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Caribbean Banking – A Global Force?

International Tax

Sovereign Wealth Funds and the Markets

The Global Food Crisis and Trade

Global Carbon Markets

Business and the Millennium Development Goals

Interview with Brian Stuart-Young
Chairman and CEO
Global Bank of Commerce

THE GLOBAL TRADE PLATFORM

Don't Fear The Credit Crunch Reaper

The storm is a year old and we are told this is only the beginning; the stagnation of growth with the return of inflation is a heady brew. However, look a little closer, badly run economies such as the UK have had this day coming for years.

The eurozone economy has contracted for the first time, and Europe is heading for a recession. Japan, the world's second biggest economy, contracted even faster. The US and the UK cannot be far behind. The markets' expectation is of a severe downturn that will reduce demand and inflation. The expectation that the world economy can decouple from the US economy has been shattered.

Financial stability has been undermined by thoughtless financial liberalisation, especially in the US and the UK. The result, in both the UK and the US, was overexpansion of the banking sectors, house-price bubbles, unsustainable construction booms and excessively indebted household sectors. It will take years to correct.

Market capitalism, the reason for this expansion, is now being pilloried for the current situation. However, regulation, the alleged effective solution to today's crisis, has never been able to eliminate history's crises. Tougher regulation will result in tougher lending criteria, prolonging the slowdown.

What will be the result? It's likely that after the correction the developed economies will grow at a more moderate rate, the BRICs will grow rapidly, though not as rapidly as in the past decade. The dance of the giants will slow in tempo. The danger is that some governments, after a decade of policy being dictated by the markets, and beset by emerging inflationary forces, will endeavour to reassert their grip on economic affairs. If that becomes widespread, globalisation could reverse – at awesome cost.

Let us not forget that globalisation is the reason for the unprecedented surge in world economic activity over the past decade. Between 2001 and 2007 global cross-border investments rose almost two-thirds faster than world nominal GDP, according to data from the International Monetary Fund.

One way to boost long-term global prospects is further trade liberalisation. But the World Trade Organisation's Doha round of negotiations is now on life support. Europe and the US have been joined by the advanced emerging markets of India, China and Brazil in wishing to protect their agricultural and financial sectors (and anything else deemed strategic).

Today's mess was many years in the making and there is no easy, painless exit strategy. The good news for companies is that funding will still be available to well-run business and good profits from sound borrowers will still be available to responsible lenders.

The way forward is to slash regulation, encourage enterprise and reward achievement, thus creating the wealth to move society upwards.

Globally the opportunities still exist to consolidate markets and increase market share. The old rules apply; better quality products, good productivity, and a flexible workforce. Governments must recognise that only the private sector can deliver the means to fend off recession and inflation. ■

Phoenix Multimedia
5 The Old Grammar
Old Grammar Lane
Bungay
Suffolk
NR35 1PU
United Kingdom
Tel: +44 (0)1986 892028
Email: info@worldcommercereview.com

PUBLISHERS
Tom Forster
Roy Williams

MANAGING EDITOR
Tom Forster

EDITORIAL TEAM
Tom Page
Kate Warwick

SALES DIRECTOR
Paul Murphy

SALES TEAM
Phil Thompson
John Walsh

PRODUCTION MANAGER
Michael Day

DESIGN AND PRODUCTION
PDQ Digital Media Solutions Ltd
(www.pdqmedia.co.uk)

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Keeping Markets Open for Investment from Sovereign Wealth Funds

Dirk Manske is a Senior Policy Manager at BIAC, the Business and Industry Advisory Committee to the OECD

Since the beginning of 2007, Sovereign Wealth Funds (SWFs) from emerging economies have invested more than US$60 billion into sub-prime crisis-stricken financial sector institutions in the United States and Europe. Despite the funds' important contribution to financial market stability, many feel unease about their rapidly growing role as foreign investors. The concerns about SWFs fuel debates about how open our economies should be to investment from abroad, in particular when it is government sponsored. As a result, some countries are already applying tighter scrutiny to incoming investment. If others follow suit, this could inhibit foreign investment and deprive our economies of associated tangible benefits. The Organisation for Economic Co-operation and Development (OECD) and the International Monetary Fund (IMF) are playing a key role in developing policy guidance and best practices that help to keep our markets open for foreign investment, while simultaneously addressing legitimate concerns about SWFs and other state-sponsored investors.

SWFs – what are they?

SWFs are government-owned investment funds. They are predominantly based on government revenues from oil and gas, earnings from foreign exchange transactions and fiscal budget surpluses. Governments have set up SWFs to pursue a variety of macroeconomic objectives. Some funds are there to help to mitigate the impact that volatility of important commodity markets may have on the home country. Some are tasked to manage wealth for future generations, and some are there to mobilize otherwise idle foreign exchange reserves. SWFs may pursue different strategies to achieve their objectives. What they typically have in common is that they are rather long-term oriented and relatively cautious investors with diversified portfolios. While most SWFs originate from emerging Asian economies that are strong industrial exporters, or from countries in the Middle East and Africa that are rich in oil and gas, some industrialised economies (Australia, Canada, Norway, Korea, and United States) are also home to SWFs.

SWFs' strong growth…

SWFs have been around for decades. However, in recent years they have mushroomed with assets under management and foreign investment increasing rapidly. Today, there are over 30 SWFs, 20 of which have been set up in the past eight years. Many are quite small, though the largest funds manage sizable assets. Abu Dhabi is the biggest with assets estimated to amount to US$800 billion, followed by Norway (US$390 billion), Singapore's Government Investment Corporation (US$330 billion), Kuwait (US$250billion) and China (US$200 billion).

Total assets under SWF management grew within a decade from several hundred billions of US$ to an estimated US$2-3 trillion. Today, SWF assets already exceed those of the global hedge funds but are still small in comparison with global financial assets (estimated at US$190 trillion according to the IMF), pension funds, mutual funds and insurance assets. As SWFs have grown they have also become internationally more active. By some estimates, SWFs carried out over 120 cross-border deals in the past two years that were worth about US$140 billion. 37 of these deals involved more than US$1 billion.

… reflects global imbalances

Looking ahead, SWFs will likely rise further as their growth is driven by global macroeconomic imbalances. Over the past decade, the United States has been running current account deficits of 5% of GDP p.a while a number of industrial goods and commodity exporting emerging economies have been accumulating considerable surpluses. As current account deficits must be financed by capital inflows and current account surpluses are matched by capital outflows, we have seen net capital outflows from emerging economies rising sharply. Between 2001 and 2007, they increased from zero to an estimated US$740 billion says a recent Goldman Sachs report. With oil prices likely to remain high and exchange rates in many emerging countries pegged to the dollar, many experts expect large global current account imbalances to persist. This situation will provide for further accumulation of foreign exchange that governments in emerging economies can transfer to their SWFs. According to the IMF, global SWF assets will surge to US$6-10 trillion by 2013.

SWFs bring benefits…

The countries that are home to the SWFs, as well as those that receive their investment, stand to benefit from projected growth of the funds. At home, the SWFs perform useful functions through which they help to improve the risk-return profile for government assets. For countries that receive the SWFs' investment, significant opportunities emerge from the additional capital that our businesses need in order to thrive, boost investment and create jobs. Not only sub-prime crisis-stricken financial sector institutions have benefited greatly from capital injections by SWFs: a number of companies have had positive experiences with sovereign funds that have proven themselves to be reliable and long-term investors.

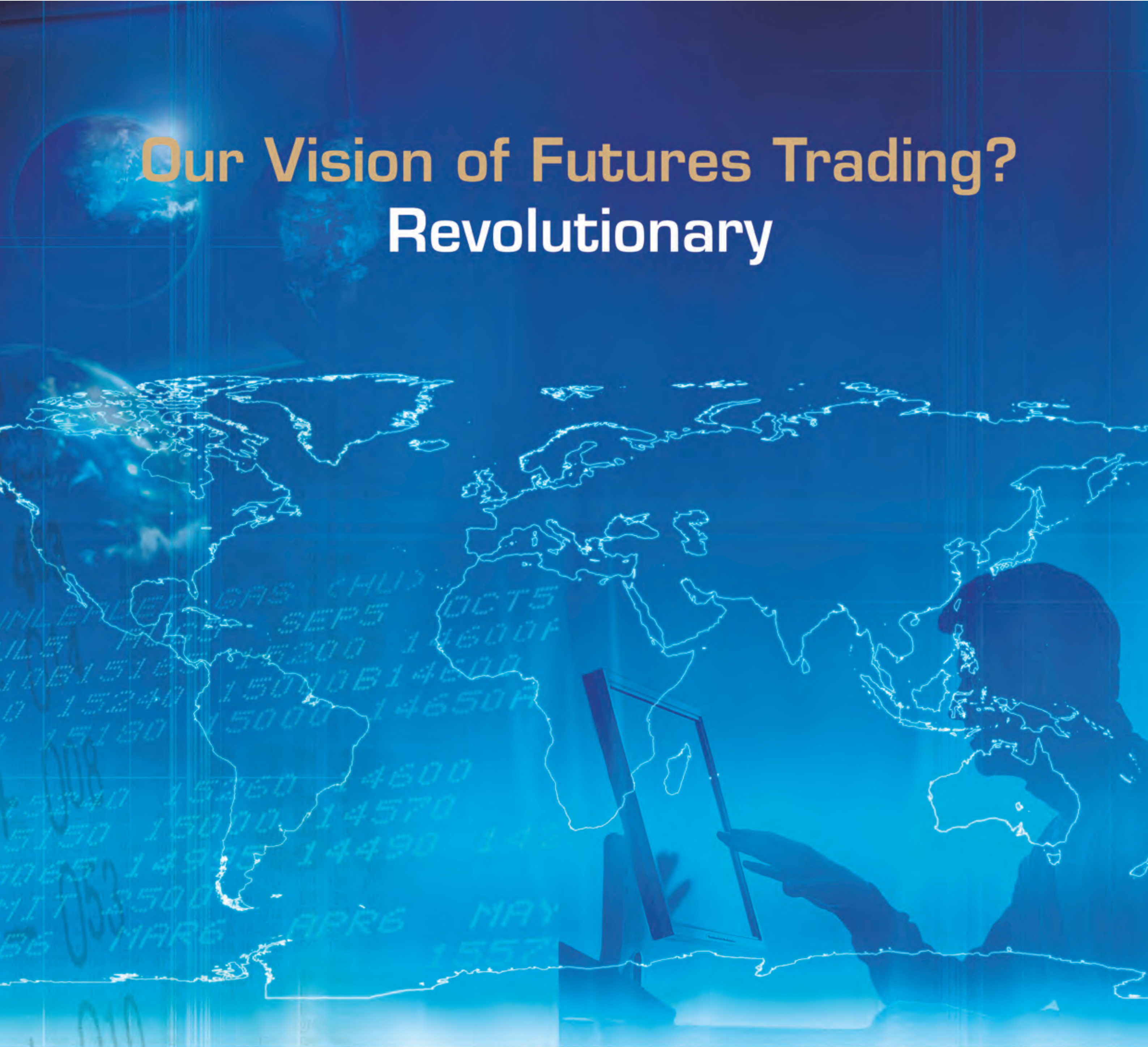
… but concerns have arisen

Despite the tangible benefits that SWFs offer to our economies, their rapid growth and cross-border activity has aroused unease. While some of the issues raised need to be addressed by appropriate policy frameworks in recipient countries as well as by the funds themselves, other concerns appear exaggerated or simply unjustified.

One often heard concern is that SWFs may destabilize financial markets. However, experience to date, as well as analyses by the IMF, OECD and others, suggests the contrary. While the bigger SWFs, like any other large institutional investors, may cause market disturbance particularly in shallower markets, it appears that up until now SWFs have actually acted as stabilizing forces. In the current financial situation, their significant capital injections have helped to stabilize the banking system and restore confidence in the global financial markets. Even beyond the current economic situation, it is hard to see why SWFs should pose any particular problem to financial stability. They are relatively cautious and long-term investors and they diversify their portfolios across countries and asset categories.

Another concern about SWFs is that they may acquire stakes in companies in order to influence business decisions that would serve the interests of their home country government. If this was the case, SWF investment in the defence and other sensitive sectors may even represent a risk to the recipient country's national security. While it is conceivable that an SWF may be tasked by its home government to pursue non-commercial objectives, history does not suggest that this has ever actually been the case. The European Commission, for example, says that in five decades of SWF activity in the internal market, the funds have never created any problems. Moreover, SWFs are acutely aware of the need for professional management and clear focus on commercial objectives, as these are critical for optimizing the risk-return profile for their respective governments' assets. It should also be added that the potential impact of SWFs on the decisions of companies is usually quite limited as the funds mostly invest in non-controlling minority stakes.

The third category of concerns about SWFs reflects doubts as to whether the funds apply sufficiently high standards of corporate governance that ensure a level playing field with private investors. Relevant issues include whether or not SWFs are separate from national regulators; have access to privileged information; are exempted from regulatory compliance; and whether there are checks and balances that ensure that the funds are run efficiently and in accordance with the stated objectives. The OECD looked at these key issues in a recent study in which it analysed the corporate governance arrangements of a number of large SWFs. The study shows that several SWFs actually possess advanced corporate governance systems. Many are fully incorporated entities subject to corporate law with professional managements, corporate boards (including external directors), and independent auditing. However, the study also notes that some SWFs need to raise their game and become more transparent about their objectives, strategies and operations.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Policy responses in recipient countries

Unease about foreign investment from SWFs and other state-controlled investors has contributed to governments' reassessments about their approaches towards investment from abroad. As a result, several countries tightened screening, notification and authorization procedures for incoming investment. The United States, for example, stepped up its inter-agency screening process (CFIUS process) that potentially covers all security related foreign investment. The increased interest of state-sponsored investors in US companies is an important factor that triggered the changes. Similarly, the Australian government has announced that it will apply more scrutiny specifically towards foreign government-controlled investment, and Canada is planning a national security investment review process. Meanwhile, the German government, driven by concern about SWFs and other state-controlled foreign investment, plans to expand the so-far very limited scope of its foreign investment screening procedures to cover all sectors of the economy. Other countries have also become more restrictive in their approaches towards foreign investment while some are still in a reflection mode.

Important roles for OECD and IMF

Last year, the G7 finance ministers asked the OECD and the IMF to conduct evidence-based analysis and develop guidance for policies that ensure that our economies can continue to benefit from SWF investment. The OECD's focus is on the receiving end of investment. As part of its broader policy initiative aimed at ensuring freedom of international investment, the Paris-based intergovernmental organisation is developing policy guidance as to how to keep markets open for all types of investors without jeopardizing national security. The OECD Ministerial Declaration on SWFs and Recipient Countries Policies issued in June is a remarkable first achievement towards this goal. The ministers from all 30 member countries endorsed the principles not to erect protectionist barriers and not to discriminate between SWFs and other foreign investors. They also announced to limit any additional investment restrictions to cases where there are legitimate national security concerns and, where such concerns arise, to only apply measures that are transparent, predictable, proportional and accountable in their application. As follow-up to its political Declaration, the OECD will issue more detailed technical guidance by spring 2009 as to how countries should put the endorsed investment policy principles into real life practice.

While the OECD is addressing investment policies in the recipient countries, the IMF is focusing on the other side of the equation. Before its next board meetings in the autumn, the IMF wants to develop, in co-operation with SWFs and their home governments, best practices guidance for transparency and accountability to be applied by SWFs.

BIAC perspective

The Business and Industry Advisory Committee to the OECD (BIAC) and its members, the major industry associations in the 30 OECD countries, are seriously concerned over the tightening of foreign investment vetting processes that we have witnessed. If more countries continue this trend towards enhancing their scrutiny vis-à-vis foreign investors, we may face the real risk of putting the brakes on global investment and depriving ourselves of the significant benefits that it brings to our economies.

Governments must address relevant questions about state-sponsored investors, but legitimate concerns about national security must not be misused as cover for protectionism. In order to fully reap the benefits from globalization, we must keep our economies as open as possible and treat all incoming investment fairly and in a non-discriminatory way. Remedies to any potential challenges should primarily be sought within the context of appropriate policy frameworks such as security regulation, corporate governance, financial sector regulation, and anti-monopoly and take-over regulation. Restricting investment when it crosses the border should be a measure of last resort. If, after careful consideration of alternatives approaches, enhanced scrutiny applied to foreign investment is deemed necessary to achieve narrowly-defined national security objectives, governments must ensure that the vetting procedures be used with restraint and applied in ways that ensure fairness, efficiency and integrity.

BIAC is providing strong business input to the development of the emerging OECD policy guidance for recipient countries. We feel encouraged that ministers followed our request to endorse in the OECD Ministerial Declaration key principles towards keeping markets open for investment. It is now critical that governments live up to their commitments. To make this happen, the OECD needs to translate the general principles enshrined in the declaration into more practical "how to do" guidance for member government's investment policy experts. Even more importantly, the OECD must effectively monitor member countries' implementation of the agreed principles. Rigorous monitoring will foster peer pressure among governments which should help prevent countries from setting up protectionist investment barriers.

Looking at the investor side of the equation, SWFs must apply the same high standards of governance and transparency as any investor. The better a funds' performance is in these areas, the easier it is for any host government to welcome it with open arms. SWFs that operate below the best practices that the IMF is identifying will in future likely have to make an extra effort to disperse any perception that they have something to hide or even present a security risk.

In sum, so long as they are properly developed and implemented, the emerging OECD policy guidance and the IMF's best practices for SWF transparency and governance may foster an international investment environment where SWFs enjoy fair treatment in recipient country markets and the recipient countries can confidently resist pressures for protectionist responses. ■

The Global Food Crisis and Trade: Design Better Policies for the Future but Feed the Hungry Today

Terence P Stewart, an international trade lawyer, is managing partner of the Washington, DC-based firm of Stewart and Stewart. Mr Stewart has written extensively about the WTO and is the editor of a four-volume treatise on *The GATT Uruguay Round: A Negotiating History (1986-1992)*

Over the past year, the world has begun to come to terms with the global crisis caused by a rapid escalation in the cost of food. The spike in prices and the threat to the food security of tens of millions of people has become perhaps the first major worldwide catastrophe of the age of globalization – and perhaps the catalyst for devising new policies and better coordination by governments across a broad array of matters from energy, to climate change, to trade.

While there have been jumps in food prices in the past, the current increases are particularly sharp and more likely to be sustained at least in the short and medium term. A report by the United Nations Food and Agriculture Organization (FAO), produced in conjunction with a summit on the food crisis in Rome last June, stated that the prices of all major commodities have reached their highest levels in nearly 50 years (prices in real terms were at a 30-year high.) There has been a notable spike that began in 2007 and continues. The FAO price index rose, on average, eight percent in 2006 in comparison to 2005, but then 24 percent from 2006 to 2007. Based on the first quarter of 2008, food prices are shooting up a remarkable 53 percent.

A number of factors have coalesced to create an environment where food prices have shot up. These include reduced inventories of basic staples around the world, sharply reduced research and development by governments/multilateral institutions on new varieties to help expand food production and reduce loss of yields to insects and pests; expanding global populations, increasing affluence of many peoples

leading to improved diets and greater consumption of products with high grain consumption, reduced land available for farming due to urbanization in many countries, rapidly rising energy costs which affect both agricultural inputs (fertilizers) and make it more expensive to operate farm equipment and ship goods to market; efforts by countries to find alternative energy sources including rapid build up of ethanol and other biofuels which has become a significant non-food use corn and other grains; climatic events such as droughts, which have become more acute amid climate change; speculation in commodities futures; and global trade policies such as export bans or limitations.

Scholars and policy analysts continue to debate the extent to which each of these and other factors have contributed to the crisis. What is clear is that higher agricultural prices are likely to remain for some time and that governments must act quickly and comprehensively to both address the policy aspects of the problem that can be addressed and to develop the collective will to see that the humanitarian crisis is addressed. While all consumers around the world are affected by higher food prices, the consequences of higher food prices are disastrous to millions of people, particularly the world's poorest people.

Roughly one billion people live on $1 a day or less and two and a half billion people live on $2 a day or less. The urban poor spend a large portion of their income on food, sometimes 70 percent or more. Therefore, a doubling or even sharper increase in the price of staples such as rice without government action has and will lead to large increases in the number of people who die of starvation and the number of people who cannot escape abject poverty. No money for shelter or for clothing or education for children are some of the anticipated consequences to millions of the world's poorest. Already, some 25,000 people die from hunger each day, according to the UN World Food Program. The food crisis is causing that tragic number to rise. World Bank President Robert B Zoellick has warned that 100 million people are at risk of slipping back into poverty. The social unrest that has accompanied hunger has toppled the government of Haiti, led to riots in several dozen countries including the Philippines and Egypt. The World Bank estimates that 30 or more governments could be at risk under the ensuing public desperation if action is not taken to stabilize the situation.

Just as there are myriad causes of this unsettling increase in food costs, there are many solutions, both short-term and long-term. The UN Secretary General Ban Ki-moo has created the High-Level Task Force on the Global Food Security Crisis and various multilateral institutions and many governments have been providing input into the action plan needed to be pursued on an urgent basis. Additional funding is being made available both by the World Bank and by individual nations. As these plans are developed and implemented it is critical that the world's governments ensure the availability of the financial resources necessary to ensure access to food.

This essay focuses on the role trade policies related to agricultural goods have on food prices and options available to governments and multilateral organizations to help restore greater price stability and affordability. Trade certainly plays a role in determining access to food, especially as the world has become more integrated commercially. However, the challenge for global leaders is to consider the nature and pace of changes in agricultural trade policies.

When World Trade Organization (WTO) members launched the Doha Round in 2001, a key objective was to harness the power of trade to spur development in poor countries and agricultural trade reform was seen as key to this objective. There are two overarching components of agricultural trade that WTO members have been grappling with the last seven years – and will continue to grapple with going forward. One is the issue of market access. The other is the array of subsidies and assistance to farmers and ranchers that can distort prices.

The United States, and other countries with relatively low tariffs on most agricultural products, have urged other countries to bring their tariffs down and eliminate non-tariff barriers to imports. After all, agriculture accounts for a quarter of the GDP among developing countries so it follows that opening more markets to products of developing countries would help producers there. There is little disagreement that more open markets would mean more trade flows. The challenge has been how much to lower tariffs, and how quickly. This has been a tough challenge politically for nearly all countries. Some countries have a history of famine, while others have large portions of their populations involved in subsistence agriculture, making rapid change politically impossible. Interestingly, many countries – whether developing or developed - with high tariffs on agricultural goods have reduced tariffs as a response to food price escalation to try to reduce the burden on consumers. Despite these autonomous liberalizations, governments remain unwilling to accept long-term deep liberalization commitments within the WTO negotiations as the existing agriculture text attests.

On the other major area affecting agricultural trade – subsidies and various price supports – proponents of free market forces and many developing countries have stressed that the subsidies European, Japanese and American farmers receive lead to oversupply of various commodities in home and global markets, making it difficult if not impossible for farmers in developing countries to succeed. The package that is on the table in the Doha negotiations, if adopted, would lead to the elimination of export subsidies and reductions in permissible levels of trade distorting domestic subsidies. It would also modify the way food aid is provided and reduce the risk that food aid undermines the ability of local farmers to participate in the market. Of course, with high food prices, amounts spent on domestic food subsidies by the three large developed WTO members are down significantly. At the same time, higher food prices are resulting in many developing countries needing to devote far more resources to subsidizing key food items for their populations to avoid social unrest.

Under the GATT and now the WTO, countries have maintained the right to cut off exports of agricultural commodities in certain circumstances. Typically, such actions have occurred where a country has had serious problems with a harvest. In the present crisis, more than 30 countries have reacted to rapidly rising food prices by restricting exports of certain key items. The combined effect of such restrictions has been to exacerbate the global price of certain products, particularly those with small trading volumes, like rice. While there is language in the Doha agriculture draft text that would require countries taking such actions to consult with trading partners, a concept of trade liberalization divorced from a responsibility to keep markets open and with no global policy on food stocks means that net food importing countries are placing their ability to feed their populations into the hands of trading partners with no multilateral obligations to see that food is available in fact.

While the major efforts to address the needs of individual developing country food security are in the development areas as opposed to trade, two other topics on the WTO Doha agenda could be of some assistance in the effort to stabilize the situation: trade facilitation and aid for trade. Trade facilitation explores how to streamline the movement of goods into, through and out of countries. Aid for trade is being addressed in conjunction with other organizations (OECD, World Bank). A WTO fact sheet on Aid for Trade explains that its trade capacity building efforts are aimed at helping developing countries, in particular the least developed, to build the trade capacity and infrastructure they need to benefit from trade opening. Many of these activities at the WTO are part of the overall Official Development Assistance (ODA) – grants and concessional loans – targeted at trade-related programs and projects.

Against this backdrop, proponents of more trade liberalization argue that it is more urgent than ever to complete the WTO Doha Development Agenda. They argue market forces would better ensure the right level of production and distribution and more stable pricing. The leaders of the G-8 countries echoed that call during their annual summit in July 2008.

The effect of a trade deal will be felt by trading nations in the medium/long term. They will also carry some shorter term implications for net food importing countries. One question has to do with trade-distortive subsidies. Export subsidies and so-called amber-box subsidies, create or can create distortions in the trading system. However, eliminating such subsidies in the short- and medium–term could result in higher prices on some food products. Not surprisingly, net food importing countries are concerned about the import cost


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implications of elimination of export subsidies in particular. Eliminating trade distortions continues to be the right global trade policy. However, nations need to be sure that the action plans adopted by the UN task force for individual developing and least developed countries as part of the response to the world food crisis ensure adequate food aid until a stabilized environment for food availability and affordability for such countries. United Nations officials estimate it will need $30 billion each year for the action plan. It is critical that the US, EU, Japan, other OECD countries, oil exporting countries, and other countries with strong reserve situations ensure funding is available in fact.

Another question has to do with export restraints imposed on agricultural products. The historic approach to liberalization in the trade of agricultural goods the United States and other countries have pursued has had an implicit assumption that countries will be able to obtain the goods they desire from trading partners if they do not continue to produce them themselves. Yet, in the last year, with rapid increases in food prices, more than two dozen nations sharply curtailed or barred exports of selected agricultural products (including rice, wheat, and soybeans) to preserve supplies for their own populations and, hopefully, to dampen inflationary pressures. Such actions, of course, only exacerbated the spikes in food prices experienced by food importing countries and have caused many countries to express concern about the rights of countries who have become dependent on imported food products.

