not be satisfied with this. After all there are 4 APEC economies ahead of us so we need to understand where Hong Kong does well and in what areas we could do better.

According to the report, Hong Kong's greatest strengths are in the areas of:

- Well entrenched legal rights, based on the common law system;

- A flexible labour system through proper employment regulation; and
- And taxation, which is simple, efficient and low. Every year I am personally involved in 2 tax returns, one for Hong Kong which takes about 15 minutes to prepare and another for the USA where I have some property. The US one takes me half a day and I still need to employ a professional accountant to fill in the forms properly

Hong Kong did less well in the World Bank study in the fields of property registration and dealing with licenses and I want to talk a little about these. Fortunately the Hong Kong government recognises the need to look for constant improvements in the interface between government and business and there is a regular dialogue between government departments, trade associations and chambers of commerce. Government has also set up a special committee called the Business Facilitation Advisory Council or BFAC, which is made up of business people, people from government and politicians and academics. In fact Stephen, KC and I are all members so we almost have a quorum for a meeting on stage right now!

Property is hugely important in Hong Kong. Land sales and premiums arising from development are major contributors to government revenue. The government officials administering this have the public interest at heart and yet many in the private sector in the development field feel that lease modifications and land exchanges have become a quagmire hindering Hong Kong's ability to adapt to changing economic needs and slowing the badly needed regeneration of many areas of the city.

In the view of the property developers and other professionals in this sector, the process is not merely slow, but highly uncertain, and so adds significantly to the cost of development here - a cost that is eventually passed on to society through higher prices and rents.

This year, IBM Global Business Services, presented a report to the government's Economic Analysis and Business Facilitation Unit showing that if all factors are taken into account, between 2003 – 2005 the average total elapsed time for non-technical lease

modifications was a rather lengthy 719 days. This compares highly unfavourably with Singapore, where developers comment similar modifications can usually be processed within a few months.

On this issue, the BFAC has submitted a series of recommendations which aim to bring about an improvement, ranging from narrowing the scope of lease conditions to creating a dedicated, integrated team within the Lands Department, the key government department handling the lease modification process.

Failure to reach agreement on the quantum of premium is a material cause of delaying the completion of lease modification. Many believe establishment of an independent tribunal would be a fair and effective way to resolve the impasses that occur from time to time and move things forward more speedily.

Many believe Lands Department, is under-resourced to deal with its increasing responsibilities and public demand in their work areas. And while overall we in the business sector strongly encourage government to maintain its current policy of tightly controlling any increase in costs, there should always be exceptions.

Additional resources should shorten processing time and allow the introduction of strict performance pledges in the form of time limits for decisions on lease modification and exchanges. Despite being complicated, such a system is already in place for processing of building plans and planning submissions, delivering a higher degree of certainty to the application process.

I know that all these issues are now being debated in a spirit of cooperation between the BFAC and Lands Department.

The second main area of concern I highlighted earlier was licensing.

Generally speaking, there has been some improvement in the area of licensing in Hong Kong, as my own group's retail businesses can testify. But at the same time many members of the retail trade are concerned that new proposed legislation, while well intentioned, will have some adverse effects on the trade and ultimately the public. I will return to this.

But let me start by citing some recent successes that have arisen as a result of the public/private cooperation promoted by the BFAC.

In the area of retail licensing, some 12 different licenses for retail food operations are in the process of being combined into one single license, with streamlined approval and inspection procedures.

Similarly, through the liaison of the hard working BFAC secretariat with government departments and the industry, application times for cinema licenses have been slashed by a minimum of 50%, to just 5 months, and the Department of Health has implemented a number of measures to shorten the registration time for new drugs, reducing it by more than 20% from around 7 months in early 2005 to around 5.5 months by end 2006. Progress indeed.

But, as I said, there are areas where the trade is facing new requirements imposed by government as a result of their perception of the public interest. An example is recent legislation requiring retailers to take responsibility for labelling food allergens, even if inadvertently contained in products. An insistence on a unique Hong Kong system with requirements in excess of other developed countries will create additional costs that consumers will ultimately bear.

In a similar vein, imposing, as is planned, a requirement for detailed nutritional information on products arriving in Hong Kong from countries with differing standards will lead to unintended consequences for consumers: a reduction in the range of available products and an increase in the price of food products. The cost of compliance will be a particular burden to smaller businesses. Of course government's intention is not to make life difficult for business just for the sake of it but is because of the desire to protect the public. The BFAC provides a forum for government and the trade to debate the costs and the benefits of the proposed new policies.

Ladies and Gentlemen, I hope I have been able to illustrate some of the issues both on a wider regional basis and on a more narrow Hong Kong basis that concern business and government. As I said earlier protecting public interest while promoting business efficiency needs a careful balance. But I do believe organisations like our BFAC here in Hong Kong and the APEC wide ABAC can

play a vital role in managing this process to the benefit of society as a whole and the prosperity of the whole community

Thank you.

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