Under global trading rules established in the General Agreement on Tariffs and Trade after World War II, nations retain the right to restrict exports in certain situations. Specifically, GATT Article XI:2(a) permits "Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting" country. For many countries, the current food crisis has created precisely that kind of emergency.

Yet, when such rights are used simultaneously by many countries, as was done earlier this year, the implications for the trading system and for net food importing countries are significant. Governments who have applied export restraints have been encouraged by the World Bank, the leaders of the G-8 countries, and others to eliminate the restraints as quickly as possible. Some countries have taken action to eliminate the restriction or at least to loosen the restriction. Such actions are obviously helpful to food importing countries.

At the same time, the lack of disciplines on countries' ability to close their borders to exports remains a problem for food importing countries. Naturally, they will be uneasy about trade liberalization that would leave them as dependent, if not more dependent, on sources of supply that can be cut off without warning and without rights. While the ongoing WTO Doha negotiations include, within the agriculture area, discussions of what steps should be taken by countries invoking export restraints, the concern for net food importing countries will continue.

A major focus of UN efforts will be to help least developed and developing countries become more self-sufficient in agricultural production to lessen the need for food aid – an aim arguably at odds with some aspects of trade liberalization in agriculture, although liberalization demands for least developed countries are limited in the WTO Doha talks. Stated differently, if some developing countries are forced to open their markets to more food products from developed countries and certain developing countries prematurely, their farmers could face even greater challenges in getting a toehold and competing. Sandra Polaski, a senior associate and director of the Trade, Equity, and Development Program at the Carnegie Endowment for International Peace, warned in a recent paper that a Doha agreement that fails to take into account the unique circumstances of individual countries would hurt many developing country farmers.

In summary, trade is just one factor that is shaping new market realities that affect the price of food. Trade policies that encourage the growth and competitiveness of agricultural sectors in developing countries, promote new trade flows, and curtail distortions in the global trading system must remain the goal of WTO members. However, in a time of escalating food prices and limitations on access to imported food, the trading system has a lot of challenges to convince the vast majority of nations that the current agenda promotes their short-, medium-, and long-term interests in agriculture. The world's major economies can and must make the resources available to ensure all members of the global community that the human crisis unfolding can and will be addressed with aid while the underlying systemic challenges are being addressed.

Given the complexity of the challenges and the enormity of the consequences of decisions taken, the world has clearly entered an era in which global policies must be more coordinated and responsive to rapidly changing dynamics than they have up to now. Yet, multilateral institutions, including the WTO, have a poor record of being able to take rapid collection decisions and action. The Doha negotiations, for example, are years behind schedule. Political will and leadership are critical to achieving the needs of the collective whole. On the food crisis, the world must hope that the UN action plan for the world's most vulnerable countries will receive the financial support to be rapidly implemented and that the generous spirit of people around the world will be harnessed to ensure that adequate food aid will be available to avert a truly catastrophic human tragedy.

Rising food prices have exacerbated hunger around the world and worsened the level of starvation occurring in many nations. Truly, what UN WFP Director Josette Sheeran has called a "silent tsunami" has hit the world, hurting us all but devastating the world's urban and rural poor. The tens of millions of people who are at risk cannot wait for new policy paradigms. They, like the rest of us, need to eat today. The immediate needs of hungry men, women, and children will be met only if the people of the world demand that their governments and multilateral institutions stay focused on resolving the crisis. With the collective genius of the human spirit, solutions are possible. The financial needs are, at the global level, small. Failure will occur only if we permit the challenge to fade into the background. We must not allow that. Our leaders must be pressed at every possible occasion to ensure the global success in addressing this crisis. ■

Enforcement Takes Centre Stage on the International Agenda

Michael Keplinger is a Deputy Director General of the World Intellectual Property Organization

While counterfeiting and piracy are age-old concerns, the recent escalation and alarming growth in the scale and scope of these illegal activities and their corrosive impact on economic development and social well-being is obliging policy-makers across the globe to find creative, durable, and effective solutions and strategies to tackle this challenge. In spite of the difficulties encountered in accurately measuring the extent of this illicit and clandestine trade, empirical data suggests that the trade in fake goods affects all economic sectors and is prevalent in all economies. It is no longer the unique concern of the major luxury goods manufacturers – trade in fakes is increasingly troubling for businesses, consumers and policy-makers operating in all sectors in all countries. All economic sectors that are driven by creativity and innovation - from consumer and household goods-based industries to the creative industries (eg. film, music) - are under threat from this illicit trade. The risks to the health and safety of the general public resulting from the sale of fake pharmaceuticals and sub-standard mechanical and electrical appliances are perhaps of greatest concern.

Counterfeiting and piracy, the industrial scale of which points to the involvement of organized crime rings, stifle local industry, threaten employment, tax revenues and the services they support, discourage international trade and foreign direct investment, present significant health and safety risks, cultivate a negative international image for countries hosting these operations, place a heavy burden on law enforcement authorities, and can potentially foster corrupt practices

within government. The effects are many, and are felt at all levels of the society.

The startling growth and increasing sophistication of counterfeiting and piracy have been fuelled by a number of factors: at core, this illicit trade is driven by the prospect of high and quick profits and a low risk of sanctions. On top of this, the widespread availability of copying technologies has enabled the production of clones. Increased global market integration, the creation of free trade zones and the proliferation of the internet have also spawned new and improved distribution channels. These factors have all contributed to the emergence of a complex global challenge which threatens the future economic growth and prosperity of all countries and for which global solutions and the active engagement of all stakeholders is essential.

Central to the challenge of effectively combating counterfeiting and piracy is a strong political commitment to supporting the development of effective and appropriate solutions. This requires a better understanding of the dimensions of the challenge, the problems and difficulties encountered by different countries around the world, as well as closer cooperation between the various stakeholders (government agencies, the private sector and consumers).

While we all have - whether as right holders or as consumers - a role in supporting respect for IP rights and their enforcement, in most circumstances we do not need to develop new laws. Governments can achieve a great deal in the battle against IP crime by updating, where needed, and effectively implementing the legislative frameworks that are already in place, and by giving real meaning and adequate support to the enforcement mechanisms currently at their disposal. Little can be achieved, however, without raising general awareness, particularly among members of the judiciary, as well as the general public, of the destructive consequences of IP crimes, and the need to mete out effective penalties under national law.

The Geneva-based World Intellectual Property Organization (WIPO) – a specialized agency of the United Nations - is the global body charged with promoting the protection of intellectual property (IP) for economic, social and cultural development. As such, the Organization is well placed to play a leading role in coordinating IP enforcement activities at the international level. Through its Advisory Committee on Enforcement (ACE) and in line with requests from its member states, WIPO is actively engaged in the process of identifying stumbling blocks to effective enforcement and working with global partners to reach workable solutions. Together with a diverse group of stakeholders, WIPO's Enforcement and Special Projects Division is supporting efforts to develop effective government and industry anti-counterfeiting and piracy strategies. Such strategies focus on legislative assistance, improved coordination, capacity building, and awareness-raising. Many efforts are being undertaken to coordinate activities at the international level and to strengthen cooperation between intergovernmental (IGO) and non-governmental organizations (NGO) in combating counterfeiting and piracy.

The ACE also provides a forum for international review and discussion of IP enforcement issues with a view to identifying opportunities for improved coordination and cooperation among stakeholders. At its November 2007 session, the ACE focused on cooperation and coordination at different levels for effective enforcement of IP rights under criminal law and considered issues such as the scope and definition of IP crimes, investigation and initiation of criminal proceedings, jurisdiction, means of streamlining proceedings, evidentiary issues, sentencing options and level of penalties. This body takes a balanced approach to IP enforcement, including in the context of broader societal interests and development-oriented concerns. The ACE is a further indication of the clear commitment of WIPO and its member states to join forces, with public and private sector stakeholders, in developing effective strategies to counter the insidious problems of counterfeiting and piracy.

The Organization also provides countries, at their request, with legal advice on the protection and enforcement of IP rights. In this respect, countries are placing a much greater emphasis on enforcement than before. Effective enforcement requires active involvement of attorneys, judges, customs, police, prosecutors, and administrative authorities. WIPO supports the efforts of all countries to combat counterfeiting and piracy through, for example, the organization of training programs for judges and other actors in this field. In promoting better coordination and cooperation with organizations actively engaged in combating IP-theft, the Organization is committed to facilitating an informed and balanced global debate on adequate responses to the challenges to IP enforcement caused by counterfeiting and piracy and the economic consequences of inefficient IP protection and enforcement.

WIPO is also a key member of a unique public-private sector coalition known as the Global Congress on Combating Counterfeiting and Piracy, which is united in its efforts to identify solutions to effectively combat counterfeiting and piracy and to facilitate their implementation.

The Fourth Global Congress on Combating Counterfeiting and Piracy, which was held in Dubai earlier this year, called on national and international political leaders to engage in the battle against counterfeiting and piracy. More than 50 speakers from 25 countries delivered proposals for more effectively combating counterfeiting and the so-called Dubai Declaration[1], which emanated from the Fourth Congress, outlines concrete recommendations and offers a visible expression of the international community's united efforts to tackle the scourge of counterfeiting and piracy.

The Global Congress was previously hosted by WIPO in January 2007 in Geneva; by INTERPOL in 2005 in Lyon, France; and by WCO in 2004 in Brussels. These international gatherings provide a valuable forum for representatives from both the public and private sectors to pool their experience, raise awareness, enhance cooperation and identify strategies to deal more effectively with the global problem of counterfeiting and piracy.

In the four years since the first Congress was convened, significant progress has been made in terms of galvanizing global awareness, particularly among top policy-makers and leaders as well as members of the public, about the gravity of the multiple challenges presented by the trade in counterfeit goods along with the need to join forces in implementing effective and practical countermeasures. This is further evident from recent developments in various frameworks, such as the G8 Declaration on the World Economy, and multi-country discussions on a draft Anti-Counterfeiting Trade Agreement (ACTA).

On the day-to-day operational level, WIPO provides a number of IP services that are designed to help businesses around the world obtain international protection for their trademarks, patents and designs, and to better guard themselves against infringement. Whereas all IP rights are territorial, and extend only to the border of the country in which they are recognized, WIPO's international filing and registration systems offer a timely and cost-effective means of obtaining IP protection in multiple countries. WIPO's Arbitration and Mediation Center provides a range of alternative dispute resolution services which offer considerable advantages in certain IP disputes by offering a single, rapid, cost-effective and neutral procedure. The Center is also one of the main architects of the Uniform Domain Names Dispute Resolution Policy (UDRP) which is a cost-effective and rapid way to resolve disputes relating to the abusive registration of trademarks as domain names, a phenomenon known as cybersquatting.

WIPO is committed to ensuring that all of its 184 member states are aware – and make full use – of the enormous potential of the IP as a tool to create value and enhance economic growth. Companies and governments around the world are increasingly recognizing the strategic importance of IP in promoting national and commercial interests. The establishment of an IP culture in which there is broad-based understanding of the role and potential of the IP system, - one of WIPO's principle objectives - is a key ingredient in promoting greater respect for IP rights. Well functioning enforcement mechanisms are an excellent means to deter IP-related violations and to ensure that right holders and society as a whole can fully reap the benefits from the IP system.

While the challenges associated with the battle against the global trade in counterfeiting and piracy are formidable, there are important signs of broader awareness, and a greater and more widespread political will and readiness to cooperate and to take

concerted action. It is heartening to see a growing, deep-rooted concern to uphold and respect IP rights. Enforcement has clearly moved up the global political agenda. This is witnessed by a growing willingness to take concerted action and bolster national and regional efforts to ensure effective enforcement. Just as in today's knowledge-based economy, the possibility of achieving sustainable economic growth depends on effective use of the IP system, so too, the credibility of the IP system depends on the enforceability of IP rights and the effectiveness of those who carry out this important task. ■

1. *see http://www.ccapcongress.net/archives/Dubai/Files/Final%20Dubai%20Outcomes%20Declaration.pdf*

Business Plays a Key Role in Achieving the Millennium Development Goals

World Business and Development Awards in support of the Millennium Development Goals: the winners to be announced in September

Guy Sebban is Secretary General of the International Chamber of Commerce

This year marks the midpoint in one of the most ambitious poverty-elimination efforts ever undertaken – the Millennium Development Goals (MDGs). In this pivotal year, when the objectives are being reassessed and strategies re-tooled to achieve these objectives, the biennial World Business and Development Awards (WBDA), to be unveiled in September, will spotlight ambitious and innovative efforts by business to help meet these targets.

As UN Secretary-General Ban Ki-moon recently said: "The 2015 target date for the MDGs is a goalpost that cannot be moved. To reach that goalpost, we have to take concerted action now ... We need to tap into the innovative and bold contributions of all allies and partners, including business, civil society and faith groups."

Begun in 2000 by the International Chamber of Commerce, the most representative world business organization, the World Business and Development Awards have grown in stature and participation with each successive event. In organizing the 5th edition of the awards, ICC is joined by the United Nations Development Programme (UNDP) and the International Business Leaders Forum (IBLF), with generous support from the Business Call to Action, an initiative of the UK Department for International Development (DFID). The winners will be announced in a ceremony at the Millennium UN Plaza Hotel in New York City on 24 September.

The day after the award recipients are announced, the UN Secretary-General will convene a high-level event at UN headquarters - a forum for world leaders to take stock of progress on the MDGs to date, flag gaps, and commit to further resources, initiatives and mechanisms to fill in the gaps. These leaders will unveil their plans and proposals, as a catalyst for implementation and follow-through.

Members of the private sector and civil society will participate in the high-level meeting as partners, to introduce specific ideas on how to accelerate efforts to achieve these goals. In expectation of an ambitious conclusion to the meeting, Mr Ban said: "Together, we must make this year one of unprecedented progress for the poorest of the poor, so that we can realize a better, more prosperous future for all."

Mary Robinson, former President of Ireland and current Chair of The Ethical Globalization Initiative, honoured ten business-sponsored projects with World Business Awards at an event in New York City in 2006.

The eight Millennium Development Goals, established in September 2000 by 189 world leaders, aim to reduce poverty and improve livelihoods by setting the following targets: eradicate extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce child mortality; improve maternal health; combat HIV/AIDS, malaria and other diseases; ensure environmental sustainability; and develop a global partnership for development.

Business and development issues are intertwined. World business has been engaged for some years in fostering business in the developing world as a key strategy in the fight against poverty. We believe that helping people escape poverty by their own means is in the interest of all. Today, virtually all companies are also conscious of the necessity to protect the environment. They care about the impact of their activities on the environment and on people in general and seek to enhance their image.

ICC created the World Business and Development Awards, the first worldwide business awards in support of the MDGs, in order to highlight the role, often little-known, that business plays in sustainable development. The awards recognize companies that demonstrate sound, socially responsible practices throughout their core business activities, and highlight inspirational projects that are helping to achieve the Millennium Development Goals.

Recipients get worldwide recognition as leading examples of how business can contribute to the goals, and are profiled in publications and on the official websites of the organizers.

In order to win, a project must illustrate the value of links between core business practices and the MDGs. They must promote business-led initiatives to alleviate poverty and further sustainable development. They must raise awareness of the MDGs in the world business community. Lastly, they must promote a compelling business case for engagement by sharing best practices and striking new partnerships.

Companies, institutions, and associations of all types and sizes from around the world are invited to participate. The entries are judged by an eminent international panel of judges. This year's judges include: Jeffrey Sachs, Director of the Earth Institute; Jane Nelson, Director of the Harvard Kennedy School Corporate Responsibility Initiative; Lisa Dreier, Director of Public-Private Partnerships at the World






Tallinn – a city of talent and ambition

Tallinn, the capital of Estonia, is located in Northern Europe in the Baltic Sea Region. The modern Baltic Sea Region is the fastest growing business area in Europe, while Tallinn, with a population of more than 400,000, is the driving force of Estonia's economy.

Discover Tallinn – a city with a long history of trade and activity, talent and ambition, new ideas and creativity.

Innovation attracts talent to Tallinn. The city that provided the world with free phoning over the Internet, where you can pay for parking with your mobile phone and vote over the Internet continues to introduce new solutions offering investors and talented young people countless opportunities.

Tallinn offers the broadest ID-card-based public services in Europe. Estonia has 1,172 wireless Internet or WiFi coverage areas; 373 of them are in Tallinn and most are free of charge. In the European Commission's annual survey of online government services in the European Union, Estonia was second only to Austria in terms of the public services provided online.

For the second time in a row, Tallinn was chosen as one of the seven most intelligent cities in the world. Special recognition was given to the implementation of the E-school application at all Tallinn schools, the broad implementation of m-parking, and the success of ID public transport tickets. Estonia is the most successful Eastern European country in respect to using information technology for economic development.

For more than seven centuries, the citizens of Tallinn have profited from their specific knowledge combined with a very favorable geographic location – a combination that is still works today. Cargo is attracted to Tallinn by its location, which is ideal for transshipment. Starting in the 13th century, Tallinn was an important commercial centre of the Hanseatic League. Today's real estate development opportunities are located in industrial parks for the logistics and manufacturing sectors, while along the lengthy coastline, which was closed to civil use for decades, provides interesting possibilities in the commercial and residential segment.

Through history, the types of goods transshipped through Tallinn's ports have changed as has the knowledge of products, operations, and markets. Yet the infinite talent and ambitions of Tallinn's citizenry have remained the same – proven by the construction of the world's tallest church spire in the 16th century and by the world's leading Internet communications company in the 21st century.

The medieval Old Town continues to attract tourists. The number of foreign tourists has doubled in ten years, while overnight stays have almost tripled. We can also proudly promote local opportunities for conference tourism.

The knowledge of markets also attracts capital and Tallinn's goal is to become a reliable financial services centre. The total assets managed by fund management companies in 2007 increased by a third compared to 2006. Employment in the financial services sector is also growing, with an emphasis on investment services directed at Central and Eastern Europe as well as the CIS countries.

New opportunities are available in the industrial parks for logistics and business sector, well as in commercial and residential real estate. The friendly and green city of Tallinn provides excellent business and recreation opportunities for everybody.

A significant year for Tallinn will be 2011 when it will carry the title of European Capital of Culture, which will also be a great occasion for all of Estonia.

For further information, please see **www.investor.tallinn.ee**

Economic Forum; and Muni Figueres, former Minister for Foreign Trade of Costa Rica, to mention only a few notables.

Rajat Kumar Gupta, ICC Vice-Chairman and former Managing Director Worldwide of McKinsey & Company, is the head of the international judging panel.

During the award ceremony, the Business Call to Action (BCTA) initiative will be presented and new core business commitments will be made by prominent CEOs in support of the MDGs. The BCTA attempts to mobilize the efforts of big business to support growth in developing countries. CEOs and chairmen are invited to sign up to the Business Call to Action declaration, committing their company to take action through their core business.

This year's World Business and Development Awards drew an unprecedented 101 entries from 43 countries, hailing from virtually every region of the world, from small and medium-sized enterprises, multinational corporations, and large domestic companies.

For an idea about the types of innovative projects that have won awards in the past, one need only look to the 2006 recipients. They represented a wide gamut of solutions to accomplish the MDGs, including low-income housing in Mexico, comprehensive HIV/AIDS treatment in Botswana, venture capital for small businesses in India, and health education in Turkey's primary schools. Corporate partners involved in the projects included The Merck Company Foundation, The Bill and Melinda Gates Foundation, CEMEX Mexico, GlaxoSmithKline and Tetra Pak.

ICC has had a close working relationship with the UN ever since the UN was founded. ICC's members are key partners to the UN poverty alleviation efforts and have participated in many joint efforts with the UN to promote trade and investment. Through ICC's official consultative status with the UN, the world business organization has been involved in ongoing efforts to create a policy and regulatory framework that encourages business to invest, creating jobs and wealth, and to facilitate the spread of best business practice.Achieving the Millennium Development Goals is a joint responsibility that both companies and governments need to address urgently through public-private partnerships. Because national economies are now so closely interwoven, government decisions have far stronger international repercussions than in the past. They can't, however, address the global challenges of the 21st century alone and need the support of the private sector.

Business and government representatives from around the world attended the 2006 World Business Awards.

Indeed, by mobilizing human and financial resources, companies are a valuable source of progress and innovation. Yet governments have the unique capacity to ensure the legal and political stability that is needed to foster business initiatives. Encouraging public-private partnerships worldwide is an important part of the WBDA mission.

With the help of world business, significant progress can be made to fulfil the MDGs by 2015.

For more information about the World Business and Development Awards, please visit: www.iccwbo.org/awards

WORLD BUSINESS AND DEVELOPMENT AWARDS IN SUPPORT OF THE MILLENNIUM DEVELOPMENT GOALS

The Millennium Development Goals

Established by 189 world leaders at the UN Millennium Summit in September 2000, the Millennium Development Goals set the following ambitious targets for reducing poverty and improving livelihoods:

1. Eradicate extreme hunger and poverty
2. Achieve universal primary education
3. Promote gender equality and empower women
4. Reduce child mortality
5. Improve maternal health
6. Combat HIV/AIDS, malaria and other diseases
7. Ensure environmental sustainability
8. Develop a global partnership for development

For more information on the MDGs, please visit:

www.mdgmonitor.org

OECD Ministerial Stakes Out the Future of the "Internet Economy"

Jonathan Huneke is Vice President, Communications & Public Affairs at the United States Council for International Business

Meeting in Seoul, Korea, top government officials from around the world in June agreed on steps to make the internet safer and more accessible, and to strengthen its role in driving economic development around the world.

At the ministerial meeting on "The Future of the Internet Economy," members of the 30-nation Organization for Economic Cooperation and Development (OECD) and ten non-member countries adopted a "Seoul Declaration" after a two-day forum, attended by some 2,500 people, that featured active participation from business representatives, non-governmental organizations and the internet technical community.

The ministerial was preceded by a day of stakeholder events, including a business forum organized by the Business and Industry Advisory Committee (BIAC) to the OECD.

In a joint declaration, ministers pledged to establish and maintain policies to promote a trusted internet-based environment, continued investment and increasing competition that will lead to expanded internet access worldwide, increased innovation and user choice. They also promised to use the internet to address challenges such as global warming.

At the closing ceremony, Peter M Robinson, president of the United States Council for International Business and chair of the business stakeholders' forum, commended ministers for their efforts. "The Seoul Declaration affirms a continued commitment on the part of governments towards further development of the global internet economy," he said. "Such frameworks are essential for the future internet economy, in which business is a key driver of innovation and growth."

A report prepared for the meeting described the internet as a major driving force in global economic growth, responsible for some 18 percent of economic growth in OECD member states over the past decade. About 20 percent of the world's population – over a billion people – uses the internet, the OECD report said, but more than five billion still lack access to it.

But online identity theft, fraud, infringement of privacy, malicious computer hacking and other forms of cyber-criminality have been constant threats, a topic touched upon by many speakers, including Korean President Lee Myung-bak.

"The internet-based economy promotes the development of a knowledge-based economy and contributes to new economic growth and job creation," said President Lee. "But the internet is faced with new challenges and tasks to resolve, due to a lingering trust problem. The power of the internet could be poisonous to us all if public confidence fails."

The Seoul meeting came a decade after a seminal OECD conference on e-commerce in Ottawa that encouraged a hands-off approach to the internet and electronic commerce and emphasized the importance of coordinating policy development with the private sector.

"Ministers have taken the important step to reaffirm the principles from the 1998 OECD Ottawa ministerial that allowed a platform for electronic commerce to evolve into a platform for all aspects of life over the last ten years," Mr Robinson said in his closing remarks.

OECD Secretary General Angel Gurría described the Seoul declaration as "a road map for the future." He said OECD members and other stakeholders should review it within three years. "We cannot talk about the importance of the internet every ten years, which is an eternity in internet time."

BIAC Secretary General Tadahiro Asami encouraged governments to pay careful attention to the important, unique and beneficial role that the OECD can play as they work towards further implementation of the commitments made in the ministerial declaration.

"The OECD will continue to be instrumental in furthering the objectives of the Ottawa and Seoul ministerial conferences," he said, "in particular by producing neutral, fact-based economic reports that examine current market conditions and the impact of new developments and emerging technologies and by facilitating coordination and consistency of broad policy frameworks across member economies by providing a forum for dialogue, involving all stakeholders."

BIAC and other business groups represented at the ministerial released a joint "vision paper" with projections of what the future development of the internet would mean for society over the next decade. In its paper, the groups described an internet that is characterized by a virtuous circle of investment and innovation, fuelled by creativity and empowering users. The internet of the future will also be characterized by increased user participation and choice of applications, products and services provided through a wide variety of high capacity platforms that are more widely available, affordable and user-friendly. It will further facilitate greater productivity and expanded access to, and quality of, education, skills development and healthcare.

According to the paper, further investment will be needed to provide adequate capacity, security and capabilities for future internet-supported development and connectivity. Business will also work with stakeholders to develop market-driven technical standards that will enable the internet's ongoing expansion, it said.

The full vision paper is available at
www.uscib.org/docs/oecd_seoul_vision_paper.pdf

Tackling the International Trade in Drugs..a Long-Term Struggle for Customs

"The international community is determined to have a trade supply chain that is secure from all forms of threat; the lethal trafficking in illicit drugs being one of them. We are determined to fight this trade scourge using all means at our disposable to enable legitimate trade to flourish and to overcome the vulnerabilities of the weakest in the face of this menace".

Kunio Mikuriya is Secretary General elect of the World Customs Organization

The hard facts

An appalling state of affairs! Not content with distributing their deadly powder even more widely across the globe, making young people even more dependent on illicit substances, and generating huge profits, drug traffickers are using extreme force and violence. Their aim is to frighten the public and display their power by defying the authorities and directly attacking representatives of law enforcement services. Consider the case of the commando group that killed several Mexican customs officers, soldiers, security guards and customs brokers in December 2007 following the seizure of half a tonne of cocaine dispatched from Colombia. Unfortunately, such atrocities are quickly forgotten amid the incessant tide of violent acts perpetrated by criminal and mafia-type organisations.

Boundless ingenuity! Colombian cocaine traffickers are pulling out all the stops. To ensure that their customers are kept fully supplied and in order to smuggle several tonnes of cocaine in one fell swoop, they have opted for submersibles as a means of transporting drugs. Since 2005, the Colombian Navy has intercepted 18 submarines off Colombia's Pacific coast.

Insidious danger! Exploiting the lack of resources and political frailties of certain countries is fast becoming the rallying cry of drug smugglers. Many recent cocaine seizures in Africa and Europe have revealed new channels for sending drugs from Latin America to Europe. West Africa appears to be the hub for this trafficking. Over the first nine months of 2007, seizures of cocaine from African countries exceeded the 2002 figure by 60 times. This new routing offers trafficker's undoubted benefits that can only intensify through the weakening of these countries' economies.

Drug money corrupts, debases and destabilises everything in its path making it incumbent upon all legitimate international trade stakeholders to band together and stop this trade.

International action intensifies

In the face of such a vast problem, drug enforcement services have to coordinate their efforts to stop this blight on the international trading system. Even though considerable progress has been made, a great deal still remains to be done. As the primary border control agency and the first line of defence against international traffickers, customs has a strategic role to play in the campaign against illicit drug trafficking. Moreover, 65% of seizures worldwide are made by customs officers.

The task of customs services is to implement government policy to ensure compliance with national and international regulations in force. It is therefore important that, as a law enforcement agency, customs has the resources it needs to defeat this type of crime effectively. The World Customs Organization (WCO) in turn assists and supports its 173 members in the fulfilment of this mission.

According to internationally available data published in the *2007 WCO Customs and Drugs Report*, seizures of all types of drugs have risen sharply compared to 2006, in terms of both the number of seizures and the quantities seized. According to the Report of the United Nations Office on Drugs and Crime (UNODC), it would appear that almost half the cocaine and 25% of the heroin produced is seized. However, we should not rely too much on these findings, since the situation remains unstable.

Globalization has created a surge in supply and demand, in terms of both legal and illegal trade. Whereas legitimate traders are seeking crossing points where they will be granted facilitation, traffickers are seeking the easiest option, namely, zones where everything is negotiable.

What is more, as we have seen from the news, there is nothing to stop them. Criminal organisations take advantage of problems and sometimes even of a complete absence of co-operation and mutual administrative or legal assistance. They have adapted to economic developments and have infiltrated legal trade channels; using all the latest technology available to derive maximum benefits and profits. In this way, illegal operations are buried under the daily whirlwind of transactions and it is extremely difficult to unravel the tangle of legal and illegal operations.

The fight against drug trafficking has long been a priority for the WCO, a priority reaffirmed by its members during the last two years. Moreover, the priority attached to drug enforcement is spelt out in detail in the WCO's Strategic Plan. With this in mind, the work of the WCO Secretariat is directed towards: familiarising its member customs administrations with the techniques of risk assessment, profiling and targeting; perfecting model risk indicators in various areas of fraud; developing a global intelligence strategy to enable every customs administration to access available and relevant sources of information; promoting the exchange of information and intelligence as efficiently as possible within a framework of international cooperation and mutual assistance; and strengthening partnerships through the conclusion of memoranda of understanding (MOU) that include recommendations inviting members to collaborate at the national level.

© French Customs

In promoting its partnership approach, the WCO regularly co-operates with other international and regional organisations including the UNODC, INTERPOL, the Council of Europe, EUROPOL, the European Union's Anti-Fraud Office (OLAF), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), and the International Narcotics Control Board (INCB) among others.

Measures to combat drug trafficking

The WCO has developed a number of tools and instruments intended to provide customs administrations with a coherent system for combating illicit drug trafficking. These measures include:

- A dynamic resource in the form of an action plan that breaks down into five key missions, namely, information exchange, capacity building, cooperation with partners, raising public awareness, and support for customs operational activities.

- A global intelligence strategy spelling out the role of each of the players and that of the WCO containing proposals for implementing new instruments and methods.

- The Customs Enforcement Network (CEN), based at WCO headquarters in Brussels (Belgium), which links over 2,000 users spread over more than 155 WCO member administrations to a database containing over 210,000 items of information relating to customs offences, a dedicated website, a database listing places of concealment, and an information and communication system.

- CEN COMM, the secure CEN communication tool designed for operational purposes and accessible only to restricted groups of users for communicating with each other while anti-drug enforcement operations are in progress.

- Regional Intelligence Liaison Offices (RILO) established in 11 countries around the world - Cameroon, Chile, China, Germany, Kenya, Morocco, Poland, Russian Federation, Saudi Arabia, Senegal, St Lucia in the Caribbean - responsible for gathering, analysing, processing and disseminating intelligence at the regional level.

- The Nairobi and Johannesburg Conventions on mutual administrative assistance as well as a model bilateral agreement to facilitate the conclusion of mutual administrative assistance instruments.

- The signing of MOUs with international and regional organisations and with the private sector to facilitate the sharing of experience and know-how as well as the exchange of information.

- An independent Operational Coordination Unit (OCU) hosted by the WCO that ensures coordination between WCO members and other non-customs agencies participating in a given operation.

- Regional Training Centres for dog handler teams situated in Almaty (Republic of Kazakhstan) and Hermanice (Czech Republic) that enable teams from regional customs administrations to benefit from modern well-equipped facilities whilst training their dogs to search for drugs, tobacco, explosives, banknotes, etc. under optimal conditions.

- The WCO Databank on Advanced Technology which is accessible via the organization's website and which contains available technical equipment and technology to ensure the security of the international trade supply chain and cross-border movements of persons and goods against the threats posed by terrorism and other criminal activities.

These measures are supplemented by training and technical assistance, the cornerstone of any process of sustainable capacity building for a customs service. In this regard, the WCO's various training activities are all incorporated in a dynamic range of readily available and tailored services which combine the most innovative teaching techniques with the value-added contribution of experts. The tools are suitable both for acquiring new skills and for refresher purposes. Training is not only extended to WCO member administrations but also to representatives of the private sector who are players in the international trade arena.

To ensure that solutions to secure and facilitate global trade meet regional needs to the fullest possible extent, the WCO has to date established 15 regional training centres in Azerbaijan, Burkina Faso, China, Dominican Republic, Hong Kong (China), Hungary, India, Japan, Kenya, Lebanon, Malaysia, Russian Federation, South Africa, Venezuela and Zimbabwe, in addition to 5 regional offices for capacity building based in Argentina, Côte d'Ivoire, Kenya, Thailand, and the United Arab Emirates. This regional WCO network focuses on all areas of customs including efforts to combat drug trafficking and other trans-national criminal offences.

Current enforcement programmes and projects

The WCO is involved in a number of initiatives aimed at combating the illicit trafficking of drugs. They include:

- The Paris Pact: a partnership among all countries and parties affected by heroin trafficking from Afghanistan that develops strategies for combating this form of regional trafficking more effectively.

- Project PRISM: an international project led by the International Narcotics Control Board (INCB) that focuses on the 5 major stimulant precursors and on the equipment used in the illicit manufacture of these products, as well as on the use of the internet for diverting chemicals and equipment.

- Project Cohesion: In October 2005, the Steering Committees of Operation Purple (monitoring the diversion of potassium permanganate used to produce cocaine) and Operation Topaz (monitoring the diversion of acetic anhydride used to produce heroin) merged their operational activities to form a revised mechanism aimed at assisting countries in addressing the diversion of these chemical precursors.

- Operation Andes: a joint WCO/INTERPOL project that focuses more particularly on cross-border traffic and the illicit diversion of precursor chemicals, especially those used in South America for processing cocaine.

- Global Container Control Programme: a joint WCO/UNOCD programme launched to strengthen the security of maritime freight containers by preventing them from being used to transport illicit trade, in particular illegal drugs, without impeding the flow of legitimate trade.

DRUG STOP

Recent anti-drug activities

Because of the pressing need for action and because it is the international community's shared duty to take a stand against large-scale drug trafficking, the WCO dedicated International Customs Day, which falls on 26 January of each year, to combating the illicit trafficking in drugs and psychotropic substances. The theme is being followed up throughout 2008 with a series of national, regional and international initiatives, the most prominent of which was Operation Drug Stop, launched on the International Day against Drug Abuse and Illicit Drug Trafficking which fell on 26 June 2008. WCO member customs administrations were encouraged to carry out intensive control operations aimed at combating the illicit trafficking in narcotic drugs and chemical precursors.

Operation Drug Stop proved to be a great success in 60 countries, resulting in 17 seizures yielding a total of 150 kg of cannabis (herbal and resin), 100 kg of khat, 25 kg of cocaine, 20 kg of opiates (heroin and opium), 7,000 Ecstasy and amphetamine tablets, and 40 litres of gamma butyrolactone (GBL).

The WCO also published its annual *Customs and Drugs Report* for 2007 which summarises and analyses drug seizures made by customs services around the world. Similarly, the 2007 *UNODC-WCO customs Container Analysis* Report was also published. Both publications provide a comprehensive source of reference detailing the drug trafficking trade across the globe.

The road ahead

In view of the success of coordinated operations and the enthusiasm of members of the WCO and its partners for this type of action, the WCO intends to organise a pilot operation in one of the areas considered sensitive in terms of narcotic drug trafficking which will subsequently be rolled out to other parts of the world, with the assistance of the European Commission, the UNODC and INTERPOL. This project will focus on building the drug enforcement capacities of customs administrations and encourage them to commit themselves totally to combating this scourge. By utilising existing tools and structures, as well as the complementary powers of potential participants, this project will make a substantial contribution to the international community's anti-drugs campaign.

In order to carry out a global, sustainable and effective attack on the illicit traffic in drugs and precursor products, it is essential to work in coordination and in complementarity with other operational agencies and services. In this regard, the WCO firmly believes that innovation and above all foresight are key elements to win the war against international drug traffickers.

Ridding the global trade supply chain of illicit trade is imperative to enable countries around the world to prosper economically and socially whilst protecting the health and safety of their citizens.

Although the road ahead is fraught with challenges, the international customs community and its partners will continue to work together to secure and facilitate legitimate global trade by pooling its efforts, heightening co-operation, enhancing information sharing, and making the best possible use of all available tools and instruments whilst demonstrating a high level of integrity.

WORLD CUSTOMS ORGANIZATION

More information:

World Customs Organization
communication@wcoomd.org
www.wcoomd.org

The 50th Anniversary of the OECD Model Tax Convention

Mary Bennett is Head of Tax Treaty & Transfer Pricing Division, OECD Centre for Tax Policy & Administration[1]

Introduction

In September 2008 a sell-out crowd of 650 tax experts from over 100 countries worldwide will come together for two days at the Organisation for Economic Co-operation and Development (OECD) in Paris to celebrate a seemingly obscure event that took place 50 years ago - the publication of the first draft of what was to become the OECD Model Tax Convention on Income and on Capital. Indeed, it was in 1958 that the Fiscal Committee of the Organisation for European Economic Co-operation (OEEC, which became the OECD a few years later) published that first draft text. The September event will also mark the publication of the latest update to the OECD Model, which was approved by the OECD Council of Ministers on 17 July 2008.

The extraordinary interest in this 50th Anniversary Conference is a reflection of the significance achieved by the OECD Model over the past five decades. The Model, which includes both the text of model treaty Articles and extensive Commentaries on each Article, serves as the basis for the negotiation and application of bilateral tax treaties. A tax treaty is an international agreement concluded by countries for the avoidance of double taxation and the prevention of fiscal evasion. As such, tax treaties play a crucial role in removing tax-related barriers to cross-border trade and investment and in ensuring the full and fair enforcement of tax laws in a globalized economy. Fifty years ago, there were only a few dozen such agreements in force between governments, but today there are more than 3,000 tax treaties in force around the world based on the OECD Model.

Some history

While work had been carried out in the first half of the twentieth century to develop model tax conventions (eg. by the League of Nations), no single model had achieved widespread acceptance by mid-century. The increasing economic interdependence of countries in the post-war years clearly showed the need for a broader and more harmonized network of tax treaties to prevent international double taxation.

The OEEC was formed in 1947 to administer American and Canadian aid under the Marshall Plan for the reconstruction of Europe after World War II. The Council of the OEEC adopted its first Recommendation concerning double taxation on 25 February 1955. The Fiscal Committee set to work in 1956 and issued its first Report in 1958, exactly fifty years ago. From 1958 to 1961, the Fiscal Committee prepared four interim Reports, before submitting in 1963 its final Report entitled "Draft Double Taxation Convention on Income and Capital". In the meantime, the OEEC had evolved into the OECD by 1961, with broader membership and an expanded commitment to contribute to the development of the world economy.

The Fiscal Committee and its successor, the Committee on Fiscal Affairs, later undertook the revision of the 1963 Draft Convention to take account of the experience gained by member countries in the negotiation and practical application of tax treaties. This resulted in the publication in 1977 of a new Model Convention. Since then, the pressure to update and adapt the OECD Model to changing economic conditions has progressively increased.

In 1991, recognizing that the revision of the Model had become an ongoing process, the Committee on Fiscal Affairs adopted the concept of an ambulatory Model, providing periodic and timelier updates and amendments without waiting for a complete revision. This led to the publication in 1992 of the Model Convention in a loose-leaf format, which was considered as the first step of an ongoing revision process intended to produce periodic updates and thereby ensure that the OECD Model continues to reflect accurately the views of member countries at any point in time. To date, there have been updates in 1995, 1997, 2000, 2003, 2005 and 2008.

Purposes and benefits of tax treaties

Countries conclude tax treaties for several reasons, the most important ones being the elimination of double taxation and the prevention of tax evasion. Other relevant reasons are the certainty tax treaties bring about and the prevention of discriminatory taxation.

Elimination of double taxation

Double taxation can be generally defined as the imposition of taxes in two countries on the same taxpayer in respect of the same income. The detrimental effects of double taxation on international trade and investment are self-evident: if a French company sells its products in France and derives income from those sales, it will pay taxes only in France, but if the French company sells its products in the UK, it may well be that it has to pay tax on the same income both in France (its country of residence) and in the UK (the country where the income arises).

Tax treaties protect taxpayers from potential double taxation primarily through the allocation of taxing rights between the two countries. This allocation takes several forms. First, the treaty has a mechanism for resolving the issue of residence in the case of a taxpayer that otherwise would be considered to be a resident of both countries under their domestic laws. Second, with respect to each category of income, the treaty assigns the primary right to tax to one country, usually the country in which the income arises (the "source" country), and the residual right to tax to the other country, usually the country of residence of the taxpayer (the "residence" country). Thus, a tax treaty will typically contain specific Articles assigning taxing rights over various categories of income. Third, the treaty provides rules for determining which country will be treated as the source country for each category of income. Finally, the treaty establishes the obligation of the residence country to eliminate double taxation that otherwise would arise from the exercise of concurrent taxing jurisdiction by the two countries, typically either by exempting income derived from the source country or by providing a credit for the taxes imposed on that income by the source country.

In addition to reducing potential double taxation, tax treaties also reduce potential "excessive" taxation by reducing withholding taxes that are imposed at source. The application of withholding taxes on a gross basis determines in many instances that the taxpayer will be subject to an effective rate of tax that is significantly higher than the tax rate that would be applicable to net income in either the source or residence country. In some cases, the withholding tax levied on a gross basis may be even higher than the net income itself derived by the taxpayer (eg. in the case of bank interest). Tax treaties alleviate this burden by setting maximum levels for the withholding tax that the treaty partners may impose on these types of income.

As a complement to these substantive rules regarding allocation of taxing rights, tax treaties provide a mechanism for dealing with disputes between the countries regarding the application of the treaty, either in connection with individual cases submitted by taxpayers or more generally. This "mutual agreement procedure" allows specified officials from the two governments (the "competent authorities") to consult together to resolve such disputes.

Fighting tax evasion

In a globalized world, tax evasion has become a fundamental challenge for policy makers and administrators. Tax treaties provide mechanisms, such as the exchange of information and the assistance

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Postfach 101218
40213 Düsseldorf, Germany

Düsseldorf:
Oliver Wehnert
Phone +49 211 9352 10627
oliver.wehnert@de.ey.com

Dr. Dirk Brüninghaus
Phone +49 211 9352 10606
dirk.brueninghaus@de.ey.com

Stefan Waldens
Phone +49 211 9352 12085
stefan.waldens@de.ey.com

Dr. Thomas Borstell
Phone +49 211 9352 10601
thomas.borstell@de.ey.com

Cologne:
Dr. Ralph Bodenmüller
Phone +49 221 2779 25615
ralph.bodenmueller@de.ey.com

Frankfurt:
Stephan Marx
Phone +49 6196 996 26147
stephan.marx@de.ey.com

Dr. Ulf Andresen
Phone +49 6196 996 27133
ulf.andresen@de.ey.com

Munich:
Annette Schrickel
Phone +49 89 14331 24807
annette.schrickel@de.ey.com

Dr. Christian Scholz
Phone +49 89 14331 18607
christian.scholz@de.ey.com

Hamburg:
Thomas Hülster
Phone +49 40 36132 11236
thomas.huelster@de.ey.com

Stuttgart:
Dr. Andreas Sinz
Phone +49 711 9881 23220
andreas.sinz@de.ey.com

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in collection, to fight tax evasion in an effective manner, through indispensable co-operation between the authorities. Under tax treaties, the competent authority of one country may request from the other competent authority information that may be relevant for the proper administration of the first country's tax laws; the information provided pursuant to the request is subject to the strict confidentiality protections that apply to taxpayer information domestically.

Banning discriminatory taxation

In the trade and investment area, the non-discrimination principle is a fundamental aspect of the WTO agreements and of bilateral investment agreements. In the tax area, there is a need to balance this fundamental principle with the need to allow legitimate distinctions that take account of the different situations of local and foreign taxpayers. This difficult balancing act is the role of the non-discrimination provisions of tax treaties, which have two main objectives: to prevent discrimination of any kind in taxing nationals of the other country and to prevent source countries from discriminating against residents of the other country who participate in certain ways directly or indirectly in the economic life of the source country.

Giving certainty to investors

The conclusion of a tax treaty is a signal to the outside world and gives certainty to investors: certainty that the rules will not change from one year to the next, certainty that unilateral domestic law changes will not generally affect their tax situation, and certainty that double taxation will in most cases be eliminated. All these elements contribute to foster the economic relations between the countries which are parties to the treaty.

The OECD Model Tax Convention: a success story

The OECD Model offers a widely accepted approach to drafting treaty text to address the major areas tax treaties need to cover:

- the scope of the treaty;
- definitions of key terms;
- distributive rules to allocate taxing rights between the two Contracting States on various categories of income (eg. dividends, interest, royalties, capital gains, business profits, income from real property, employment income, pensions, etc.);
- the taxation of capital;
- the obligation to provide double tax relief;
- special provisions, such as the non-discrimination clause, the mutual agreement procedure and the exchange of information article; and finally
- provisions dealing with the entry into force and the termination of the treaty.

The Commentaries on the Model are quite extensive and provide guidance on the accepted interpretation of the Model text. They are regularly updated and expanded through the work of experts from the member country governments working under the auspices of the Committee on Fiscal Affairs, and they have come to serve as a very useful reference to taxpayers, tax administrations and courts, both within OECD countries and far beyond, on how to interpret bilateral treaties based on the OECD Model. For example, the Commentaries have been cited as interpretive guidance in court decisions in virtually all member countries and are increasingly cited by courts in non-member countries as well.

It would be difficult for the Model to retain its status as a living instrument if all its content had to be unanimously agreed by all OECD member countries. While all member countries are in agreement with the aims and main provisions of the Model, there is a process by which individual members can record their disagreement with either a specific Model provision or an interpretation in the Commentaries through the entry of a reservation or observation.

The Model has been a successful instrument because it provides a means of settling on a uniform basis the most common problems that arise in the field of international taxation. The existence of the OECD Model has facilitated bilateral negotiations and made possible a significant harmonization of tax treaties for the benefit of both taxpayers and national administrations. In addition, the capacity to adapt international tax rules to the changing business environment on the one hand, and the involvement of non-member countries on the other, has also greatly contributed to the success of the OECD Model.

Because the influence of the OECD Model has extended far beyond the OECD member countries, it was decided that the revision process should be opened up to benefit from the input of non-member countries, international organisations and other interested parties. Pursuant to that decision, in 1996, it was decided to organise annual meetings to allow experts of member countries and non-member countries to discuss issues related to the negotiation, application and interpretation of tax treaties. Recognising that non-member countries could only be expected to associate themselves with the development of the OECD Model if they could retain their freedom to disagree with its contents, these countries were given the ability to record their positions on the Model and to identify the areas where they are unable to agree.

The section of the OECD Model on non-member countries' positions now contains the position of the following 30 countries: Albania, Argentina, Armenia, Belarus, Brazil, Bulgaria, Chile, China, Democratic Republic of the Congo, Croatia, Estonia, Gabon, India, Israel, Ivory Coast, Kazakhstan, Latvia, Lithuania, Malaysia, Morocco, Philippines, Romania, Russia, Serbia, Slovenia, South Africa, Thailand, Tunisia, Ukraine and Vietnam. Considering the 30 member countries of the OECD[2], this brings the total number of countries that have officially stated their position on the Model to 60, thus making clear to the outside world what the treaty policy of these countries is.

The OECD Model also benefits greatly from the input received from the private sector. Changes to the Model are always published in advance in draft form with an invitation for comments, often followed by a public consultation. Member countries' delegates then discuss the comments received and decide whether or not they require further changes. The OECD sees the on-going dialogue with business as a key factor in setting proper international tax rules. In certain cases, working groups where government officials and private sector representatives work together are set up for specific projects.

The 2008 update to the OECD Model

The 2008 update to the Model contains a number of changes, which are mostly the result of previous reports issued by the OECD over the past couple of years. Specifically, they relate primarily to the following matters:

- introduction of a mandatory, binding arbitration provision to resolve disputes that the competent authorities have not successfully resolved through the mutual agreement procedure, plus expanded and clarified Commentaries on how the mutual agreement procedure itself should most properly operate;
- clarifications on the methodology for determining the profits attributable to a permanent establishment through which a resident of one country carries on business in the other country (a topic of particularly keen interest to businesses operating in the financial sector);
- clarifications on the application and interpretation of the non-discrimination Article;
- optional provisions countries may wish to include in their bilateral treaties to address the taxation of distributions made by real estate investment trusts (REITs) established in one country to residents of the other country;
- clarifications with respect to the concept of "place of effective management", which is the tie-breaker test to solve cases of dual residency of corporations, and an alternative provision that countries can opt to use to solve such conflicts;
- an alternative provision that lowers the threshold above which a resident of one country, through the provision of services in the other country, becomes taxable in that other country on its business profits earned there; and
- clarifications in relation to the scope of the definition of royalties for treaty purposes (eg. in relation to income earned from the distribution of software or from granting the use of, or the right to use, a design, model or plan).

While some changes to the Model will have practical effect only once countries agree to introduce them into their bilateral treaties, those changes that take the form of clarifications to the Commentaries'

interpretation of existing Model provisions will generally be relevant immediately to the manner in which the extensive network of existing treaties based on the Model is applied.

Concluding remarks

There is always room for improvement and this also applies to the OECD Model. In light of the Model's great success, as reflected in the large number of existing treaties based on it, a very important looming challenge is to find ways to streamline the treaty amendment process so that changes agreed at the OECD level can be inserted into bilateral treaties in a timely manner.

The involvement of non-member countries, the OECD's recently announced initiative to enlarge its membership and the effects of globalization in general also suggest the need for a continual re-examination of the international tax principles on which the OECD Model is based, to see if those principles adequately reflect the policies appropriate to a changing world economy.

If the OECD Model is able to address these tough challenges, it will be as successful in the next fifty years as it has been in the past fifty. Meanwhile, the Model can take a well-deserved moment to close its eyes, make a wish and blow out the candles on its birthday cake. ■

1. *The views expressed in the article are those of the author and do not commit the OECD or its member countries.*

2. *The OECD member countries are: Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, and United Kingdom and the United States.*

Securitisation Industry Trends in Luxembourg

Danielle Kolbach is a Partner, and Vassiliyan Zanev is a Senior Associate, at Loyens & Loeff, Luxembourg

It has now been four years since the law of March 22, 2004 on securitisation (the Securitisation Law) was adopted by the Luxembourg Parliament, creating a flexible, lightly regulated and tax-efficient regime for securitisation vehicles (the SVs). It has allowed Luxembourg to become one of the leading centres for securitisation and structured finance vehicles. This article will briefly analyse the main features of the regime established under the Securitisation Law and the recent developments in the approach taken by the Luxembourg regulator.

Definition and types of SVs

The Securitisation Law defines "securitisation" as the transaction by which a securitisation undertaking acquires or assumes, directly or indirectly through another undertaking, risks relating to claims, other assets, or obligations assumed by third parties or inherent to all or part of the activities of third parties and issues securities, whose value or yield depends on such risks. "Securitisation undertakings" within the meaning of the Securitisation Law, are (i) undertakings which carry out the securitisation in full (ie. they acquire the securitised risks and issue the securities), and (ii) undertakings which participate in such a transaction by assuming all or part of the securitised risks - the acquisition vehicles, or by issuing securities to ensure the financing thereof - the issuing vehicles and whose constitutional or issue documents provide for the submission to the Securitisation Law.

Such broad definition has allowed multiple types of securitisation transactions (conventional, synthetic or shariah compliant securitisations) involving a wide range of securitisable assets and combining innovative risk assumption techniques (notably through the use of credit derivatives).

Available forms

There will be a high degree of structuring flexibility. An SV may be structured as a company with legal personality or a co-ownership of assets (without legal personality) - a so-called securitisation fund, managed by a Luxembourg management company.

The corporate type of SV may be set up as a public limited liability company (*société anonyme*), a corporate partnership limited by shares (*société en commandite par actions*), a private limited liability company (*société à responsabilité limitée*) or a co-operative company organised as a public limited liability company. The securitisation fund may also be set up under a fiduciary arrangement, whereby the assets are being held by a fiduciary for the account of the investors.

An SV may be fully compartmentalised, meaning that each compartment or cell represents a distinct part of the assets and liabilities of the SV. The compartmentalisation allows for the segregation and ring-fencing of the assets and liabilities between the various compartments. According to article 62 of the Securitisation Law, the rights of recourse of the investors and creditors are limited to the assets of the SV. Where such rights relate to a compartment or have arisen in connection with the creation, the operation or the liquidation of a compartment, the recourse is limited to the assets of the relevant compartment. Between investors, each compartment shall be treated as a separate entity, unless otherwise provided for in the constitutional documents of the SV.

The constitutional documents of an SV may authorise the management body to create one or more compartments.

Regulatory approval

Luxembourg SVs are unregulated entities and are not subject to any authorisation. Only SVs issuing securities to the public on a continuous basis must be approved by the Luxembourg Supervisory Commission for the Financial Sector (the CSSF). According to the 2007 annual report of the CSSF (the 2007 Report), the CSSF considers that it issues securities on a continuous basis, if the SV makes more than three issues to the public per year. The CSSF also takes the view that the setting up of an issue programme cannot be assimilated to one single issue, but it considers the securities are issued on a continuous basis.

According to the CSSF, the issues of securities to professional clients as defined in Annex II of Directive 2004/39/EC of April 21, 2004 on markets in financial instruments (the MiFID Directive) do not constitute issues to the public for the purposes of the Securitisation Law. Securities issued with a nominal value of at least €125,000 each, are presumed as being not issued to the public (such definition differs from the definition used in the Prospectus Directive). Private placements do not constitute issuance to the public. However, the characterisation of private placement is assessed on a case-by-case basis by the CSSF and, for instance, the subscription of securities by an institutional investors or financial intermediary for a subsequent placement of such securities with the public constitutes a placement with the public for the purpose of the Securitisation Law.

The annual accounts and financial statements of both regulated and unregulated SVs have to be audited by one or more independent auditors (réviseurs d'entreprises) appointed by the management body of the SV.

Financing

The acquisition of the securitised risks by a SV has to be financed through the issuance of securities (*valeurs mobilières*), whose value or yield is linked to such risks. There is no definition of securities (*valeurs mobilières*) in the Securitisation Law. However, according to the 2007 Report, (i) instruments, which are considered as securities under their governing law (*lex contractus*), and (ii) financial instruments, which are traded on the capital market and, which are transferable, will be recognised for the purposes of the Securitisation Law as securities. By derogation of the provisions of the Luxembourg company law, shares (*parts sociales*) issued by an SV organised as a private limited liability company (*société à responsabilité limitée*) will also be considered as securities.

Both equity and debt securities may be issued in bearer or registered form. The issued securities may be privately placed or offered to the public. There is a high degree of contractual flexibility and, accordingly, an SV may issue securities whose value or yield is linked to specific compartments, assets or risks, or whose repayment is subject to the repayment of other instruments, certain claims or certain categories of shares. Insolvency remoteness can be achieved through the use of limited recourse, non-petition and subordination provisions in the issuance or constitution documentation of the SV.

In its 2007 Report, the CSSF accepted the possibility for SVs to borrow for leverage purposes, provided the SVs are substantially financed through the issuance of securities. An SV may borrow (i) during the warehousing phase on a temporary basis (taking into account the market conditions) or (ii) for liquidity (matching) purposes to cover temporary shortfalls. In each case, the issuance documentation has to disclose the additional risk for investors generated by such leverage.

Securitisable assets

One of the driving factors of the popularity of the Securitisation Law is the large range of eligible assets, which can be securitised. According to article 53 of the Securitisation Law, risks relating to the holding of assets, whether movable or immovable, tangible or intangible, as well as risks resulting from the obligations assumed by third parties or relating to all or part of the activities of third parties, may be securitised. During the last few years the securitisation transactions in Luxembourg involved diverse assets such as commercial loans, mortgage loans, car lease receivables, consumer credits, non-performing loans, deferred purchase receivables, commodities, whole businesses etc.

The CSSF has loosened certain of its previous positions. In the 2007 Report, the CSSF clarified the legal environment applying to SVs, by accepting:

- the possibility for SVs to grant loans: the loans must be put in place by third parties and the issuance documents have to specify the assets on which the repayment of the loans depends, or the criteria for the borrowers' selection.

- the possibility to securitise loans not yet fully drawn down or revolving loans: such loans must contain a pre-determined framework and the SV cannot have any discretion regarding the choice of borrowers or the terms of the loans.

- the possibility to securitise commodities: provided that the acquisition by the SV is designed to provide financing, and the commodities constitute a collateral securing the repayment of the obligations of the entity to whom the financing is provided and generate cash flows in favour of the investors.

- the possibility to securitise and repackage shares or units in UCIs, hedge funds, limited partnerships or other companies holding the securitised risks: provided that the SV is not actively involved in the management of the entities in which it has a participation (direct or indirect), and the SV does not provide services of any nature to such entities.

- the possibility to securitise intra-group loans: provided that the risk assumed by the SV is effectively transferred by a separate entity of the group and that a substantial part of the securities issued by the SV are subscribed by third parties investors.

"One of the main reasons in choosing a Luxembourg SV is its tax efficiency and neutrality"

Acquisition of the securitised risks

The SV may assume the securitised risk by acquiring the underlying assets, by using credit derivatives or by committing itself in any other way. Securitisation transactions (notably transactions involving the use of credit derivatives) do not constitute insurance activities subject to the Luxembourg Law of December 6, 1991 on the insurance sector.

The assignment of an existing claim to or by an SV becomes effective between the parties and against third parties from the moment the assignment is agreed on, unless the contrary is agreed. A future claim may also be assigned. The assignment of a claim to or by an SV entails the transfer of the underlying guarantees and security interests securing such claims, and its effectiveness against third parties by operation of law, without any further formalities.

Management of the assets

Unregulated SVs are not required to appoint a custodian, unlike regulated SVs who have to entrust the custody of their liquid assets and securities to a credit institution established, or having its registered office, in Luxembourg.

An SV may entrust the assignor or a third party with the collection of the securitised receivables, as well with any other management tasks, without such persons having to apply for a licence under the financial sector law.

An SV cannot assign its assets except in accordance with the provisions set forth in its constitutional documents. It can only grant security interests over its assets in order to secure the obligations it has assumed for their securitisation or in favour of its investors. Security interests and guarantees created in violation of such restriction are void by operation of law.

An SV must have a passive attitude when managing its assets and accordingly it cannot be engaged in commercial activities or any other activities pursuant to which it would act as entrepreneur or merchant and generate a personal risk as a result of such activities.

Taxation

One of the main reasons in choosing a Luxembourg SV is its tax efficiency and neutrality. A corporate type SV will be subject to Luxembourg corporate income tax and trade tax. Such SVs will thus be regarded by the Luxembourg tax authorities as resident in accordance with Luxembourg tax treaties, and should also be covered by the Parent-Subsidiary Directive. The SV is exempt from the annual net wealth tax of 0.5%. According to the Securitisation Law obligations (*engagements*) vis-à-vis its investors and other creditors ((future) dividends, interest, etc.) are considered to be "interest payments" deductible for income tax purposes. If properly structured, the taxable income of an SV can in that case be nil. The distributions are furthermore not subject to withholding tax. A non-resident owning or having owned a participation of more than 10% in the share capital of an SV may be subject to Luxembourg income tax in case shares are alienated within 6 months following their acquisition, unless treaty protection is available for such non-resident.

A fund type SV is transparent for tax purposes; hence it will not be subject to corporate income tax, trade tax or net wealth tax. Distribution of profits is not subject to Luxembourg withholding tax.

Whether an SV is organised as a fund or limited liability company, a one-time flat capital duty tax of €1,250 upon incorporation is due.

Payments of dividends or interest by an SV to an individual resident or certain so-called residual entities in an EU member state or certain associated territories may be subject to 20% withholding tax under the EC Savings Directive (35% as per July 1, 2011), unless the name and address of the beneficiary and the amount of income received is disclosed to the Luxembourg tax authorities.

An SV is considered to be a VAT entrepreneur. Management services rendered to an SV will not be subject to VAT.

Conclusion

The Securitisation Law with its flexible, lightly regulated and tax efficient regime, provides a large product range of vehicles for securitisation and structured finance transactions. The success of the Securitisation Law has been confirmed by the significant number of SVs incorporated in Luxembourg during the last years, as well as the diversity in terms of structures and eligible assets.

For further information, please contact: Vassiliyan Zanev, tel: +352 466 230 257, email: vassiliyan.zanev@loyensloeff.com or Danielle Kolbach, tel: +352 466 230 294, email: danielle.kolbach@loyensloeff.com

Standing Next To the Big Neighbour: What Have The Finns Learnt From The Opportunities and Challenges In Russia?

Russia has become Finland's biggest trading partner. In the Soviet era Finnish exports were first boosted by barter trade, oil and construction projects in the border regions. Now Russia's ambitious growth targets require a more modern infrastructure. Outi Ukkola of Deloitte Finland describes how Finnish businesses operate in Russia and advises to look for concessions, structures and proper documentation when entering the big eastern neighbour

The Soviet Union was the cornerstone of Finland's foreign trade for decades. Industrial machinery and equipment were exported over the eastern border and energy and raw materials were imported from the Soviet side. As late as the 1980s trade with the Soviet Union still accounted for a quarter of Finnish exports.

Then the Soviet Union underwent political breakdown and Finland's trade with it collapsed. The fact that the bottom fell out of Soviet trade partly explains the recession that struck Finland in the early 1990s, and the reason it was far deeper than in any other industrialized country.

By 2007 Russia had come back to being the second most important trading partner for Finland. Russia and Germany were represented equally in the Finnish importation statistics with a 14.1% share. In exports, Russia was slightly smaller than Germany with its 10.2% stake. However, during the first quarter of 2008 Russia has become the most important trading partner for Finland. In imports it is clearly the biggest (17.7% stake), and in exports it has retained the second position (10.6%).

The June 2008 customs statistics show that Finnish exports to Russia and imports from Russia grew in 2007 by eight percent. The exports amounted to some €6.7 billion. The key export items were industrial machinery and passenger cars. Imports from Russia, amounting to €8.4 billion, grew mainly because of oil. During the first three months of 2008 exports of cars and imports of oil continued to grow.

How is this trend reflected in the cross-border investments? Well, to start with, it can be noted that many Finnish companies have started focusing on production and business in Russia. To name a few, energy company Fortum has recently entered the Russian market by acquiring electric power plant TGC-10, and it is now making a mandatory offer for the minority shareholders. The value of the TGC-10 transaction is €2.7 billion if Fortum can acquire all the shares. Finnish retailer Stockmann has for a long time operated department stores in St Petersburg and Moscow, and it plans to roll out its recent acquisition of the Lindex clothing chain in Russia. Stora Enso's Russian subsidiary, Stora Enso Packaging BB, just opened its new corrugated board plant at Lukhovitsy, some 130 kilometres southeast of Moscow; whereas its major Finnish competitor UPM announced its joint venture plans with investment exceeding over €1 million.

In terms of Finnish real estate investors, Sponda is planning to set up €300–400 million portfolio in Russia and the Baltic countries by the end of 2009. It has recently purchased an office building for €120 million in Moscow, mostly housing western law firms and investment bankers. Also, Technopolis is active in Russia, in particular in St Petersburg. In June it announced a €50 million construction transaction regarding a technology centre near the Pulkovo airport. Finally, it should be noted that Finnish construction companies are also returning to Russia after the barter trade era. Management in the construction industry, including companies like YIT and SRV to name some, expect to see marked growth in Russia over the next few years.

The investments are not flowing in one direction any more, though. A number of Russian corporations have also entered Finland recently. As an example, US OMG sold shares in Finnish based OMG Harjavalta in 2007 to OJSC MMC Norilsk Nickel, Russian's largest mining and metallurgical company and the world's largest producer of nickel and palladium, and the new shareholder is now considering major additional investments in Finland.

Current concerns and some myths

The Finnish pulp and paper industry is importing significant amounts of wood from Russia and now the biggest concern is the increasing cost of Russian sourcing. The wood tariffs will have a major impact on Finnish industries, either directly or indirectly. Throughout the summer both the Finnish Minister for Foreign Trade and Development, Paavo Väyrynen, and the representatives of the EU Commission, have tried to solve the matter eg. by meeting Russian colleagues in Moscow to discuss wood tariffs and border traffic issues.

Russia's position on wood tariffs is that this particular issue will not be separated from the WTO negotiations as had been suggested in Finland's compromise proposal. In the July meeting the ministers also discussed matters linked with border traffic, such as exportation of motor vehicles to Russia by way of Finland, the reduction in the number of Russian border authorities, and increasing the efficiency of border formalities with a view to a rapid railway connection.

The Finnish Russian Chamber of Commerce regularly conducts a study on Russian business amongst its members. The Chamber has some 850 members of whom some 750 are Finnish and some 100 Russian. The latest study in May (303 responses in Finland, 224 in Russia) named the three biggest problems were dealing with the customs authorities, bureaucratic administration and difficulties in finding employees.

The Center for Markets in Transition (CEMAT), Helsinki School of Economics, in 2008 monitored what methods Finnish companies used to cope with the changes in Russia from the socialist era to the modern day. Nearly a hundred Russian and two hundred Finnish companies were interviewed for the study. The majority of the companies are small and medium sized companies, and many of the Finnish interviewees have an extensive history in Russian trade.

According to CEMAT Research Manager Päivi Karhunen, the media provides a much more frightening image of Russia than that which Finnish companies deal with every day: "The general opinion was that Russian society had developed significantly to a more legal direction and that competition had become fairer".

According to the study, some traits of the transition period, such as bureaucracy and corruption, still contribute to business in Russia. Today, even though bureaucratic pitfalls are very familiar to the Finnish companies which have already learnt to cross them, corruption is still a difficult question for the Finns. "Many Finnish companies have delegated managing relations with the public sector to the local management or partner, and they do not necessarily even want to know how they handle possible demands for bribes", says Karhunen.

Newly arising problems are the shortage of skilled people and the willingness of young and highly educated people to change a job for a higher salary. Decent working conditions compared to those of the Russian rivals, and making the most of the young middle management, is a great asset for the Finnish companies, the study concludes.

Issues to consider when entering the Russian market

Concessions

Russia is a federal state with a rather high degree of centralisation. The Federal Government has recently introduced a legal framework for special economic zones (SEZ). The zones have geographic boundaries and they are created for a period of 20 years. Four types of zones are envisaged: Industrial, Research and Development,


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marius.leivestad@no.ey.com
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Tourism and Port, and the tax benefits vary according to the type of zone. An industrial zone may, for example, provide a reduction of the profits tax to 20%, and exemptions from property tax and land tax. There may be accelerated depreciation schemes, a customs free zone and a guarantee against unfavourable changes in tax laws. Only a few SEZs have been established so far; the St Petersburg and Moscow regions have set up Research and Development and Industrial zones.

The regions also have some authority to establish tax and other concessions to support investments. The north-western regions of Russia have been the main area of interest for many Finnish investors.

The Tax Code covers all Russian federal, regional and local taxes. Federal taxes include value added tax, excise duties, profits tax and unified social tax. Property tax and transportation taxes are regional taxes. At the local level land tax is levied. There are a number of other taxes and levies.

Federal taxes and tax concessions are set at the federal level and cannot be changed by the regional or local authorities. An exception is the 24% profits tax which is payable to both federal and regional budgets. Regional authorities are authorized to reduce the regional portion and they often do to attract investments. The regional authorities cannot influence value added tax, excise duties or unified social tax.

Regional authorities generally require the investors to enter into an investment agreement. The St Petersburg regional authorities, however, provide tax concessions on a self-declaration basis. Regional legislation may provide tax concessions but it is not possible to contradict federal law. Property tax concessions are provided through a reduction in the tax rate or certain companies or properties are exempted from taxation. Concessions relating to transportation tax may also be provided.

Goods imported as an in-kind charter capital contribution to a Russian company may be exempted from customs duty and import value added tax (VAT). These exemptions apply if the contribution is made in the form of technological equipment which is classified as a fixed production asset.

Transfer pricing

Russian transfer pricing rules are expected to undergo a major transformation soon. The changes are a key element in the tax policy guidelines for 2008-2010. The main goal of the reform is to achieve maximum revenues for the budget with minimum resources and effort needed to monitor compliance with the regulations.

Presently the Russian transfer pricing rules do not refer to an arm's length range of prices. Russian authorities can, instead, assess additional taxes if the prices set in controlled transactions deviate by more than 20% from market prices. According to the proposed changes, the 20% safe harbour rule will be abolished. The market price range would be determined on the basis of the range of prices used in transactions involving identical or similar goods, work, or services between unrelated parties. The range of prices is divided into four sub-ranges, and the market price range is taken to be the interval between the lowest value of the second sub-range and the highest value of the third sub-range (the so-called market prices interval). If it is possible to determine only one market price, the price range is to be 10% above or below that price.

It remains unclear as to what level prices should be adjusted if they are found to be inconsistent with market prices. The current proposal states, by way of an example, that a price set too low should be increased to the lowest value of the price range and that a price set too high should be decreased to the highest value of the price range. However, the proposal implies that the tax authorities could issue a substantiated decision specifying another deemed value.

When planning business models in Russia, unexpected particularities may still arise. Just to name one, certain expenses can be deducted for profits tax purposes only within specific limits. For instance, some advertising expenses (excluding advertising in the mass media, outdoor advertising, printing of brochures and catalogues, and participation in exhibitions) may be deducted for profits tax purposes in the maximum amount of 1% of a taxpayer's sales revenue (net of VAT). To avoid pitfalls like this to hit the effective tax rate, generally applied supply chain structures and related pricing may need to be modified to some extent to comply with the Russian rules.

"Russian transfer pricing rules are expected to undergo a major transformation"

Finally, a number of various documents (including residency certificates to non-residents) may have to apostolized and translated in Russia on a yearly basis to avoid any reassessments or extra withholding tax costs etc.

Valued added taxation

In terms of VAT, Russian operations may prove to be extremely challenging to structure. A number of Russian-sourced services may carry an extra VAT burden in the form of withholding, and the only way to cope with these may be a proper VAT gross-up in the agreements. Again, all agreements need to be well designed and drafted to meet the local requirements.

Legal and capital structures

Investment planning generally includes planning of legal and capital structures.

Russia has concluded approximately 70 tax treaties with other countries. Cyprus claims to have one of the best double tax treaties with the Russian Federation, and in practice it is often the intermediary to inbound and outbound Russian investments. However, in many jurisdictions Cyprus is caught out by controlled foreign corporation (CFC) legislation which effectively allows the home country of the investor to tax even undistributed profits, or the entity may be disregarded. With its EU membership Cyprus has improved its position but still, it is crucial to have proper substance in place and document the activities if Cyprus is used as the stepping stone to Russia.

Russia withholds 5% tax on dividends paid to Cyprus if the beneficial owner has directly invested in the capital of the company not less than the equivalent of US$100,000. In comparison, Russia withholds 5% tax on dividends paid to Finland on major shareholdings (30% stake). There is no withholding tax on interest and royalties paid to Cyprus or to Finland. Both countries have participation exemption regimes exempting dividend and capital gains, though Finland has some more conditions to meet. All these facts, coupled with the history of managing and running business in Russia, have actually led in a number of cases to a situation where – to some extent quite surprisingly – Finland has become the stepping stone for a number of western investments in Russia; both operationally and structurally.

The thin capitalization rules may restrict the deductibility of interest charged on foreign controlled debt. Under Russia's domestic thin capitalization rules, interest on indebtedness to related parties is deductible as long as the indebtedness does not exceed three times the amount of the net assets of the debtor. If the test is not met, excess interest expenses are disallowed. In thin capitalization situations the interest payments must be treated as dividends and withholding tax at source should be collected by the taxpayer at the time of the interest payments. There are currently a number of thin capitalization disputes pending in Russia. It is likely that the home country of the investor does not credit the tax withheld at source in these conflict situations. The Finnish position as a holding country between the country of origin and Russia may further be boosted by the fact that, with proper structuring, a group's existing Finnish operations may be further leveraged when entering into Russia.

Even though some of the concerns are no longer valid, Russia is still a complex country where it is worth engaging an established advisor. The best result is achieved by having an open dialogue where both Russian and home country views and options are explored. ■

New German Regulation: Transfer of Functions Executive Order

Oliver Wehnert is a Partner at Ernst & Young AG, Germany

With the German 2008 Business Tax Reform Act detailed transfer pricing regulations concerning the cross-border transfer of functions were incorporated into § 1 of the Foreign Tax Law. By way of an executive order, the Federal Ministry of Finance has now further regulated the terms and conditions for the application of the arm's length principle under this new regulation. The Executive Order was approved by the Federal Cabinet on May 21, 2008 and on July 4, 2008 by the Upper House.

The Executive Order essentially defines terms like "function", "transfer of functions", "transfer package", etc, and provides further details on the new legal regulations regarding cross-border shifts of functions.

Key terms of the new regulation

The term "function" is defined as a business activity that is the aggregate of similar operational tasks performed by certain areas or departments within an enterprise.

The Executive Order defines the term "transfer of functions" ("transfer" hereafter) as standardised in § 1, subsection 3, clause 9 of the Foreign Tax Act. It further specifies that a transfer has occurred if a transferring company (transferor) shifts or assigns assets and other advantages, including associated risks and opportunities, cross border to a related company (transferee), thereby restricting the transferor's ability to perform the function in question.

A transfer may also occur if a function is only partially transferred. The provisions of the Executive Order then apply to the transferred part. Business transactions carried out within a period of five fiscal years shall be collectively considered a single transfer if the transactions are economically linked to each other.

Exemptions

Transferring functions to a "cost-plus-entity"

Functions shifted cross border shall be exempted if these functions are performed by the transferee solely for the purpose of the transferor and if the remuneration of the transferee is calculated by applying the cost plus method under the arm's length principle. The remuneration must be limited to payments for the services rendered by the transferee. This most likely concerns transfers to contract manufacturers and/or contract service providers.

Duplication of functions

Furthermore the duplication of functions is not considered to be a transfer if there is no reduction of the functions performed by the transferor within a period of five years while the other prerequisites of a cross-border transfer are fulfilled. However, if there is a reduction within a five year period, the complete process shall be regarded as a transfer.

Furthermore, functions are not supposed to be transferred if

- only assets are sold or assigned, or
- only services are provided, or
- the transaction would not be considered a sale or purchase of a function between unrelated third parties, or
- if personnel are seconded without actually shifting a function.

The above-mentioned transactions are thus subject to the regular arm's length pricing standards. However, if these transactions form part of a single transfer from an economic point of view, they are subject to the transfer of functions regulations.

Transfer pricing on the basis of the transfer package

The applicable arm's length price shall be determined on the basis of the so-called "transfer package". The transfer package contains all risks and opportunities as well as assets and advantages associated with the transferred or assigned function.

The remuneration shall be calculated on the basis of the profit potential from the point of view of the transferor but also the transferee. The profit potential from the perspective of the transferor is equivalent to the net present value of the net profit a prudent and diligent business manager would not forego without an appropriate remuneration. From the perspective of the transferee, the net profit is equivalent to the net profit a prudent and diligent business manager would be prepared to compensate.

Basically it is necessary to evaluate the transfer package in its entirety. The determination of individual transfer prices for the specific parts is also possible if no significant intangibles or opportunities (the value of the intangibles does not exceed 25% of the entire transfer package) are transferred. However, the sum of the value of each part of the transfer package must then correspond to the value of the transfer package in its entirety. The overall result of the individual transfer prices, measured on the basis of the price for the whole transfer package, should be in accordance with the arm's length principle.

The price of the transfer package shall commensurate with the profits that can be attributed to the function and which could be expected from performing the function at the time of the transfer when estimated in its entirety.

The determination of the profit potential for each function relating to the transfer package has to take into account all the circumstances of each individual case based on functional analyses performed prior to and after the transfer. The profit potential calculation should also take into consideration the alternative courses of action available to the transferor and transferee, including location advantages and disadvantages as well as effects of synergy. Documentation on the decision making process on whether or not to transfer a function have to be used as the basis for calculating the profit potentials.

Valuation of the profit potential

Three factors must be considered in determining the profit potential:

1. Determining an appropriate discount rate and establishing a discount period,
2. Determining the profit expectations;
3. Discounting these profit expectations by applying the discount rate.

The estimation of an appropriate discount rate is to be based on the rate of interest for a risk-free investment with an unlimited discount period, if no definite period is sustained by the taxpayer. The interest rate must be increased by a surcharge commensurate to function and risk, which shall be calculated taking into account both the transferor and transferee entities' functional and risk assessments in comparable situations.

The determination of the price of the transfer differs depending on whether the function is expected to realize profits (profits) or permanent losses (losses).

	Profits	Losses
Lower limit	Compensation for loss of or decrease in profit potential plus any accumulated costs of closure	Lower absolute amount derived from expected losses or accumulated closure costs
Upper limit	Profit potential from the assumed function	

If the transferor is in a loss situation, the expected losses may be higher than the closure costs. In such cases it may be considered characteristic of a prudent and diligent business manager to agree on a remuneration that only covers a portion of the accumulated closure costs, or make a compensation payment to the transferee for assuming the source of loss.

If the transferor's minimum price is zero or below zero, the question whether or not an unrelated third party would pay a price for assuming the function in a similar situation, has to be examined.

Claim for damages and compensation as a basis for taxation
Generally, third parties would be entitled to legal or contractual claims for damages, indemnity and compensation claims, and other claims which might arise if possible courses of action open to them were ruled out either contractually or effectively. Such cases may arise where functions are transferred by removing or reducing a function. In order to reflect such third party behaviour, similar claims and compensations may qualify as a basis for taxation of the transfer of functions if the following criteria are met:

- proof of the agreement on comparable regulations among unrelated third parties and, additionally,
- substantiation that no significant intangibles and opportunities have been transferred or assigned for use (exception: transfer or assignation as a mandatory consequence of the regulation).

Adjustments
The tax authority is permitted to retroactively adjust the original transfer prices within a ten years period after the transfer if the actual profit deviates substantially from the original profit expectation.

A "substantial deviation" exists if

1. the actual transfer price lies outside the original area of negotiation or
2. the recalculated maximum price is lower than the transferor's original minimum price.

The transferee's recalculated maximum price and the original minimum price shall form the boundaries of the area of negotiation.

Appropriate adjustment
An "appropriate adjustment" of the original transfer price is to be recorded in the fiscal year subsequent to the fiscal year in which the deviation occurred. In case the transfer price based on actual earnings lies outside the original area of negotiation, the adjustment shall be considered appropriate if it corresponds to the difference between the original and the recalculated transfer price. In case the recalculated maximum price is lower than the transferor's original minimum price, the adjustment shall be considered appropriate if the adjustment corresponds to the difference between the original transfer price and the mean value of the transferee's recalculated maximum price and the transferor's original minimum price. ■

Alternative Funds Services in the Channel Islands

Ross Youngs is in the Business Development team of BNP Paribas Securities Services UK Offshore (Jersey, Guernsey and Isle of Man)

Introduction
Recent events in the financial markets have once again reminded the global community of how volatile the economy can be and the need to continually review the various threads that have continued to gather momentum this past decade. The prolific availability of credit to both the retail and institutional markets has reached an end and the era of cheap borrowing is behind us as financial institutions look to evaluate the use of collateralised obligations and off balance sheet vehicles. The production and long-term availability of natural resources are increasingly strained under the growth of developing BRIC (Brazil, Russia, India and China) economies. These drivers are further impacted by climate events and natural disasters that, in turn, tighten the screw on the insurance industry and ultimately impact the production of commodities such as rice, wheat and oil.

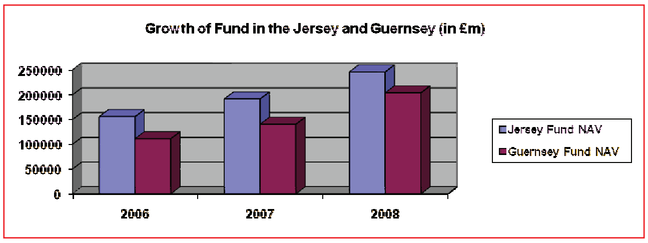
It is increasingly apparent that we are at a turning point and that the habits of a global economy governing for example what we buy, how we pay for it, how we use it and how we dispose of it are changing. An example of shifting buyer behaviour is evident in the credit markets where, until now, collateralised debt obligations had been purchased without sufficient transparency to evaluate the underlying credit exposure. Those assets were held and for a time provided significant returns for minimal capital usage. However, as the underlying mortgages and loans begun to default, the secondary market dried up for these instruments leaving banks reporting large scale losses. Buyers will no doubt seek greater transparency and place more reliance on their internal due diligence prior to making such investments in the future. It is felt that investors, well-educated from the boom in esoteric investments, will continue to demand alternative and untapped investment classes where risk assessment is more complex and involved. The key challenge for the fund administration and custodian industry is how to evaluate and manage this risk within a competitive framework.

Why the Channel Islands?
The Channel Islands, namely Jersey and Guernsey, have been extremely successful in keeping pace with the demands of the market from a risk management perspective through leading regulatory development. The evolution of the funds market has attracted major funds services providers such as BNP Paribas Securities Services, who added the Channel Islands to its offshore footprint in 2007. This move recognises the role of Jersey and Guernsey as a leading practitioner in the global alternative funds market and creates a virtuous ring of business for BNP Paribas Securities Services from the Americas, to the Cayman Islands through to Dublin, the Isle of Man, London, Luxembourg, the Channel Islands and then into Europe, the Middle East and the Far East. An exciting and expanding operating model that supports the requirements of the investment manager and asset owner and reflects the broadening geography of the underlying investments.

The Channel Islands, despite their proximity to France, maintain close links with the United Kingdom as British crown dependencies. However they are not a member of the European Union. Of the eight islands, Jersey and Guernsey are the key financial houses and have a combined population of approximately 160,000. This fact in itself is not particularly impressive. However, financial services account for over half of GDP and the islands, as a result of this concentration, boast significant intellectual rights in the areas of funds and investment business, for example hedge fund, private equity and structured finance vehicles.

Whilst maintaining a tax neutral regime, the product of the Channel Islands now differentiates its offering with a continuum of funds products. The products provide a risk-based approach to regulation through the empowerment of fund services providers, the administrator, custodian, corporate trustee and lawyer, to exercise risk management and compliance with measured oversight from the regulator. This blended approach to risk management has several benefits enabling risk assessment and compliance to be undertaken by the fund administrator and custodian where the specialist skill sets exist for that activity. Both Jersey and Guernsey are recognised by the FATF (Financial Action Task Force) ensuring a robust and stable platform to domicile a fund. This is particularly important for funds to demonstrate proper regulation in areas such as anti-money laundering when investing or marketing in other countries, ultimately increasing speed of access to new markets. With these core disciplines in place, the regulator is able to focus on delivering a pragmatic regulatory framework which has proved attractive in the alternative funds industry.

The breadth of product in the Channel Islands has attracted a critical mass of hedge fund, fund of fund, real estate, private equity, alternative funds and long-only funds business marking a period of significant growth. As at March 2008 Guernsey had a total net asset value for funds business of £204bn[1] (an increase of 45% year on year) and Jersey funds business of £246bn[2] (an increase of 21% year on year). In Jersey the number of new schemes continues to increase and sentiment amongst key funds services institutions presented by the Jersey Statistical Unit in July 2008 remains positive despite the negative performance in the global markets. ▸▸



Sources: Guernsey Financial Services Commission; Investment Statistics, March 2008 and Jersey Finance; Financial Services Industry Quarterly Statistics - Quarter Ending March 2008.

Both Jersey and Guernsey provide for the establishment of open or close-ended vehicles utilising limited companies, limited partnerships, protected cell companies, incorporated cell companies or unit trusts. Regulation in the Channel Islands is undertaken by the Jersey Financial Services Commission or the Guernsey Financial Services Commission. Both regulators work independently and as a result have created frameworks that take a different approach in the supervision of the funds industry. However, both achieve a similar objective. Guernsey for example differentiates between open and close-ended schemes, recognising the additional protection required for investors in open-ended funds whereby the manager must redeem an investor's interest on demand. This is set to change in recognition of the increasingly diverse objectives of funds business by simply classifying funds as either 'regulated' (requiring ongoing supervision by the GFSC) or 'registered' (not subject to GFSC regulation). The key driver remains the protection of investors and, by recognising the sophistication of the investor and the complexity of the target investments, the regulator may evaluate the most efficient way to protect investor interests.

At the highest level, both regulators look to provide a menu that enables a promoter to create a vehicle that facilitates the manager's investment objective whilst maintaining investor accessibility. The product of the Channel Islands has evolved with the alternative funds industry from catering for traditional long-only equity funds to hedge funds trading synthetic instruments and even further afield to uncorrelated asset classes such as the life insurance market and participation in private equity. Operating a diverse range of funds trading illiquid assets requires increasingly complex methods of valuation and reconciliation from an administration and custodian perspective. As a service provider, it is essential to have industry specialist skill sets in-house to provide effective oversight of the manager and third parties and to properly value investor assets. It is in this area where we (BNP Paribas Securities Services) excel as we have the ability to in-source expertise from other areas of our group, be it an alternative securities services jurisdiction or even within a different division, for example our investment banking arm. This scalability ensures that our management of risk as a fund functionary is at the highest and most informed level and this has been attractive to both sponsors and investors alike seeking to promote or participate in a well managed product.

Recent developments

In response to demands from the funds industry, regulators have looked to compete on speed to market, flexibility of regime in terms of fewer restrictions on investment and borrowing but also in areas of domiciliation. Traditionally, there has been insistence on the provision of fund administration and in some cases custody by a local service provider. This maintained the excellent reputation of the islands. However there is growing recognition of the need for an open architecture whilst maintaining regulatory and risk management standards. Jersey, in response, has introduced two new classes of investment fund that may be established without regulatory approval, maintaining speed to market. The first recognises that those investing $1m possess the necessary skills to assess the risk of investment directly (unregulated eligible investor fund). The second, the unregulated exchange traded funds, require a listing on one of fifty recognised exchanges, removing the duplication in compliance that would have taken place historically at fund set-up and at stock exchange listing. Unregulated funds are wide in scope and have no limitation of the number of investors, no audit requirement and no investment/borrowing restrictions. Critically, unregulated funds do not require Jersey resident directors or administrator or custodian. This flexibility has the potential to reduce cost for sponsors, advisors and managers who are seeking the quality of Jersey as a jurisdiction without having to make a wholesale shift in their operating model. We see several opportunities for existing and also prospective clients in creating more choice for our clients to establish well regulated schemes leveraging the core competencies of the Channel Islands and BNP Paribas.

BNP Paribas Securities Services

As a fund services provider in the Channel Islands, we differentiate our funds services offering of fund administration, corporate trustee and global custody at three levels:

- Firstly by leveraging our global network to access the specialist skill sets required to meet the diversity of the alternative asset classes, for example valuation of OTC instruments or the pricing of hedge funds that can be provided centrally. Functional capabilities are complemented by the addition of new services such as our recent acquisition of the Bank of America Prime Broker business that enable us to deliver a breadth of service without diluting service quality at a local level.

- Secondly, we invest significant amounts in developing IT systems and infrastructure, maintaining excellent options for connectivity with our clients to deliver an automated/STP service to mitigate transactional risk as far as possible. As a group we custody in excess of €3.6trn of assets as at March 2008 and this scale enables our business to select platforms that are most suited to the delivery of that funds strategy and local regulation.

- Most importantly, our network ensures that our staff can tap into the experience of our global group and can therefore understand the complexities of any investment strategy therefore providing the most efficient fund administration, corporate trust and custody services.

The BNP Paribas approach to risk has so far been successful and we now have a leading market share and the highest credit rating of any global custodian of AA+ (Standard & Poor's July 2008). Our growing presence in the Channel Islands validates our view that Jersey and Guernsey are among the leading alternative funds services centres globally. ■

1. *Guernsey Financial Services Commission; Investment Statistics, March 2008*

2. *Jersey Finance; Financial Services Industry Quarterly Statistics - Quarter Ending March 2008*

Why Cayman? .... It's Captivating

Mike Gibbs is the President of Kensington Management Group Ltd and past Chairman of the Insurance Managers Association of Cayman

A sleepy Caribbean island 40 short years ago, Grand Cayman has now established itself as a mature, sophisticated international financial services centre, providing institutionally focused, specialized expertise to a global client base. Cayman is the 5th largest financial centre in the world; home to 430 banks and trust companies, 800 insurance companies, 10,000+ mutual funds, the preferred shipping registry for the world's mega-yachts, and a stock exchange with over a 1,000 listings. In support of this industry, Cayman has developed a highly qualified financial services infrastructure of lawyers, accountants, bankers, insurance managers, company managers, fund and investment managers, and other financial specialists. Additionally, the regulatory body, the Cayman Islands Monetary Authority ("CIMA"), provides a very professional, proactive and client-focused regulatory environment, widening investment opportunities and the facilitation of legitimate international movement of funds. As a result, Cayman offers a veritable one-stop shop for all your financial services needs, while remaining flexible and nimble enough to react to new products and initiatives.

Not only does Cayman strive to be the domicile of choice in all areas of financial services, through a unique team approach of quality services and a business-focused regulatory environment, but it has achieved this while still meeting or exceeding all international standards in the areas of anti-money laundering, know your customer and proceeds of criminal conduct legislation, as well as complying with all international regulatory standards - with these achievements having been acknowledged by such recognized bodies as the IMF, FATF and the OECD.

The above success is no better evidenced than in the area of captive insurance, where Cayman is the leading domicile for healthcare related captive business and the second largest overall captive domicile - only Bermuda has more. From humble beginnings in the late 1970's, Cayman is now home to 770 captives writing more than $7.5 billion in annual premium and having total assets in excess of $36 billion. Within that number are 126 segregated portfolio companies having over 500 cells in total.

So what fuels the continued success of the Cayman Islands as a leading captive domicile? In the words of Ms Mary-Lou Gallegos, the recently retired Head of Insurance Supervision at CIMA, this can be simply attributed to the unique partnership of a sound and business-focused regulatory regime, together with the unwavering support of the Cayman Islands government and the Insurance Managers Association to promote, maintain and protect the reputation of Cayman as the domicile of choice for captive insurance. This only goes to show what can be done when a domicile truly works together towards a common goal. Further information on the regulatory environment can be found on CIMA's website – www.cimoney.com.ky

The annual Cayman Captive Forum, organized by the Insurance Managers Association, attracted over 800 delegates in December 2007 and featured a wide range of speakers and educational presentations on all aspects of the captive and insurance industry. The 2008 event is scheduled from December 2nd to 4th at the Ritz Carlton, Grand Cayman. Further information can be obtained at www.caymancaptive.ky.

Traditionally, when people think of captive insurance companies, they first think of "single parent" structures in which a captive insures or reinsures the risks of its parent or affiliates, but more and more businesses are now discovering the benefits of group or association captives, as well as segregated portfolio (also known as protected cell) captives ("SPC"). An SPC is a single corporate legal entity with the benefit of statutory segregation of assets and liabilities between segregated portfolios established within the company. This allows for one entity to cater for a number of insureds without the risk of cross liability.

When most companies first begin the captive feasibility process, it is normally the result of negative experiences in the traditional marketplace, either due to a lack of availability of cover, coverage reductions, and/or premium increases. As a result, there is an overriding desire to "take control" of their insurance destiny, and to insulate themselves from the fluctuating cycles of the traditional insurance market.

There are many benefits from establishing your own captive insurance vehicle, or joining an existing one, including such aspects as coverage and program design flexibility, insulation from market fluctuations, control of costs, improved cash flow and an improved negotiating position. These benefits are generally acknowledged at the feasibility stage. However, there are others that may not be foreseen at the time of establishing the captive, but which soon take on increasing importance, as follows:

Safety culture
The most significant is the development of an enhanced safety and claims management "culture" throughout the organization. When insured in the traditional marketplace, most entities, while obviously concerned about the well being of their employees, customers, patients, etc, have a tendency to balance the health and safety regulatory requirements with the cost benefit of their implementation, and the establishment of quality control initiatives (in whatever field) with the downside risk of an insurance claim that ultimately gets spread to thousands of other policy holders. However, once you enter the captive insurance arena, the scenario changes dramatically. With premiums more closely tied to your own loss experience, and every amount saved potentially flowing to the bottom line of the captive and ultimately its owner(s), the incentive to focus on reducing incurred claims by enhancing the emphasis on safety takes on an entirely new importance.

Captive insurance companies, if structured and underwritten correctly, are insurance vehicles in the true sense of the word, insuring or reinsuring their shareholders (hence "captive"), with the goal being to retain the (actuarially estimated and funded) predictable frequency losses and reinsure away the "shock or catastrophe" layer. However, because of this structure, they also have the unique ability to work with their owners to encourage and facilitate a culture of safety and claims management throughout their organization(s). Whereas before, insurance was usually handled by the HR or finance departments as a "necessary evil", and rarely came to the attention of senior management, now the latter can sit on the captive's board of directors and have the opportunity to interact with external professionals and captive advisors, who bring to the table a wealth of knowledge that might otherwise never reach them. Additionally, in a group captive environment, they have the ability to exchange success stories with other shareholder companies, whether or not in related industries. As a result, and most importantly, the culture shift permeates from the top down….incentive programs can be initiated, modified duty/return to work programs are implemented, risk management studies are carried out - often with grants from the captive's budget, and claims and case management programs are put into place, with all of these being to the long term benefit of the organization, its employees, customers, patients and its shareholders. So now, instead of being a "necessary evil", the insurance program can have a significant beneficial impact to the bottom line, as well as being a positive influence on employee recruitment and retention.

Investment opportunities
Over a relatively short period of time, captives can accumulate significant amounts of investable assets (representing loss reserves and shareholder's equity) and one of the benefits of a captive is that the investment returns remain with the captive, rather than with the policy issuing carrier under the traditional market scenario. Opportunities for investment by offshore captives are quite diversified, as long as they meet the approval of the local regulatory body, which has an obvious interest to ensure that the captive's assets will be available to pay claims. The ability to invest in a variety of vehicles can be significantly more lucrative than what may be possible for an onshore entity, especially when the potential tax deferral capability is factored in. Loans back to the parent company can also be structured in certain scenarios, as can investment in other corporate expansion plans, either onshore or globally. The key fact, therefore, is that as long as the regulators are comfortable with the captive's investment policy, the parent has potential access to funds that would otherwise be earning income for the traditional policy issuing carrier.

Structuring shareholdings
The potential for structuring the captive's shareholding will obviously depend on the nature of the captive's ultimate parent ie. publicly traded entities will have much less flexibility than privately held "family" concerns, but there may still be opportunities not previously considered. Obviously, any captive shareholding structure should always be fully reviewed and agreed by appropriate legal and tax advisors.

The use of different classes of shares and/or fractional shares, or having shareholder obligations rest with one type of share, while dividends flow to another type, are just a couple of examples of options potentially available. In this way, captive dividends can potentially flow to management and/or employee bonus vehicles, family trusts, offshore trusts or companies, grandchildren, or more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complex corporate structures, thereby having a very beneficial impact on the parent entity's overall tax planning abilities.

If the foregoing has sparked some interest and should you wish to learn more about the Cayman Islands and/or the captive concept, and how they may be able to benefit you or your organisation, please contact Mike Gibbs, the President of Kensington Management Group Ltd, the largest independent captive manager in the Cayman Islands. Kensington has a diversified portfolio of single parent and group captive clients, with the latter including 5 of the top ten alternative risk facilities globally (as ranked by *Business Insurance Magazine*).

Mike Gibbs can be reached at 345 814 7000, via email at mgibbs@kensington.ky or at www.kensingtonmanagement.ky

Brian Stuart-Young, the WCR Banker of the Year and Chairman and CEO of Global Bank of Commerce, exclusively speaks with Tom Page about the role GBC ("the grandfather of Caribbean banks") plays within the region and in the wider financial markets

How has the Global Bank of Commerce helped the Caribbean region integrate with the wider global economy?

Global Bank of Commerce is a very small cog in the wheel of Caribbean financial services, but we have been first to market in a few areas that have become key to providing borderless banking and meeting international regulatory standards. In 2000 we were the lead Caribbean bank to undertake third party audits to review our policies and programmes in order to prevent money laundering. We also became one of the first banks in the region to invest in anti-money laundering software to assist in monitoring all transactions. Our management decisions preceded the pressures that were later brought to bear on Caribbean financial centres from the OECD, FATF and the passing of the USA Patriot Act. Today, as a Caribbean-owned institution we are a member of the Caribbean Association of Indigenous Banks (CAIB) and play a major role in helping to draft a set of banking standards known as the Caribbean Principles (similar to the Wolfsberg Principles created by European and American banks). These are being presented for acceptance to the boards of all CAIB bank members and will serve to advocate the performance of participating banks to demonstrate compliance with international standards. It is steps such as these that help to integrate our Caribbean banks and financial services seamlessly with the global financial system and economy.

What products and services can Global Bank Commerce offer high net worth individuals and corporates locating in Antigua?

The Bank has a wholly owned subsidiary, GBC Wealth Management Ltd, which has a talented team of financial service professionals that can tailor portfolios to meet the requirements of its local, regional and international clients. The Bank also has a private banking division that caters to higher net worth clients and assists in estate planning, including the formation of corporate and trust structures to support the wealth management strategies legitimately employed by clients. In some cases we have developed proprietary banking products to meet the financial expectation of customers. The growth of Antigua as a financial centre was supported by its strengthened legislative and regulatory framework, and has provided the foundation for the Bank to be innovative and look outward to international markets as a fundamental part of its business culture. In order to effectively project its business internationally, the internet became the great global opportunity equalizer for the bank, and GBC has embraced technology and online banking facilities to level the competitive playing field for its wealth management services.

Please describe your on-line banking services

As a provider of international banking services, we must provide clients with secure access to their accounts regardless of their geographic location. It is important to offer an online delivery channel for this service which must be robust, secure and customer friendly. Today, providing all aspects of due diligence and compliance requirements are met, our clients have 24/7 access to their accounts via our service named Globex Secure, an internet banking product provided by Harland Financial Services. Clients cannot open accounts online but once their application has been processed they are eligible to conduct banking using their fingertips for many products and services.

How has the growth of electronic commerce impacted on the bank and its customers?

Banking, like any other business sector, has seen modern technology make significant changes to its operations and delivery systems. The advent of secure internet banking has moved us beyond the teller, the branch and even the country. Clients may also access their funds via our Visa branded credit and prepaid debit cards at merchants and ATMs worldwide. We provide ecommerce services for online merchants with the most secure, scalable, and highly efficient credit card processing solutions. We've formed strategic alliances with leading e-commerce transaction engines that facilitate business enhancements for merchant accounts to conduct global ecommerce services, with online review of customer transactions and call centres. We can offer issuing and merchant settlement in US dollars and euro currency. Our modern payment services will support e-government initiatives for payroll and commerce, and we have an attractive prepaid debit card product that is convenient for employment benefits to crews on yachts, cruise ships, airlines and other international work forces. Our Bank has also been a leader in the use of Visa branded cards for remittances and has more than three years experience in remitting funds via card to card transactions in over one hundred countries. The potential for prepaid card usage is wide-ranging, including gift, employee benefits, business T&E, travel, and government disbursements - and they address consumer, government, and corporate needs.

How do you view the current credit crunch and its impact on the region's economy?

Clearly, there is an impact on the Caribbean resulting from the credit crunch experienced in the USA and Europe. Our Caribbean economies are largely dependent on visitor arrivals and the prevailing economic environment will constrain the natural growth of our tourism products. This is further exacerbated by the rising cost of fuel, which increases transportation costs as well as the cost of general utility services. The jurisdictions providing more up-market products will have less of an impact as the more discriminating tourist will still wish to visit the Caribbean. Tourism destinations that also offer international financial services will become increasingly attractive to international investors seeking a stable jurisdiction to maintain their wealth and possibly invest in a vacation home or simply enjoy a holiday.

How do you see the role of a bank operating on a global level?

The globalized economy is changing the way financial institutions operate by opening the doors for banks located in small jurisdictions to support financial market integration. With a focused strategy, Global Bank of Commerce has recognized that its core competence lies in superior service to clients and the use of advanced technology is only a means of achieving higher service levels. In this regard, global banking products have been developed from strategic relations with valued technology partners that provide core banking, payment and settlement systems. Global Bank of Commerce represents a new breed of financial institutions, one which is selective in maintaining best banking traditions but is prepared to step outside the box to invest in technology that levels the playing field for us to operate on a global level in respect of certain services such as wealth management and ecommerce services.

What are the strengths of the Caribbean economy and how do you see the region's future role?

The Caribbean has traditionally been known for tourism and

agricultural products, but the shifting sands of the global economy are impacting on both these sectors. Caribbean governments generally provide a stable and democratic environment for business and are therefore keen to diversify their economies to include services. Very recently two of the largest Caribbean territories have indicated their intention to establish international financial centres.

Smaller jurisdictions such as Antigua and Barbuda have pursued this avenue for the past twenty-five years and are now actively broadening the role of the sector to expand the opportunities for not only financial services but also information technology services. As a result, the country's international business and banking sector continues to thrive, contributing towards the growth of the economy. The jurisdiction has successfully merged business with pleasure and has become a premier investment centre, offering generous investment opportunities, excellent banking services and a social environment which is among the best in the Caribbean. ■

Kazi Hussain, the Head of Islamic Finance at Europe Arab Bank plc, talks to Tom Page about the integration of Islamic finance into the global banking community

Please describe the integration of Islamic finance within the larger banking community

Islamic finance has been moving from niche to mainstream – the integration into the global banking community has been relatively more rapid over recent years. This push has been a direct result of the increase in oil revenues and the general phenomena of Islamic investors wanting asset classes in line with their religious beliefs. In 1975 there was only one Islamic financial institution while now we are looking at over three hundred in countries from all the way in the Far East as Malaysia to the City of London. This growth in institutions and overall demand for sharia compliant products has meant that there has been significant Islamic asset growth, with estimates of between US$250 billion to US$300 billion of Islamic assets globally at the present time.

From a product point of view both retail and wholesale Islamic products have lent themselves towards more integration into the mainstream. Retail products have been developed to address the home finance arena, personal savings, insurance and fund investments amongst others. The Islamic investor requires these asset classes just as much as the conventional investor does. Hence the demand has been met by both conventional institutions and the establishment of Islamic institutions.

Retail products have been made available for example in the United Kingdom for over ten years – with a lot of product diversification coming in the recent past. A Kuwaiti institution in London was one of the first to come to the market with a home finance plan nearly a decade ago. Since then the demand for sharia compliant financial products has been fuelled by the domestic Islamic investor wanting the "Islamically acceptable" form of products that suits their lifestyle and meets the religious guidelines. This phenomenon has been recognised by the larger well established conventional banks. The onset of the "Islamic windows" in conventional banks has been a direct result of this increased demand from their clients for Islamic financing solutions. Thus the push within the mainstream banks for specialist Islamic knowledge and access to sharia through the attainment of sharia boards has become very commonplace. No longer is it unusual to have sharia scholars rub shoulders with the top investment bankers and analysts.

In addition, the role of the regulators, the governments and subsequent reforms (in particular in the United Kingdom) have made it much easier for the banks to innovate and establish the retail products in the financial market place. The specificities of the sharia structuring for a sharia compliant mortgage product has been a prime example where the relevant changes in legislation has made the integration of these products into the mainstream more viable. It must be recognised that the Islamic retail sector in the western markets will be limited by the size of the Islamic market – it does not necessarily mean that non-Muslims will not take up these products but then these products must compete on return, price, transaction costs, accessibility, and so forth and not only on the level of sharia compliance.

On the wholesale side there has been a sharp growth in the capital markets products with sukuk being pushed as the equivalent of what in conventional finance would be more akin to a fixed income product with either an asset backed or an asset based structure underlying it. Global issuances are being structured and distributed by all the major investment banks – however issuers have been predominately from the GCC and Asia. We have seen the state government of Saxony Anhalt issue a historic sukuk – the first for a European –based state government. The sukuk market is still very small in comparison to the conventional fixed income market. However, it is still a key tool through which mainstream recognition of the asset class has been achieved. Corporates, financial institutions and governments have approached the sukuk asset class with interest as it is one of the key tools in unlocking the GCC liquidity. In recent months, given the speculation regarding the dollar peg in the GCC countries, it has not been as easy to raise hard currency funds through issuance of sukuk – and of course this has been affected by the credit crisis which has made liquidity even tighter. Albeit trade finance murabaha, leasing through ijara based structures, syndicated commodity murabaha lending and sukuk have become common place in the language of bankers as well as issuers.

As more and more deals take place the standardisation of the documentation has followed in key products within the Islamic asset classes – however this has really been more effective in the wholesale Islamic market. Nearly all the major law firms have Islamic finance teams and sharia experts who are able to structure straight forward trade finance deals to complex project finance transactions with specific sharia structuring. This move to more standardised documentation has become more apparent especially in interbank liquidity management products. Given the number of London-based Islamic banks, there is talk of a London standard commodity murabaha documentation. This will obviously cut costs and lead to a more efficient and more practical way to move forward.

How do you view the British government's commitment to making London the gateway for Islamic financial services?

The British government's approach of making London a gateway for Islamic finance is consistent with regards to their overall approach to the finance and banking sector as a whole. The government has long been a key supporter of the City of London – promoting the skills of the financial workforce in the City of London, the professional regulatory systems, developing and allowing for innovation in asset classes, and of course its tax treatment. Thus Islamic finance has been recognised as an asset class which is developing and one where the City of London is contributing significantly in its development and will do so in the future. Hence it is only natural for the government to push the development of London as a hub outside the GCC and Malaysia for Islamic finance. Significant regulatory and legislative changes are being undertaken at present to facilitate this growth in the Islamic asset class in London. The FSA has issued 5 licenses to Islamic banks in the UK with another two currently in application. This has clearly differentiated the London market from the rest of the Western markets. The government has gone one step further by undertaking a consultative process on a sterling sukuk program, and the key conclusions of the consultation listed below were presented to the Islamic Finance Experts Group which is chaired by Kitty Usher – Treasury Minister;


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- the balance of advantages and risks lies with 'bill-like' sukuk rather than 'bond-like' sukuk;

- a rolling programme of up to around £2 billion of bill-like sukuk issuance would be achievable over time;

- a 'bill-like' sukuk programme would be fully integrated with the conventional treasury bill programme, which has rolling issuance at 1, 3 and 6 month maturities; and

- the government would use a 'plain vanilla' ijara-based structure to facilitate sukuk issuance.

According to the HMT there are still, however, a number of outstanding issues that need answering before the government would be in a position to announce a decision on whether or not it will issue sukuk. The government will be issuing a paper detailing the UK strategy on Islamic finance before the end of 2008, and also publish the state of progress with respect to the outstanding issues on the sukuk issuance before the budget is announced.

What would the benefits of a UK sukuk sterling issuance be?
The issuance of a UK government sterling denominated sukuk would provide the following;`

- It would enhance London's position as a leading centre for Islamic finance given that the sukuk would provide significant product development opportunities and lead to more instruments being offered in the market.

- The sukuk would provide a triple A rated hard currency marketable instrument which would have substantial liquidity underpinning it, which has been absent from the market until now.

- The government has looked at potentially £2 billion issuance and on various maturities; this would therefore produce a yield curve and provide the necessary liquidity for the London Islamic market. The sukuk would also be available for discount at the Bank of England window.

How large do you see the market for such a sukuk?
The sukuk would have a wider market now as compared to say two years ago. An issuance by the government would allow a new investor base to access UK government hard currency Islamic paper. Typically European investors have shown appetite for rated sukuk, while the Middle Eastern investors (mainly FI's) put more emphasis on a higher return. Malaysian investors are also in the picture, although there are only a handful of Malaysian FI's or institutions that will invest in hard currency denominated paper. Thus the government would have to find the successful pricing range to bring in these investors but not create an arbitrage opportunity for existing UK gilts. This will be key for a successful launch. If successful it would create a benchmark issue and would therefore increase London's position in the global Islamic market.

What are the key developments fuelling the growth of Islamic financial services?
It could be argued that the first real impetus for the development of Islamic finance was the 1970's oil price crisis. Huge cash windfalls required assets, and again given the recent oil price situation the large cash inflows into the GCC have meant that liquidity levels are massive. With large fiscal positions, more and more governments are choosing to invest in larger infrastructure, real estate and oil and gas projects. Corporates are also finding themselves being able to attract local liquidity through Islamic issuances. Investors are now seeking to find Islamic alternatives so that they can earn a sharia based return for their liquidity. Businesses can now tap both conventional and Islamic investors thereby diversifying their investor base. As more and more institutions have emerged in providing these Islamic finance based services the more integrated and the more accessible Islamic investors have become.

How is the European market for Islamic financial services growing?
The European market has seen over the last few years a number of new Islamic banks being established. Arguably the push has been in the London market. Retail banking growth has been lagging overall. The growth has been in terms of Islamic investment banks which are looking to leverage off London's reputation in the financial markets, and basically add value and earn fees on placing deals in the market – selling Islamic deals to both Islamic and conventional investors. All major financial institutions now have dedicated MENA or Islamic desks (or a combination of the two), providing a range of Islamic finance services. The market overall in Europe still has a long way to go. The current euro swap rate has made it difficult to raise GCC liquidity for European corporate. In addition, issuers are cognisant of historically cheaper conventional debt in the European markets. Europe Arab Bank plc is in a unique position being able to bridge MENA and Europe together and provide solutions for corporates who operate in both regions. There will be opportunities in the current credit crisis-hit market as assets become relatively cheaper in Europe and GCC liquidity pores in to pick up these assets; most likely to be in real estate or private equity based transactions, thereby opening up avenues for Islamically structured leveraged deals to grow. The other areas of growth will be in structured products and in risk management products such as profit rate swaps or FX products using unilateral promise underlying the sharia structures.

In view of the credit crunch and the lack of interbank lending, will the development of Islamic finance face a slowdown?
Credit fundamentals and market behaviour is just as important in the Islamic market as it is in the conventional market. From the recent decline in sukuk issuances (circa last 15 months) it is clear that spreads have blown out and issuers are reluctant to come to market as a result of the credit crisis. However, syndicated commodity murabaha facilities have successfully been sold down but again at relatively higher margins. Innovation and development will continue but overall issuance levels will be hit until the overall liquidity and credit situation eases. We must also take into account that interbank liquidity in the Islamic market is available but not many GCC based institutions are long US dollars. Thus many facilities will have multicurrency facilities so as to maximise investor sell down. ■

ICMA Centre Launches UK's First Collaborative Degree in Investment Banking and Islamic Finance

The ICMA Centre's MSc in Investment Banking and Islamic Finance is a first in the UK and is taught jointly with INCEIF (International Centre for Education in Islamic Finance) in Kuala Lumpur

The degree aims to respond to the growing interest in Islamic finance, and also the increase in Islamic banking services, Islamic investment and other financial services that are based on Islamic principles.

The MSc is the first in the UK to use Islamic material taught by Islamic specialists and aims to capture the increasing demand for the subject with an academic base and practical orientated views on issues such as Islamic finance, economics and law. Students will benefit from having the opportunity to spend three months studying in Kuala Lumpur and study alongside Islamic finance professionals. The MSc will not require any previous knowledge of Islamic law or concepts but will explain the current issues within their overall Islamic economic and legal context.

Overall, graduates will benefit from a thorough understanding of Western banking practices that are allied to the principles of Islamic finance. They will be well qualified to join specialist Islamic financial institutions, investment managers and finance divisions of multinational companies. ▶▶

In addition, participants of the course will also cover the materials necessary to qualify for the Certificate Islamic Finance Professional (CIFP). This certificate aims to give participants a better insight on worldviews and also cross-cultural perspectives for a robust Islamic finance industry.

The partnership brings together two institutions with great reputations for education focused on the financial markets. The ICMA Centre, part of the new Henley Business School at the University of Reading, has an international reputation for being the premier institution in Europe for undergraduate, postgraduate and executive education tailored to the capital markets industry. Established in 1991 with funding provided by the International Capital Market Association (ICMA) in Zurich, the Centre is housed in a purpose-built modernist building with state-of-the-art facilities including two dealing rooms using software similar to those found in major investment banks. The Centre will shortly be celebrating the opening of its new extended facilities including a flagship 50-seat dealing room – sponsored in part by Thomson Reuters.

INCEIF – The Global University in Islamic Finance was established in 2006, with significant funding and support from a number of key Islamic agencies and the Bank Negara (Malaysian Central Bank). Featuring industry experts on the faculty, the courses that INCEIF offers promise an innovative and practical learning method that will equip the human intellectual capital needed to enhance the industry globally.

Professor John Board, Director of the ICMA Centre said, "We are delighted to launch this programme in partnership with INCEIF. We are already receiving a great amount of interest in this degree and our other new Masters degrees such as Financial Engineering and Corporate Finance."

Agil Natt, President and Chief Executive Officer of INCEIF said, "Our unique mission is to elevate and advance the practice of Islamic finance globally. We aim to do this by being the knowledge leader in Islamic finance not only from the religious aspect but also from the ethical perspective to everyone, from KL to Dubai, Tokyo, London and the rest of the world, irrespective of faith and creed."

For more information please visit www.icmacentre.ac.uk/ibif or email l.hogg@icmacentre.ac.uk quoting ref: IBIF.

The Role of Carbon Markets in Combating Climate Change

Caio Koch-Weser is Vice Chairman of the Deutsche Bank Group

Trading systems constitute the most efficient method of reducing emissions, especially in cases in which there are challenging emission-reduction targets. Market-based incentives will facilitate, and in fact accelerate, the technological innovation and investments needed to sharply reduce the carbon content of human activities. A broad-based understanding of the potential role of emissions trading in the fight against global warming is crucial as we move toward a post-Kyoto agreement.

Europe has been the leader with the Emission Trading Scheme (ETS). After some initial difficulties, the ETS has become an important indicator for carbon pricing. There are now clear signs that countries such as Australia, New Zealand, Norway, and individual US and Canadian states such as California, New Jersey, British Columbia and others will follow the EU lead even before a new international agreement will have been signed.

In fact, political will is already emerging regarding the linking of these various local markets. While encouraging, it is imperative that the various trading schemes that exist or are in the process of being set up, are sufficiently similar to allow efficient linking. Only linked markets will allow the emergence of a global price for carbon and hence an efficient allocation of resources.

The rapid rise of the ETS combined with the provisions of the Kyoto protocol carbon market has generated significant benefits to developing countries. Significant capital has been invested in emission-reduction projects under the Clean Development Mechanism (CDM). These projects generate credits that can be used in part to comply with the EU ETS. The CDM has over 1,000 registered projects in China, India and throughout the developing world, with projected emissions exceeding 200m tonnes CO_2 per annum. Improvements to the CDM process, however, are urgently needed.

Need for private sector voice on the road to Copenhagen

The carbon market is still new but there has been an exponential increase in trading volumes growing from €8 billion in 2005 to €40 billion last year. By 2030, the carbon market could reach the size of the oil market. Given the relative size of the ETS market today and the long-term targets set by the EU, the price of carbon in the ETS is likely to be the driver for prices elsewhere.

Investments in clean technologies, renewables and other climate change–related products are taking off. In 2007, about $150 billion was invested in renewables around the world, almost twice the amount of the year before but still only 1 percent of overall fixed capital investment globally. Increasingly, investors will be looking for "winners," ie. companies that are innovators in the climate change space. Hence, pro-active, innovative companies are likely to be rewarded.

The importance of market mechanisms was also featured at the climate conference in December 2007 in Bali where, despite mixed expectation ahead of the meeting, a consensus emerged among political leaders from both developed and emerging countries that mechanisms must be found to reduce the global output of green house gases and a roadmap and timetable toward that goal was agreed.

While no specific targets were articulated, even industrial countries that have rejected the idea of mandatory cuts in the past, such as the US, are now no longer ruling them out. Similarly, developing countries who during the Kyoto negotiations sought and obtained assurances that the protocol would include "no new commitment," committed in Bali to include mitigation plans in the next agreement.

Importantly, countries agreed that there is an urgent need to reduce emissions from deforestation and the Bali roadmap launches a series of new steps to harness substantial new resources to protect tropical rainforests such as the Amazon.

Finally, the Bali talks focused rightly on "adaptation," recognizing that even very aggressive cutting of emissions will not eliminate the impact of some global warming, especially in developing countries. The Bali decision envisages a process by which countries will cooperate to adapt to these disruptions from climate change.

Despite these positive signs, this is not the time for complacency, and the business and financial community can and must play its part on the road to a new global climate deal. It is in their interests since climate change not only presents risks but also vast opportunities. Business can drive technological innovation and the financial industry invests directly, helping raise funds to invest in technology, products and projects, and provides liquidity in the carbon market. However, an enabling policy framework will need to be put in place which is:

- Market-based and introduces cap and trade systems leading to an international market and a global price for carbon.
- Long-term to provide continuity, stability and certainty. This is especially important to ensure a steady flow of investment into clean technologies.
- Comprehensive and address all greenhouse gases and relevant sectors. And finally, the framework should be
- Equitable and recognize that all current and future major emitting countries have common but differentiated responsibilities.

These general principles and the market lessons we have learnt from the ETS should enable policymakers to design an efficient and effective post-Kyoto agreement. Similarly, clear implications can be derived for the measures that will be needed to truly globalize the market for emissions trading and rationalize the CDM process.

Lessons from the ETS

The Kyoto protocol has led to action on various fronts, and perhaps most importantly it has propelled the ETS and the creation of the largest carbon market. The experience of Phase I of the ETS in which allocations were larger than actual emissions, with the result of the carbon price falling toward zero, has taught the market important lessons. In particular:

1. It is critical to have reliable data on company emissions and political will to avoid setting inflated caps. In fact, policymakers should consider setting caps well outside the margin of error for emission projections to avoid over-allocation.

2. Markets need a sense of "permanence", ie. a trading scheme is here to stay. Only then can innovation and technological advances be incentivised and longer-term planning for installations be facilitated.

- The implications for a post-Kyoto agreement are therefore that it should cover at least the period to 2020, longer than the initial 5 years which seems to be too short for countries to meet targets. At the same time, the period should not be too long in order to avoid procrastination.

3. Greater use of auctioning from the beginning of any trading scheme is beneficial from both an economic and a political perspective.

- Economically, auctioning allowances raises funds for the public purse. These should, however, be allocated to the climate change space rather than used for general budget purposes. For example, such funds could subsidise zero-carbon energy technologies until they become commercially viable or provide income support to vulnerable energy consumers (subject to means testing).

- Political support for a trading scheme can be more easily achieved when the higher prices due to auctioning are seen to benefit environmental policy objectives rather than the companies in the scheme and their shareholders, as is the case with free allocation of allowances.

4. Banking of certificates makes economic and ecologic sense – being able to allocate certificates over an overall investment

period allows not only efficiency gains between companies but also between time periods.

5. Since markets rely on information for efficiency, it is vital that the companies covered by a trading scheme should be required to report on at least a quarterly basis (rather than an annual basis as is still the case with the ETS today). This will make for a more orderly market and hence reduce price volatility.
6. Finally, it is also crucial that the design of a market and the setting of caps is not politicised.

Key technologies and linking markets

The EU Commission has been setting the standard and wants to be a leader in renewables and clean coal technologies that employ carbon capture and storage (CCS). Based on important work by McKinsey and Vattenfall, we need a price of at least €40/tCO_2 compared with a price of about €25 today in order for CCS to become an option. Indeed, based on current projections for oil and gas prices and the caps for Phase 2 and 3 of the ETS, CCS could become commercially viable around 2020. At the same time, a rising price for carbon is essential to incentivize the build-up of sufficient combined cycle gas turbine (CCGT) capacity to meet the EU's commitment to cut GHG emissions by 20 percent by 2020. Such commitments provide the necessary longer-term orientation for market participants.

However, CCS is even more important for countries such as China and the US, given the amount of fossil fuels available especially in these countries. It is therefore crucial that we find a way that makes fossil-based but clean technologies economically feasible.

On the road to Copenhagen, early commitments to ambitious emission reduction targets are therefore needed from the largest emitters, in particularly the US, China, and India. For the US, the commitment should be in form of a binding limit. China and India should at least aspire to a firm target. Whether commitments will be expressed in absolute or relative (per capita) terms will at the end be a political decision but in the first instance the commitment as such must be made. Such actions will help set the proper price signal today reflecting future tighter limits and bring about the technological progress needed globally over the medium-term.

Linking of the tight cap and trade regimes in Europe and the US and possibly other developed countries such as Japan and Australia would send a powerful political signal to China and India that countries that have historically contributed the most to the generation of green house gases are taking a lead toward resolving the problem.

For markets it is encouraging to see true progress in the US, especially in California and other western states and Canadian provinces that form WCI (Western Climate Initiative) and the eastern states that form RGGI (Regional Greenhouse Gas Initiative). These trading schemes should be extended to the federal level. While the journey of the Liebermann/Warner bill through the US Congress ended in early June, few observers doubt that the discussion will resume in the next Congress and under a new US Administration. Both Presidential candidates, the Republican John McCain and the Democrat Barak Obama, have expressed their strong belief in a federal cap and trade system as well as an international agreement on climate change.

Such efforts will make it easier for the largest emitters of tomorrow to join this process. The preparedness of Chinese steel producers who recently joined the new global CO_2 monitoring scheme by the International Iron and Steel Institute is a strong indication of the new champions' willingness to assume shared responsibilities. Similarly, the new Chinese leadership team has expressed a strong interest in leveraging public-private partnership to transform their energy production. During the Party Congress in March 2008 it was announced that the share of renewables is to be raised to 20 percent by 2020 from about 5 percent at present.

A mechanism in urgent need of improvement

For practitioners in the carbon market, it will be key to preserve flexible mechanisms such as CDM and JI in a successor agreement. At the same time, efforts should be made to combine them into one framework with shared methodology and oversight to avoid duplication.

The CDM mechanism has been very successful with over 1,000 registered projects eligible for CER issuance. These projects need to be regularly monitored, reviewed, and verified by a Designated Operational Entity (DOE) and the Executive Board of the Clean Development Mechanism (CDM-EB) before certificates can be issued. The capacity of DOEs and CDM-EB has not kept pace with the rapid expansion of eligible projects as well as the pipeline of projects yet awaiting registration. Registration requires a similarly involved process to be carried out by these bodies.

The capacity constraints in the DOEs and CDM-EB and the delays in CDM registration and CER issuance are already having a significant impact on existing CDM projects. In addition, further delays may dramatically reduce the viability of pipeline projects, discouraging investment in and development of CDM emissions reductions projects. As the world starts to consider the successor to the 2008-2012 Kyoto Protocol, and as many regional trading schemes consider linkage with the CDM, these capacity constraints may not only damage the CDM, they may damage the development of regional and international cap-and-trade schemes in general.

To help address this problem, a small working group of UNFCCC, CDM-EB, DOEs, project developers, and buyers should be formed to examine a pragmatic evolution of the CDM as a practical market instrument whilst safeguarding its high environmental standard. Items for consideration could include:

- Increase resources
- Abandon the requirement that for a given project the verification DOE cannot be the validation DOE
- Allow retrospective issuance of CERs for emissions reductions achieved prior to registration (assuming the project successfully registers)
- Relax the processes for smaller projects and increase the fees but also the resources for larger projects

Conclusion

Emissions trading remains relatively underutilised and could become a major tool for economic and environmental transformation. The world economy will benefit from inter-linked markets trading the same underlying commodity on the same terms. A unique tradable carbon product will provide greater liquidity and will give investors confidence that the market is here to stay.

The EU has embraced the crucial link between the carbon price and technological innovation. Enhancing the understanding of the carbon markets and the benefits of market-linking among a wide range of policymakers will set the stage for a global carbon market to emerge in the not too distant future.

DB has been active in this area, and we are thinking hard about how to promote technologies that are environmentally friendly. These are my reflections on the emerging landscape. DB does not accept liability for any direct, consequential or other loss arising from reliance on this article. ■

NYMEX Expands Market-Based Solution to Clean Air Efforts

James E Newsome is the President and CEO of the New York Mercantile Exchange, Inc

The trading slate of environmental products listed on NYMEX as part of The Green Exchange™ venture was significantly expanded in August with the launch of cleared futures and options contracts for the north-eastern US regional climate change initiative.

The new futures and options contracts are designed to foster price discovery, market transparency, and risk management for participants in the Regional Greenhouse Gas Initiative – also known as RGGI – a cooperative effort of 10 north-eastern states to reduce carbon dioxide emissions through an allowance trading program.

The NYMEX RGGI futures and options contracts were launched with the opening of the August 25 trading session, just a month before the first quarterly auction of carbon emissions allowances by RGGI on September 25, although over-the-counter trades in the allowances have occurred since April. December 2009 is the first listed delivery month for the NYMEX contracts.

Momentum has been building on the NYMEX Green Exchange venture since the idea was conceived in mid-2007. The NYMEX contracts were launched on March 17 as part of the new venture. The ambitious slate is also made up of futures and options for US emissions allowances for nitrogen oxides, sulphur dioxide, and European carbon dioxide, and trading volume has grown in each month since March. At mid-year 2008, cumulative volume was more than 25,000 futures and options contracts and open interest stood at nearly 19,000 contracts.

The introduction of these contracts was a logical progression in the development of risk management instruments for the energy markets. NYMEX developed the first successful series of energy futures and options contracts starting in the late 1970s and is today the premier marketplace for managing price risk in physical positions of crude oil, refined petroleum products, natural gas, coal, and electric power. The slate of "green" futures and options contracts gives market participants the opportunity to go a step further and manage the monetized risk associated with the emissions that are released when consuming those fuels. For example, the US Court of Appeals in Washington, DC, on July 11 invalidated parts of the program for trading sulphur dioxide and nitrogen oxide emissions, injecting a large dose of uncertainty into the marketplace.

The market for carbon trades continues to expand exponentially, and totalled approximately $80 billion in notional value for 2007. The market appears to have matured quickly, although it is still relatively new. While many nations have established mandatory caps and standardized emissions offset trading under the Kyoto Protocol, the United States has not, so a voluntary cap-and-trade system is evolving on a regional basis. The north-east's RGGI is the first to get started with the support of the state governments. The Western Climate Change Initiative is being formed with an intended start-up in 2012 and the California Climate Action Registry is a non-profit public organization started by the State of California to serve as a voluntary greenhouse gas registry to encourage and protect early actions to reduce greenhouse gas emissions.

The Green Exchange initiative also reflects the view of NYMEX and the 13 other founding partners that market-based solutions are preferable to command-and-control edicts. The partners in the Green Exchange initiative are NYMEX, Evolution Markets, Morgan Stanley, Credit Suisse, JPMorgan, Merrill Lynch, Tudor Investment Corporation, Constellation Energy, Vitol SA, RNK Capital, Goldman Sachs, ICAP Energy, TFS Energy, and Spectron Group Ltd, all companies with a strong trading presence in the marketplace.

It is intended that the Green Exchange venture will develop into a stand-alone, regulated futures and options trading forum. An application will be made to the Commodity Futures Trading Commission in anticipation of approval by next year. Following the CFTC certification of the Green Exchange as a designated contract market, it is intended to develop into the nexus for trading environmental products designed to help market participants manage risks associated with climate change and the development of sustainable energy sources. Transactions in these contracts as well as new products that might be listed will continue to be executed on the current trading platforms and trades will continue to be cleared through the NYMEX clearinghouse.

The RGGI futures contracts, and the others in the slate, are available for competitive trading on the CME Globex® electronic trading system. Futures and options transactions executed off of the exchange can be submitted for clearing through the NYMEX ClearPort® platform. The futures contract is physically delivered to the RGGI CO_2 Allowance Trading System. The trading unit is 1,000 RGGI CO_2 allowances with a minimum price fluctuation of $0.01 per allowance. Each allowance is equal to one ton of CO_2. The futures contract terminates at the close of business on the third business day prior to the first business day of the contract month. The RGGI options contract is an American-style option that exercises into the underlying futures contract.

The RGGI futures contract is the third carbon trading instrument in the green slate. Futures contracts for European Union Allowances (EUA) were already listed for carbon dioxide under the EU emissions trading scheme, and futures are listed for European certified emissions reduction credits (CER) for carbon dioxide under the UN Clean Development Mechanism.

The EUA and CER contracts are equal to 1,000 European Union allowances - 1,000 metric tons of CO_2 equivalent. Each SO_2 contract is equal to 100 SO_2 allowances, and each NO_x contract is equal to 10 NO_x allowances.

SO_x, NO_x, and carbon make up green futures and options slate

The slate of green futures and options contracts consists of contracts that let market participants hedge their exposure in the emission allowances markets for carbon dioxide (CO_2), sulphur dioxide (SO_2), and nitrogen oxides (NO_x). The futures contracts are listed for trading on the CME Globex® electronic trading system; off-exchange transactions can be submitted for clearing via the NYMEX ClearPort® clearing platform. Options contracts are available for trading by open outcry and can be submitted for clearing through NYMEX ClearPort®.

Carbon-based contracts

The carbon-based contracts consist of US Regional Greenhouse Gas Initiative (RGGI) and European Union allowance (EUA) futures and options contracts and a certified emission reduction (CER) futures contract.

The RGGI futures contract (RJ) is physically delivered to the RGGI CO_2 Allowance Trading System. The minimum tick size is $0.01 per ton and the contract size is 1,000 tons of CO_2.

The RGGI options contract (OR) is an American-style option that exercises into the underlying futures contract. The options expire three business days prior to the expiration of the futures contract. The strike prices are listed in increments of $0.50 per allowance above and below the at-the-money strike price. The contract trades on the NYMEX trading floor and off-exchange transactions can be submitted for clearing via NYMEX ClearPort.

The EUA futures contract (RC) is physically delivered at the UK Emissions Trading Registry. The minimum tick size is €0.01 per metric ton and the contract size is 1,000 metric tons of CO_2, corresponding to 1,000 EUA units.

The EUA options contract (AV) is a European-style option that exercises into the underlying futures contract. The option expires three business days prior to the expiration of the futures contract. At least 10 strike prices in increments of €0.50 per metric ton of CO_2 are listed above and below the at-the-money strike price.

The CER futures contract (VA) is physically delivered at the UK Registry. The minimum tick size is €0.01 per metric ton of CO_2 equivalents.

The CER options contract (VG) is for 1,000 metric tons of CO_2 equivalents, corresponding to 1,000 CER units. The European-style option expires three business days prior to the expiration of the underlying futures contract.

NO_x emission allowance contracts

NYMEX lists five seasonal NO_x emission allowance futures contracts, for the current year, (RN) and one for each vintage year 2009 (YI), 2010 (YJ), 2011(YN), 2012 (YM). Each seasonal contract is physically delivered at the US Environmental Protection Agency NO_x Allowance Tracking System (NATS), and relates to the ozone season from May 1 through September 30. The minimum tick size is $25.00 per ton. Each contract is for a 10-ton lot.

Four annual NO_x emissions allowance futures contracts were also launched, for 2009 (WW), 2010 (YP), 2011 (YQ), and 2012 (YR).

SO_2 allowance contracts

The SO_2 Emission Allowance Futures Contract (RS) trades in lots of 100 allowances with a minimum price fluctuation of $0.25 per allowance. Settlement is by physical delivery through the US Environmental Protection Agency allowance tracking system.

SO_2 emission allowance options contract (AS) is a European-style option that exercises into the underlying futures contract. The option expires on the 15th business day of the contract month. There are at least five strike prices in increments of $5.00 per allowance above and below the at-the-money strike price. ■

The Global Carbon Market In 2020

Endre Tvinnereim is a Senior Analyst at Point Carbon

Introduction

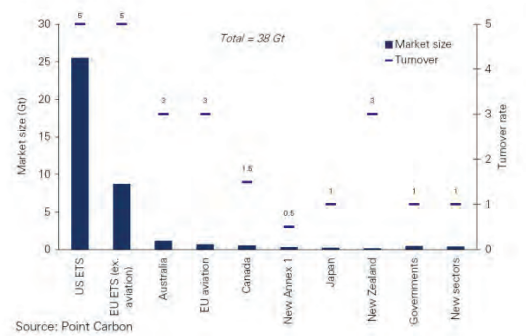
How big will the carbon market be in the year 2020? That is, what will be the volume of transactions under mandatory trading schemes, where greenhouse gas (GHG) emission allowances or credits change hands?

Having a concept of the future size of the carbon market is important for at least two reasons. First, market volume says something about the number, size and kind of participants that a market can accommodate. A bigger market means more, larger and more diverse players. Importantly, a large market involves not only compliance buyers and sellers but also financial players, who will provide liquidity to the market.

Second, an indication of 2020 market size will say something about the place we think emissions trading will have in a future climate structure – not immediately after the end of the first Kyoto commitment period, but well into the post-2012 regime. This is important for long-term investors in sectors exposed to a carbon price.

The model

We calculate the size of the carbon market in 2020, the transacted volume, as the total underlying carbon assets in 2020 multiplied by the turnover rate in each scheme that year (see Figure 1). Underlying carbon assets are the sum of carbon allowances (permits to emit a certain amount of GHGs under a cap-and-trade scheme, ie. the cap) and carbon credits (certificates issued from the reduction of GHG emissions outside a cap-and-trade scheme). We base our estimates primarily on current plans for domestic emissions trading schemes.



Source: Point Carbon

Figure 1

In our methodology, we therefore include the credit limit, or estimated credit import, as a measure of an increased cap in the various schemes, assuming that the available supply of project credits will meet the credit demand from the ETSs. Thus, in our demand-based approach, project credits are counted on equal footing with ETS allowances.

For the same reason, we only count offsets originating outside any ETS worldwide. For example, an import of 1m EU emission allowances (EUAs) to the US ETS would reduce EU ETS supply by the same amount, but with no effects on the total underlying carbon assets in either the EU ETS or the US ETS. The volume of transactions between linked markets will be subsumed under the general turnover estimates.

The turnover rate denotes the average number of times a given carbon asset trades in a given period (typically a year). For example, in 2007, turnover in the EU ETS was roughly 0.78, which means that a volume of EUAs corresponding to 78% of the EU ETS cap in 2007 changed hands. We distinguish between primary and secondary markets.

Primary markets encompass transactions such as CDM emission reduction purchase agreements (ERPAs) and EUA auctions, which by definition have a turnover rate of one. Conversely, the volume of secondary trades, where the seller is not the original owner (or issuer) of the carbon asset, could have turnover rates of anything from zero to multiple times the underlying assets.

Underlying carbon assets

Our calculations are based on a number of assumptions including a main scenario, which models emissions trading schemes in the US, EU, Australia, Japan, Canada and the remainder of the OECD including Mexico, South Korea and Turkey.

For the US, the model assumes a cap-and-trade scheme along the lines of the first Lieberman-Warner bill. The caps are set to reduce GHG emissions to 2005 levels by 2012, 1990 levels by 2020 and by around 70% below 2005 levels by 2050. This corresponds to a reduction of 15% below a 2005 baseline by 2020. Our modelled US ETS covers a greater share of domestic emissions than the EU, with 4.4bn allowances to be allocated in 2020. Among the sectors covered here, but not under the EU ETS, transportation is the largest.

In January 2008, the European Commission published its proposal for Phase 3 of the EU ETS, which will run from 2013 to the end of 2020. The proposal calls for a default reduction of GHG emissions in the EU by 20% under 1990 levels in 2020. In case of a "satisfactory" international agreement, the EU will take on a reduction target of up to 30% under 1990 levels. In our main scenario, we will take the average of these two extremes – a 25% reduction under 1990 emissions, which implies a 2020 allocation of around 1.5bn EUAs.

In addition to this, the aviation cap under the current EC proposal is set at 225 Mt for the 20% scenario and 198 Mt for a 30% reduction. This would give an aviation cap of 212m aviation EUAs if a 25% reduction target is chosen. In addition, we estimate an aviation credit limit of about 7 Mt. The total underlying asset, including aviation and credits, would thus be almost 2bn EUAs in 2020.

Coverage in the Australian ETS is assumed to be 84% of the country's 2020 emissions. Under our 25% reduction scenario, this would give a cap of 336 Mt in 2020. Full auctioning should be the rule – although trade-exposed sectors might receive free allowances as "transitional" assistance.

Also included in our model are trading for international marine and aviation emissions and a continuation of government procurement of carbon credits in the EU and Japan.

Where no other plans have been published, we assume that current Annex I countries will take on 25% reduction targets compared to either 1990 or 2005 baseline emissions.

In summary, the total underlying asset in the global carbon markets is expected to be around 9.4 Gt in 2020. In comparison, the underlying asset in 2007 was around 2.5 Gt. The federal emissions trading scheme in the US is expected to be by far the largest system in the world, containing 54% of the total underlying assets. The EU ETS is second with around 19 percent. Combined, these two markets therefore cover almost three-quarters of the total underlying assets.

Market turnover

How many times will the world's carbon assets trade in 2020? In general, the turnover is determined by a variety of factors, for instance the tightness (scarcity) in the system, the depth (volume) in the bid/offer spread and the volatility in the market. ▶▶

As the carbon markets are young – and in some cases have not even been established yet – we look into other more mature commodity markets in order to get guidance on what to expect in the carbon markets in terms of volume of transactions.

We look at the crude oil, Nordic power and continental European power markets for guidance on what turnover rates are reasonable.

In our main scenario, we see the US ETS and EU ETS as large and diverse. They will have considerable shortfalls, while operating in countries with active power and commodity markets.

We assume that turnover in these schemes in 2020 will not be much lower than the levels seen in the crude oil and Nordic power markets in recent years. Other schemes and purchasing programmes are assigned lower turnover rates. Based on these assumptions, we calculate an average turnover rate in the world carbon market of about four times underlying assets by 2020.

Hence, financial institutions will primarily look at the US and Europe when seeking to trade carbon.

Market size

Adding the products of the underlying assets and turnover in each market segment yields a market size in 2020 of 38 Gt CO_2e (equivalent carbon dioxide), as shown in Figure 1. This corresponds to just over half the volume of projected BAU emissions in 2020. In comparison, this is 14 times the traded volume in 2007. With an overall underlying asset of 9.4 Gt, and a market size of 38 Gt CO_2e, the average turnover rate in the global carbon market in 2020 would thus be roughly four.

According to our model, the US dominates the world carbon market with around 25 Gt transacted in 2020, constituting 67% of the total. The EU ETS follows with 9 Gt and 23% of the total global market. The other markets and sectors consequently have a minor impact on the traded volumes. Hence, financial institutions will most probably look to the US and/or Europe.

Market value

What would be the value of the world's carbon market under our scenario? At today's secondary CER price, the market in 2020 would be worth €670bn. While we do not forecast value, a carbon price of $50 would yield a market value of almost $2 trillion in 2020.

Will it happen? Looking at US and EU plans and policy statements, it is not unlikely that the two would link their carbon trading schemes in the next decade, creating a very large GHG cap-and-trade scheme. Such a joint scheme would combine all the attributes that would make it attractive to financial players and produce a high turnover rate: size and diversity, parallel commodity markets, allowance scarcity and auctioning.

With a US-EU engine established as a core, the global carbon market might rival some of the established commodity markets in the world. This implies that the EU ETS and US ETS, linked, could be an unstoppable force almost independently of any global climate framework. ■

Exposed To the Elements: Developing Customised Weather Risk Solutions for the Energy Industry

From navigation to tourism to construction, the weather is a key risk driver for many industrial sectors exposed to its variability. However, no other sector is more highly exposed to weather fluctuations than the energy industry. Swiss Re's Environmental & Commodity Markets (ECM) expert Thomas Kammann explains how weather products can help the energy industry hedge its exposure to the elements

Most people think about the weather in terms of how warm it is, whether it's raining and so on. But for an operator of a fleet of river barges in one of Europe's busiest waterways, weather can make or break a business. To a large extent, the operator's fleet depends on the level of its barges' loading capacity, which in turn depends on river water volume and, ultimately, on the amount of precipitation.

Balancing demand and production

For the energy industry – particularly natural gas and electricity – weather has a significant impact on a firm's ability to be profitable and competitive, on both the demand and production sides.

On the demand side, natural gas is primarily used for direct heating and electricity production and – to a lesser degree – as feedstock to produce fertilizer. Electricity, in contrast, is largely used for air conditioning, adding a significant load to generation and distribution systems in many nations.

A natural gas retailer in United Kingdom may face significant reductions in operating income during warmer-than-expected winters as less gas is consumed for heating. The retailer is likely to incur additional losses when forced to sell oversupply of gas at low spot prices in the market. Conversely, an Australian utility may face sharp costs for additional electricity production during extraordinarily hot summers as the load increases exponentially with air conditioning use. During dry summers the situation may get worse as energy generation becomes subject to water restrictions, directly impacting the utility's cooling systems. Such an electricity shortage may increase market prices significantly as the supplier will be forced to cover imbalances at much higher prices than originally planned.

On the production side, faced with rocketing raw fuel costs, the energy industry has accelerated the development of environmental-friendly electricity generation techniques such as wind and solar power. However, putting together a financing structure for such projects requires a certain production volume which is strongly dependent on weather conditions such as wind speed and sunshine duration. Due to their uncertain profitability and reliance on the elements, financial institutions have often required investors to hedge-out such exposure before engaging in any type of pre-financing.

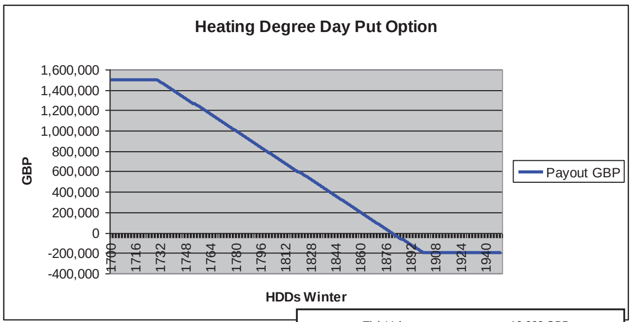
Bringing a weather product to market

The relationship between certain weather phenomena and economic profit is the driving force behind a weather protection product.

Designing a weather product requires a series of steps, including identifying applicable weather measures (ie. temperature, precipitation, wind speed or sunshine duration) and establishing an index that reflects, as closely as possible, the relationship between weather and profit.

In the earlier example of the UK gas retailer, where the main business focus is ensuring an income stream for the entire winter season rather than just for one day, the sum of Heating Degree Days[1] (HDDs) for a given location and period of time (1 October – 31 March) would be the most appropriate means to establish this relationship. To use this as a benchmark for the following year, the utility would need to analyse at which point the index (cumulative HDDs over a six-month winter season) strikes a value where the shrinking operating income has a negative impact. If this index is 1,900 HDDs, the most appropriate product would be one that starts to pay out when the index value hits 1.899 HDDs or lower. In addition to defining a strike value, the product designer needs to consider the tick size (eg. EUR/HDD) which defines the steepness of the curve (see Figure 1). The tick size should reflect the incremental amount of money the utility is losing each time the HDD level drops another notch below the strike value. ▸▸

Figure 1



Tick Value	10,000 GBP
Strike	1,900 HDDs
Premium	200,000 GBP
Cap	1,500,000 GBP

Dealing with "basis risk"

In financial trading terms, "basis risk" is defined as the risk that investments in a hedging strategy will not be subject to price changes in the entirely opposite direction from the original exposure. This imperfect correlation between the two investments creates the potential for excess gains or losses in a hedging strategy, adding risk to the position. In the case of weather derivatives, the basis risk varies significantly between the different types of industrial exposures.

As an illustration, the basis risk for a resort operator in a tourist driven region seeking to hedge the risk with a temperature index could be quite considerable. In fact, even when summer temperatures are likely to be high, tourists may stay away when it rains. To address such cases, weather experts can design multiple indices (eg. temperature, precipitation and/or snow height) to further reduce basis risk.

Compared with other industries, basis risk in the energy industry is typically rather small, as the correlation between temperature and energy demand is often obvious. Examples are winter gas demand in Europe or summer electricity demand in the United States or Australia. In liberalised energy markets, however, the industry faces another sort of basis risk, as weather derivatives may protect it against the volume risk associated with involuntary long or short positions but not against the price risk for such volume.

Putting quanto structures to work for the energy industry

On one hand, demand in the energy industry is – to a large extent – a function of temperature, so temperature may serve as a proxy for it. On the other hand, price is positively correlated with demand which means that, for the example of the UK utility, the warmer the winter, the lower the demand and the lower the gas price. So the utility may try to hedge out the risk of a warm winter using an HDD index, but it is hard to estimate whether the tick value of 10,000 GBP/HDD will be enough to cover all losses. Indeed, a warm winter could create an abundance of gas in the market and result in a dramatic fall of gas prices. In this case, the estimated tick value could prove over-optimistic.

Let's assume that the UK-based utility estimates a lack of natural gas demand of 100,000 th[2] /HDD for a warm winter. In such case they have to sell the surplus gas on the market and, for a warm winter, they expect the market price to drop by 10p/th. To hedge themselves they would buy a HDD put option[3] with a tick size of 100,000 th/HDD x 10p/th = 10,000 GBP/HDD. Now, at the time of delivery in winter, their estimation of a demand decrease of 100,000 th/HDD proves to be right. However, the spot price decreases by 30p/th instead of 10p/th. While the HDD put now covers the volume losses based on a price drop of 10p/th, the additional price loss of 20p/th is not hedged.

This example shows that, particularly for the energy industry, mitigating volume and price risks in parallel is fundamental. Quanto structures, which are essentially double-triggered derivatives, are currently the instruments most commonly used by the energy industry to manage this kind of risk.

Quanto structures may come as an option type contract to protect against a concurrence of a warm winter and low gas prices, or as a swap type contract to additionally hedge against the concurrence of a cold winter and price spikes. In Europe, the structure of such a swap type contract would have the following shape:

Figure 2
Underlying Index = Volume x (Tvar – Tfix) x (Pfix – Pvar)

		Pfix – Pvar: < 0	Pfix – Pvar: > 0
Tvar – Tfix	< 0	Index > 0 Seller pays	Index < 0 Buyer pays
	> 0	Index < 0 Buyer pays	Index > 0 Seller pays

This quanto structure is designed to smooth out the negative impact of adverse concurring demand/price events on a utility's portfolio. However, the successful use of this type of hedging instrument needs some market preconditions to be in place, including correlation between weather (ie. temperature and precipitation) and energy prices (ie. gas and electricity), as well as a liquid underlying energy market.

Weather solutions: alternatives for the energy industry

A significant number of industries are exposed to weather risk. The energy industry is, however, among those with the biggest exposures. Through customised, innovative weather products such as quanto structures, the industry is now well positioned to hedge its exposure with relatively low basic risk.

In the past three years, Swiss Re has provided a number of structured weather solutions in Europe, the United States and Australia. In Australia, for example, in the first two months of 2008 electricity prices have rocketed up to 10,000 AUD/MWh due to extreme heat and drought conditions. But because weather and quanto solutions are relatively common products in this island continent, at least parts of the energy industry have been well protected from the elements. In Europe, the UK gas market shows a converse but also a tight correlation to the weather. The United Kingdom sees a particular increase in demand for such products during the winter.

About the author

Thomas Kammann is a Director with Swiss Re's Environmental & Commodity Markets (ECM) team. His unit originates and trades complex weather-contingent energy structures and offers contingent power, gas, coal and heating oil products for a broad customer basis, including large financial institutions and utilities in the United States, Europe and Australia. The team consists of 14 professionals located in Zurich, New York, London and Mumbai. Based in Zurich, Mr Kammann is responsible for originating ECM solutions in Europe and Australasia. ■

1. *HDDs are defined as the number of degrees that a day's average temperature is below 65 or 18 . This is the temperature below which buildings normally need to be heated. In Europe, for example, the number of HDDs for a given day with an average temperature of 15°C is 3 (18°C – 15°C). For a day with a temperature of 18°C or higher it would be 0.*
2. *One therm corresponds to 29.3 kWh*
3. *Instrument that pays out as soon as the index (HDD) falls below a certain threshold or strike value (1,900 HDDs).*

Delivering Demand Optimisation to Your Energy Mix

Scott Petersen, Marketing Director – Energy Solutions at Honeywell Building Solutions, Europe, Middle East, Africa and India, examines how performance contracting delivers energy efficiency projects without the need for new capital budgets

Soaring fuel prices and increasing competition for finite resources have created a global energy crisis. Public resistance to building more power generation and transmission plants also delays – if not prevents - many new projects, contributing more pressure and price-hikes on non-renewable resources. Combine this with growing awareness of the impact of global warming and it's no surprise that energy consumption – and the need to reduce it - is fast moving up the corporate agenda. Indeed, energy demand strategies are becoming a business imperative as more organizations, public and private alike, seek new ways to accelerate a shift to optimal energy consumption and a low carbon footprint.

Indeed, facility managers from companies attending the Honeywell User's Group (HUG) meeting in Phoenix, Arizona, in June 2008, confirmed that demand for energy initiatives to help them better understand, manage and control their energy use to be at an all time high.

Figure 1. Facility managers want to better understand, manage and control their energy usage. They also want to strike a good balance between environmental targets and prudent financial decisions.

Three global drivers accelerating need for change

Cost: Energy is a big, growing and increasingly unpredictable operational expense. Even without factoring in energy that is wasted (at least 20 per cent according to the UK Carbon Trust[1]), it can exceed 25 per cent of a building's operational budget[2]. No surprise then that energy demand management offers huge scope for efficiency gain and cost savings – without compromising comfort or productivity.

Legislation: Legislation is another catalyst. In Europe, for example, the EU Energy End Use Efficiency and Energy Services Directive 2006 requires member states to adopt national energy savings targets of at least 9 per cent by 2016. It calls for public sector organisations to lead the way and implement at least two energy saving initiatives, including energy performance contracting.

Corporate accountability: The 2007 Clinton Climate Initiative (CCI) has taken a strong lead in this respect with former US President Bill Clinton joining with the mayors of the world's 40 largest cities to improve the energy efficiency of buildings and cut carbon emissions – to kick-start a global building retrofit programme. Using improved energy management at local level to address a global issue is a clever way to go and CCI, with its retrofit approach, makes sound business sense. It's a view shared by the McKinsey Institute's Greenhouse Gas Abatement Mapping Initiative 2007[3], co-sponsored by Honeywell, which cites energy efficient building upgrades as impactful, yet cost-effective, energy conservation strategies. Indeed McKinsey conclude that equipment and facility-focused improvements could cut greenhouse gas emissions by some 870 megatonnes by 2030 – that's equivalent to removing 170 million vehicles from our roads annually.

Global energy services leader, Honeywell, also extols the benefits of improved equipment efficiencies. It's an opinion based on more than 30 years experience helping customers optimise energy demand and reduce their carbon footprint. Indeed, the company thinks the world economy could operate on as much as 25 per cent less energy – just through better use of existing technologies. To underline the point, it has pledged to cut its greenhouse gas emissions by 30 per cent and improve energy efficiency by 20 per cent by 2012[4].

Making existing technologies more energy efficient

Sustaining a lower utility bill calls for you to use less energy – as opposed to buying it cheaper. Take a look at your facility's existing plant – it holds the key to turning money spent on energy (and wasted by all accounts) into a source of revenue. Your business is currently spending money that, with improved equipment and process efficiency, could be used to significantly boost the energy efficiency of your buildings. The money's already sitting in your operating budget as wasted energy costs and so could be put to much better use. Simply take future predicted energy savings to remove the need for new up-front capital and use that cash now to implement equipment and system retrofits that will immediately bring about reduced energy demand. This is the nub of Energy Performance Contracting (EPC).

To reduce consumption in this way does, however, require specialist knowledge. It's not simply a case of buying and installing modern energy equipment. No, an EPC is about tapping into specialist engineering knowledge and resources – assets that are not always available in-house – and using them to implement practical engineered improvements that will deliver guaranteed results. Make no mistake, it is the services provided by an energy services company (ESCO) that make the difference. Honeywell, for example, uses its vast knowledge of energy products, plant and systems to recommend equipment upgrades and maintenance measures to cost-effectively curtail demand consumption – to deliver technology optimisation to a customer's energy mix. And, in keeping with EPC rules, it will guarantee the performance improvement – the savings that will accrue over the term of the contract.

Like all good energy services companies, Honeywell can also help to arrange finance to kick start an EPC.

The best EPCs span 'report to results', a chosen supplier serving as a partner for the life of the project, all the time verifying that the savings accruing are as projected. An initial, deep-dive survey of a building identifies where and how to reduce energy consumption. This is followed by the implementation of practical equipment retrofits and upgrades with preventative, optimization and maintenance – facility modernisation to deliver measurable savings and maximise plant uptime. Granted, typical EPC enhancements may be relatively simple actions, but they share one common feature – they are all technical solutions designed to accelerate energy savings opportunities. They include:

- occupancy and daylight sensors
- new lighting
- insulation
- modern building and boiler controls
- thermostatic valves on the heating system
- ventilation and air quality improvements
- interlocks
- heat recovery and
- timely preventative maintenance.

Risk transfers to supplier

Risk transfer is another very attractive benefit of an EPC. Because performance improvement is guaranteed, so all technical and operational risks transfer to the supplier (hence the name performance contract). No worry that new equipment may breakdown the day after the warranty expires and you don't carry spares – these issues fall to your EPC supplier; the provider of the guarantee. Likewise, in the unlikely event of a shortfall in predicted energy savings, the EPC supplier makes up the difference. If, on the other hand, savings exceed those predicted, the extra money is the customer's to bank! The only potential risk to a customer is choosing the right EPC provider in the first place. Performance contracting may be a relatively simple concept, but there is a lot riding on it. Be sure to select your EPC supplier carefully – scrutinise their track record in energy management, the competency of their energy engineers; ask for customer testimonies.

Implementing an EPC also mitigates risk of energy saving initiatives getting stuck at the drawing board. An independent review of the UK's Carbon Trust by spending watchdog, the National Audit Office[5], found that whilst energy surveys are commonplace, less than 40 per cent of the measures identified between 2003 and 2006 have actually been implemented. Working with a proven EPC provider such as Honeywell bridges this gap – it combines accountability with process to bring about change.

Figure 2. Energy Performance Contract (EPC) requires specialist knowledge and resources to implement practical, engineered improvements that reduce energy demand consumption and deliver guaranteed results.

Longer term, an EPC gives a customer access to competent specialists that can plan and budget for capital improvements – a new boiler, new lighting or a new building management system maybe – that will reduce operating costs, increase equipment life span and improve performance. Their expertise can help business to unlock a sustainable energy management strategy and so address environmental and financial targets. Many Honeywell customers have, for example, been able to realise operational cost savings of 20 per cent or more - money that has been redirected to facility improvements or directly to the bottom line. And, worldwide, Honeywell has completed more than 4,500 energy efficiency projects saving more than $1.7 billion in sustainable energy and operational costs.

Energy Performance Contracting in practice

Energy Performance Contracting is a well established concept but implemented in relatively few countries around the world. Current success stories include Royal Gwent Hospital in the UK which saw an EPC slash its energy bill by almost £1 million a year – with a significant reduction in CO_2 emissions and a coveted 'National Energy Efficiency Award' to boot. Working with Honeywell, the hospital continues to benefit from the daily expertise it receives from Honeywell's energy engineers, who are continuing to advise on how to drive further energy efficiencies over the duration of the contract. Working together in this way leaves energy demand management to a proven expert and frees the Trust to focus on what it does best – deliver better patient care. It is the same scenario in the Netherlands where a similar initiative is helping to save more than €150,000 annually on the Atrium Hospital Complex's utility bill.

Still in The Netherlands, an EPC has enabled Erasmus University Rotterdam (ERU) to plug an in-house engineering skills and resource shortage and bring about measurable energy efficiencies across its campus. Practical engineered solutions delivered immediate pay back. In year 1 (2002) the EPC accrued savings of €83,000. By 2007 this had risen to €184,000 annually – and €841,624 to date. Against the customer's original investment of €430,000 that equates to a 4.5 year payback though of course savings will continue to accrue for many years to come – as well as improving the value of the university's real estate.

In India, Ruby Hall Clinic (RHC) in Pune was concerned about managing energy costs as a percentage of overall expenditure – it wanted to cut consumption without compromising patient comfort. Again, being a hospital, it did not have the in-house technical expertise to bring about change so it asked Honeywell to identify the right mix of retrofits and upgrades to make it happen – to deliver technology-optimisation of its energy mix. In keeping with a best practice 'report to results' approach, Honeywell kicked off with a detailed survey of the hospital buildings to identify where and how to reduce energy consumption and to establish a mutually agreed baseline. Thereafter, the company's skilled energy engineers used their knowledge of automated control technologies, energy plant operations and building management systems to engineer improvements. This included optimisation of the chillers, load optimisation of the unitary systems, installation of 'right-size' pumps and drive transmission retrofits of the air handling units (AHUs) and cooling towers and new lighting. Relatively simple actions maybe, but these technical solutions accelerated improved energy demand management. RHC saw an immediate and measurable improvement in comfort levels, energy efficiency and cost reduction. And, with the upgrades paid for from future savings accruing from the upgrade, the supplier (Honeywell) shouldered all the risk!

Unlocking the potential:

These success stories demonstrate the value to be gained from retrofitting and upgrading existing building equipment and systems – as championed by the CCI, McKinsey and Honeywell. They demonstrate that relatively simple changes, conducted under the concept of an EPC, can make a huge difference to a company's energy demand consumption and, therefore, its profitability and reputation. Importantly it is an approach that strikes a good balance between environmental targets and prudent financial decisions – an equation with ready-appeal to facility managers around the world.

But how to unlock this potential? Saving energy and reducing carbon emissions through technology-based demand optimisation requires two initial steps on the part of the customer:

- identify the needs of your enterprise and
- understand the technology that is available to you.

In this respect it is vital to select an energy services partner that combines proven energy management expertise with an understanding of the bigger picture – the need to factor in legislative compliance and, your organisation's business financial objectives for example. Sound planning at the outset underpins the long term success of energy efficiency initiatives. The right EPC partner must not only be able to conduct energy audits and identify how to cut demand consumption, it must also have the knowledge and expertise to implement practical solutions to make those savings a reality. At the same time it must be able to shoulder the technical and financial risks that come with a commitment to guaranteed performance.

Escalating energy costs are making a big – and unnecessary – dent in profitability. Once energy is consumed, any opportunity to make savings is gone forever. Much better to implement an energy efficiency drive sooner than later. Look to an EPC to turn things around, better still to guarantee savings in utility consumption. As a recognised global leader in energy management solutions, half of Honeywell's product and solutions portfolio is linked to energy efficiency. In the building management sector, this expertise is helping customers around the world address energy and environmental concerns. The Honeywell guaranteed Energy Performance Contracts that currently exist across the globe are going a long way to cutting the energy bills of customers in healthcare, industry, education, government and commerce. What are you waiting for?

More information: scott.petersen2@honeywell.com

1. *www.carbontrust.co.uk*
2. *Source: European Benchmarks, Research reports #22, IFMA, 2002 Honeywell Inc. 2012 goalsrelative to a 2004 baseline*
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Towards a Greener Future with Videoconferencing

Francesca Jones is Marketing Manager at Sony Videoconferencing

In today's global world, the challenges of modern business are constantly evolving with green issues becoming increasingly critical issues on the corporate agenda. Across a range of industries, organisations are under significant pressures to reduce their carbon footprint while balancing the demands of an international work force and a geographically scattered customer base.

From small and medium-sized businesses through to multi-national corporations, as the world becomes increasingly global, the need for distant communities to connect and collaborate instantly and in an eco-friendly manner is of growing importance. Organisations needs to continually engage with stakeholders to keep them informed and interested across different cultures and time zones. Paradoxically, this needs to be achieved through a reduction in business travel.

Videoconferencing solutions make this possible – without impacting productivity. Reducing the number of flights required for business travel will significantly reduce a corporation's carbon footprint: a staggering 22.3 million tonnes of CO_2 would be saved were 20 per cent of business travel within Europe to be replaced with videoconferencing.

As such, CEOs worldwide are embracing the advantages videoconferencing offers. Businesses that actively use videoconferencing gain quick decision-making, uninterrupted workflow and ultimately a better work-life balance for employees through the elimination of time-consuming and costly overseas travel. By capitalising on the advantages technology offers, companies are able to address pressing business issues, from carbon neutrality to employee connectivity.

A better alternative to travel

Why send employees across the globe to deliver a presentation they can do from their local office? Videoconferencing applications capitalise on the benefits of a face-to-face meeting while eliminating the cost, inconvenience and environmental impact of travel.

Despite the increasing mobility of the workforce, travel has become more time consuming and burdensome. Stringent security procedures have made air travel stressful and time intensive for even short distances. Exhausting for the individual, travel is also detrimental to the productivity of a workforce, travel budgets and the reduction of a company's carbon footprint.

Videoconferencing connects people at different sites together using video and audio communication, enabling a productive meeting without the need for travel. All participants can see and hear each other as if they were in the same room. Furthermore, they can also share key business information, such as documents, presentations, whiteboard annotations and even video streams from an external network camera.

Videoconferencing systems help organisations make better use of resources and improve collaboration. Staff will be more available to collaborate with other team members who may require access to their specific knowledge and skills. Regular meetings can be held virtually for a more efficient, flexible and connected business, without the constraints, expense or carbon footprint of travel. Plus, the technology contributes to a healthier work/life balance for those who may otherwise have had to spend extended periods away from family and friends.

Improved communication and collaboration

While companies endeavour to reduce employee travel, they recognise there is no substitute for face-to-face interaction. After all, visual communication is perhaps the most natural form of communication as people typically process information faster and retain it more when ideas are shown rather than only told, especially when the subject is a visual idea.

Videoconferencing has recently taken massive strides forward in terms of its quality and reliability. With the internet changing the way all of us work, there is now huge bandwidth availability to support high-quality video, voice and data transfer. This means businesses can hold productive videoconferences without the fear of broken links, frozen screens and content that is out of sync.

The quality and diversity of today's videoconferencing equipment means corporations can operate remotely without compromising communication. High quality video and audio equipment allows colleagues to observe mannerisms, make eye contact and ultimately develop stronger working relationships. The modern IP-network has revolutionised real-time remote communication, transcending limitations that distance and time had previously imposed to help businesses reach audiences in a modern and relevant manner.

In addition, videoconferencing often proves to be faster and more productive than normal methods of business communication. A single videoconference could replace the need for multiple phone calls, e-mails and faxes or – worse still – using a courier, which has further environmental impact.

It is also a quick and easy method of getting multiple people together at short notice. Plus, it can help breed a stronger team ethic. With business teams often distributed across various buildings these days – and e-mail being the preferred communication method – videoconferencing can help team members get to know each other, leading to a better overall spirit and a stronger commitment to achieving project goals.

Diverse solutions for every need

Sony offers three different types of videoconferencing solutions, catering for the specific needs of organisations of all sizes, each of which offers industry leading features and technologies:

Desktop videoconferencing

Sony's PCS-TL33P allows participants to see and speak to colleagues and customers anywhere in the world, right from a desk. As a replacement for a normal PC monitor, it takes up minimal desktop space and offers a high contrast ratio and excellent WXGA resolution making it easy to share and display data. It's also highly versatile, with multiple display modes such as full-screen, picture-in-picture, split-screen and three-window. While KIOSK mode turns it into a convenient remote-consulting or distance-learning device.

Conference room videoconferencing

Sony's conference room solutions enable multimedia videoconferencing for small groups up to large conference halls. And they feature some impressive technologies. The PCSA-CTG70P Intelligent Tracking Camera, for example, uses a combination of voice directional detection, face recognition and moving object recognition technologies to enhance the quality of your meeting. In Speaker Tracking mode, the camera changes position to focus on whoever is speaking. In Next Face Centring mode, a single button press shifts the focus to the person sitting next to the speaker. And finally, in Presenter mode, the camera "follows" the speaker as they move around the room.

3D experience

Sony has recently introduced a range of unique 3D TelePresence solutions – based on its PCS-XG80 HD videoconferencing system – that offers audio and video levels on par with broadcasting standards for real eye-to-eye contact and 3D projection of the remote site. This technology, the first of its kind, provides a truly interactive experience.

Evolving technology for a greener and more connected globe

Organisations are turning to Sony to help them better manage environmental concerns through its range of videoconferencing solutions. As globalisation spreads, it is technology that will lead the way to a more connected and ecologically sound future.

From small meeting rooms to boardrooms scattered across the globe, videoconferencing offers an invaluable environmental solution by making real-time communication and collaboration a reality, without travel. Through premium audio and video quality Sony is helping

HD

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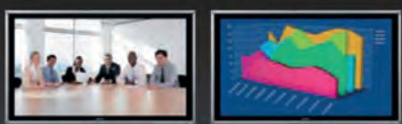

The PCS-XG80 dual screen functionality enables you to see a live camera view at the same time as sharing data from your laptop.

The new Sony 1080i HD PCS-XG80 delivers four times the detail of standard definition, bringing astounding clarity to videoconferencing. Now you can see every detail, and be sure that critical information is being understood. This affordable, high quality system, includes dual screen functionality, crisp stereo audio and unique Sony BrightFace™ technology to create a natural environment to help you get more from videoconferencing.

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In addition to significantly reducing a company's carbon footprint, videoconferencing strengthens relationships with geographically distant colleagues and customers, facilitates quick decision making and reduces overall corporate travel budgets.

Videoconferencing solutions are evolving in tandem with the changing needs of business to provide a tailored solution to communications problems now and in the future. Affordable by businesses of all sizes, this technology is a positive move for the environment and creates an environment where decisions are made faster and ideas and knowledge flow easily, quickly and inexpensively. ■

Bermuda Positioned To Maintain Its Place on the Global Business Stage

Bright people are employed in the many industries that support our online lives and other bright people regulate their activities. The best results seem to follow when the public and private sectors work together, for the good of all. Bermuda has always championed such partnerships.

Since being among the first countries in the world to pass legislation specific to e-commerce, almost a decade ago, the island has kept a steady focus on electronic possibilities, both internally and externally.

In recent developments, Bermuda placed 17th in the world in the 2008 E-readiness rankings prepared by the Economist Intelligence Unit in co-operation with the IBM Institute for Business Value, ahead of Japan, France and a host of other countries.

The drive to bring government fully online continues apace, with several ministries now offering a complete range of services online. Steps have been taken to automate the vehicle registration process and to electronically identify offenders and ensure all vehicles are not only licensed but also insured. The island's Technology Innovation Awards have successfully recognized the island's entrepreneurial spirit and those who enable Bermuda to be a solid base from which to operate.

In 2006, Bermuda was accepted as a member of the World Information Technology and Services Alliance (WITSA), a consortium of almost 70 information technology industry associations from around the world.

In 2009, Bermuda will host the sixth biennial Global Public Policy Conference (GPPC), a flagship WITSA event. More than 500 senior executives, government officials and policymakers will attend the conference, which focuses on global policies affecting the IT industry.

The conference is being organised by the Bermuda Chamber of Commerce's Business Technology Division, in partnership with the Ministry of Energy, Telecommunications and E-Commerce.

Government initiatives

The Ministry of Energy, Telecommunications and E-Commerce (METEC) has been highly active of late. A new minister has taken the helm. The Hon Terry E Lister, JP MP, is a senior member of cabinet, whose portfolio recognises that the greater the country's achievement in the electronic field, the greater the impact on the country's energy usage.

In recent comments that amounted to a mission statement, the minister said: "It is my vision that through the coordinated effort of the four departments that make up the ministry, we can deliver to Bermuda and the global village services that are second to none. I believe that in this ever-evolving digital world, Bermuda must be positioned and equipped to maintain our place on the global business stage. This means that we must and will continually adjust to and embrace emergent technology as well as becoming early adopters of modern technology, embracing innovation, and becoming partners in the creation of new ideas that will benefit every citizen of Bermuda. The government is committed to the creation of a Bermuda where everyone in this community benefits from increasing access to information and support from communications technologies."

Bermuda's corporate legislation was recently updated and an ongoing review is being carried out to assess ways in which government can increase the number of "e-friendly" elements that make it easier for Bermuda-based companies to operate solely in an electronic environment. Key provisions in the legislation include the ability to file documents online with the Registrar of Companies and to serve members or shareholders of a company electronically.

Early adoption

Much of Bermuda's success in the electronic field has derived from its early realisation that its IT infrastructure would be critical to the island's forward motion as its burgeoning financial services sector kept growing. Bermuda was the first to elevate e-commerce to a cabinet post, a clear sign to industry participants of its serious intent.

The Electronic Transactions Act, one of the first in the world, was enacted into law in 1999. The heart of the legislation was a mechanism for building a suitable national platform on which business-to-business electronic commerce could thrive.

The subsequent Standard for Electronic Transactions (Code of Conduct), introduced in 2000, was designed to ensure that those engaging in e-commerce in Bermuda operate in a manner that would maintain the island's reputation as a premier international business jurisdiction.

Bermuda first had to define its role in the electronic world. The insurance, banking and trust sectors, and the other international industries that operate on the island, are critical to the economy, and a solid foundation was needed on which customised solutions could be developed to meet specific needs.

In the Bermuda context, e-commerce does not mean giant server farms or warehouses stocked with goods to be bought online. Like all its business activities, Bermuda e-business is all about brains. Its developing pool of intellectual capital is proving to be a smart place for outsourcing solutions.

Bermuda has for more than a decade imposed strict limitations on the material that may be hosted from the island. Gaming and pornography have always been banned. Now anti-child pornography and internet luring legislation has been enacted, with all-party support.

METEC has established www.cybertips.bm, a solid source of information on internet safety. The site provides practical tips, resources and contact information to help parents, children and educators to use the internet safely and be on guard against online predators and other inappropriate online content.

An exhaustive review

As part of its ongoing commitment to keeping Bermuda's service offerings current, the ministry is conducting a total telecommunications regulatory review that is addressing all such aspects of the island's telecoms infrastructure. A new model has been proposed that is undergoing public and industry consultation. This regulatory reform has brought about the opportunity for a new undersea cable to be landed into Bermuda providing substantial capacity for which more business can realize the opportunities of the global economy.

Wi-fi usage has been on the increase throughout the island, with Bermuda International Airport the latest to come on board.

Meanwhile, in the background, the ministry is continuing to implement its ambitious e-government plans, which will lead to all the functions of the Bermuda government being fully online.

The Bermuda government has built its own certificate authority and expanded its pilot programme out of internal digital certificates. A Bermudian company, QuoVadis, has moved into the European market, playing an important role in the establishment of the new extended validation guidelines for SSL (website) certificates.

The energetic METEC has ongoing support initiatives in partnership with the business community to deal with computer security, protecting the island's assets, and in privacy and data protection legislation.

Current initiatives

The Electronic Transactions Act and Standards are being reviewed. Public safety electronic emergency messaging and top-level domain initiatives are under way. Several private/public sector projects have been created that will enable young people to interact with those employed in the electronic services sector paving the way for a skilled ICT workforce pool in the future.

The island's annual Tech Week — slogan: 'Everyday; Everywhere; Everyone' — has proved to be a great success. A range of activities enhances public awareness of the electronic world and its possibilities, with a special emphasis on educating the island's students.

A solid field of entries in various categories of competition for the 2008 Tech Innovation Awards was judged by a panel of representatives from local business organisations and, amid strong competition, awards were made in eight categories.

On the roads, the government has placed RFID chips on all vehicles in a move widely applauded and now being studied elsewhere. The chips enable various government departments to provide more accurate service and are beginning to cut down on the operations of unlicensed vehicles.

Because of the island's remote location, telecommunications has been the lifeline for more than a century. The government's consistent focus on e-commerce and its possibilities keeps the world's leading financial services jurisdiction at the forefront of the march of electronic commerce.

Thanks to this forward-looking approach, Bermuda is a full player in the global economy and a hive of activity. The island is among the world's most highly wired communities. Just about every business is online, and more than two-thirds of Bermuda homes are connected to the net. Given that the island is 800 miles from its nearest neighbour, the embrace of the electronic future has broad support throughout the community.

Strength in depth

Among the reasons why Bermuda is an ideal location for conducting e-business:

- Regulation: The regulation of international business in Bermuda is fair and reasonable. Bermuda has a flexible regulatory framework that conforms to international standards.

- Professional support: Bermuda is a sophisticated financial and legal centre. The legal and fiscal system is based on English law. Company formation is fast and streamlined. The banking, trust, accounting, custodial and legal services are of a high international standard. A strong technology support network is in place with online publishers, web designers, software and hardware vendors and ISPs.

- Infrastructure: An excellent telecommunications network comprising 3 diverse trans-Atlantic cable routes, top quality hosting facilities with maximum security and full redundancy, as well as the spectrum of telecommunications options.

- Location: An hour ahead of the Eastern Seaboard, four hours behind the UK, and seven to 12 hours behind the Middle East and Far East countries makes Bermuda an excellent location for operating international businesses. Easy access by air to most international centres, and the appeal of a sub-tropical paradise with literate, helpful people. Bermuda is one of the most convenient places in the world to hold business meetings.

- Political stability: Bermuda is politically, economically and socially stable, and strenuously safeguards its reputation.

- Taxes: No income taxes, withholding tax, capital gains tax, capital transfer tax, estate duty or inheritance taxes. Bermuda exempted companies are usually granted exemption by the Bermuda Government for an exemption from paying any taxes until 2016.

E-readiness

Bermuda's long-term embrace of e-commerce has been acknowledged by the Economist Intelligence Unit (EIU), consistently ranking Bermuda in the top 20 in a survey of the top 70 countries worldwide in 2008, in terms of e-readiness.

E-readiness is the "state of play" of a country's information and communications technology (ICT) infrastructure and the ability of its consumers, businesses and governments to use such technology to their benefit. When a country does more online — or, as is increasingly the case, wirelessly — the premise is that its economy can become more transparent and efficient.

The e-readiness rankings also allow governments to gauge the success of their ICT strategies against those of other countries, and provide companies wishing to invest in online operations with an overview of the world's most promising investment locations from the e-readiness perspective.

Bermuda's place in the EIU survey, which it has consistently maintained in each of the years that it has been included in the survey, is remarkable, given that so many other major global economies lag behind Bermuda's efforts. Once again, the survey placed Bermuda in the top five in the world in the category of legal environment, as it affects the needs of e-commerce. Were Bermuda larger, it might have fared better in the one category, the social and cultural environment, that kept the island out of the top 10 in the overall rankings.

The EIU has published its annual e-readiness ranking of the world's largest economies since 2000. The ranking model evaluates countries' technological, economic, political and social assets and their cumulative impact on their respective information economies.

The rankings are based on a weighted collection of nearly 100 quantitative and qualitative criteria, organised into six distinct categories measuring the various components of a country's social, political, economic and technological development.

Bermuda is the only UK Overseas Territory, and one of only a small number of island nations, to be included in the survey.

With this year's focus on "maintaining momentum" (the report's subtitle), Bermuda achieved an excellent result, appropriate to the efforts that government and the public are making to keep e-commerce at the forefront of practice and thinking.

Change is always hard to manage. The online world is developing daily. At high speed, Bermuda has gone from being a physically remote location to being one click from anywhere. The general feeling is that it's good to be plugged into the world. ■

Bratislava Goes Beyond Its Borders

Bratislava is enjoying a building boom on a scale that has never been seen before and is unlikely to in the future. It is envisaged that almost 400,000 sq m of new office space will be available in the next two years, with the record volume of 220,000 sq m expected this year. Investors and developers are attracted by vacant space in particular – Bratislava is perhaps the only European capital city to offer enough space for development.

Virgin land is being developed and converted into prime development sites. Bratislava's new Land Use Plan identifies over 4,000 hectares of new development land for office facilities, residential schemes and multipurpose developments. The municipal authorities' vision is to convert the city "by the river" to the city "on the river". All development changes have this vision in aim.

The new urban concept on both the Danube waterfronts, the historic centre of the city, the castle – complete with its extramural settlement, and other listed urban buildings, illustrates the importance beyond Bratislava city. The Port Zone has a specific role. The new plans focus on the area along the south bank of the Danube, between the Old Bridge and the Port Bridge. Bratislava will also develop to the southwest in the direction of Austria, in Quadrant Four, where some 3,500 hectares of land is available. Approximately 10% is urbanised, while 5% of the area is for sports and relaxation. The rest, with a high quality natural environment, are especially suitable for recreation, leisure and tourism.

The city centre will undergo a fundamental transformation. It will be wider, more attractive and livelier. Modern architecture will replace former city-centre factory sites. The emphasis will be put on the construction of multipurpose developments with quality housing, prime office space, shopping and leisure areas, such as parks, playgrounds and sports facilities. A modern boulevard, several kilometres in length, will be created along both banks of the Danube.

Bratislava is getting new development opportunities thanks to Slovakia's recent accession to the Schengen area, and the city is getting ready for development in the borderland and so-called Quadrant Four. The city's vision is to provide its inhabitants with access to the border area to the southwest and northwest of Bratislava. Regulation of the development in these suburban areas is needed in order to maintain good relations with nearby foreign communities, as well as to prevent devastation of the natural environment and the green belt. The city will carry out a study to provide a framework for the territorial planning documents of the three countries. It is not the aim to cover all vacant land with development.

Bratislava expects that the potential for development will be gradually developed in the borderland, and its territorial and functional relations with the neighbouring countries will be renewed. Numerous communities in Austrian and Hungarian border areas are closer to Bratislava's centre than some of the traditional city districts. "Only now we are coming to realise that the development of Bratislava was unnaturally affected and pushed away towards the southeast, the northwest and the northeast due to the border established less than three miles of the city centre," says Andrej Ďurkovský, Mayor of Bratislava. "What we are witnessing these days is a regular public transport service to Wolfsthal located near the border, together with the creations of new lanes of one-family houses owned by the people of Bratislava in nearby towns, in Austria or Hungary respectively." ■


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NBAA Provides More Value than Ever for Global Business Aviation

The National Business Aviation Association (NBAA) will soon host the 61st edition of the Annual Meeting & Convention, NBAA2008, in Orlando, FL, the world's largest civil aviation trade show and conference. As the premier event for business aviation, NBAA2008 will be where business aviation does business; where business aviation news is announced – and made.

Last year's convention broke all records and marked 60 years of NBAA's long-standing partnership with its members and its commitment to the business aviation community. Leaders across business aviation commented that their experience at last year's convention was "one of the most successful shows…ever," and that "it truly was an international show."

Growing better every year

NBAA2008 stands ready to build upon that success with a convention that will enable the thousands of people who drive this industry to come together for marketing, networking and staying up-to-date on the challenges and trends affecting the business aviation community, both in the US and around the world.

NBAA2008 will draw individuals from all corners of the business aviation industry at Orlando's Orange County Convention Center (OCCC) from Monday, October 6 through Wednesday, October 8, instead of the traditional Tuesday through Thursday schedule. With over one million square feet of exhibit space, the spectacular north and south halls of the OCCC will accommodate NBAA2008 indoor exhibits and over 100 Information and Maintenance & Operations Sessions.

This year, as a convenience to international exhibitors and attendees who would like to fly their aircraft directly to the event, US Customs services will be provided on-site at Orlando Executive Airport (ORL), one of the preeminent general aviation airports in the country. Showalter Flying Services at ORL also will host the NBAA2008 Static Display, which this year will feature over 120 state-of-the art aircraft.

NBAA2008 exhibit space at the OCCC sold out in July, another indication of the show's increasing value to the international as well as US business aviation industry. This year a total of 5,302 exhibit booths are expected, another record over last year's all-time high of 5,257 booths. Additionally, another strong attendance is anticipated this year.

NBAA2008 highlights

As in years past, NBAA2008 will feature an Opening General Session that brings thought leaders from the international industry and government to attendees.

In the 21st century, business aviation continues to grow more international with each passing year, from the smallest businesses in the US that increasingly fly to international destinations to sell their products and services; to the largest companies that operate without any borders.

It is with these trends in mind that this year's convention will welcome Roberto Kobeh González, the President of the International Civil Aviation Organization, to deliver the keynote address for the show's Opening General Session on Monday, October 6, at 8:30 am.

Mr Kobeh received the Award for Extraordinary Service from the US Federal Aviation Administration in 1988. In 1997, he was awarded the Emilio Carranza Medal from the Government of Mexico for his contribution to the development of civil aviation in Mexico for 30 consecutive years. Most recently, in 2004, he received the award for Contribution to the Development of Aviation in the Central American Region from the Central American Corporation of Air Navigation Services.

In addition to President Kobeh's address, the well-known political couple, James Carville and Mary Matalin, will bring their unique brand of commentary and humour to the General Session, marking the duo's second appearance at an NBAA convention. Carville, a business aviation enthusiast, and Matalin, will bring an insider's view to analyzing the 2008 election and the players and policies influencing this highly charged political season.

It is not too late to register online for NBAA2008 – just visit the NBAA2008 web site at www.nbaa.org/2008.

NBAA's new light business airplane event – coming by request

Business aviation owners, operators and vendors who know the value of NBAA's world-class events will appreciate an exciting new opportunity coming next year for companies that rely on small GA airplanes to help them succeed.

Called the Light Business Airplane Exhibition & Conference (LBA2009), this event is scheduled for Thursday through Saturday, March 12-14, 2009, in San Diego, CA.

LBA2009 reflects the diversity of business aviation as a community of companies of all sizes using aircraft of all types for many different kinds of missions. The event will address the operational challenges faced by companies using light business aircraft, and the resources needed to confront them.

The LBA2009 exhibit hall at the award-winning San Diego Convention Center will play host to people involved in nearly every aspect of light aircraft in business aviation to display their wares and services. The exhibit floor is expected to cover approximately 1,000 exhibit booth spaces.

The event also will include a Static Display of Aircraft just minutes from the convention center, at Landmark Aviation on San Diego International Airport. The static display will feature nearly 50 light aircraft, including light jets, turboprops, and pistons.

The three-day event will be planned to showcase single-pilot airplanes and provide invaluable information sessions, including a single-pilot Safety Standdown, tax seminars and a variety of panel discussions on topics generated by operators themselves.

Anyone with ideas or suggestions for the show is invited to call NBAA's toll-free number, 1-800-928-4283 (1-800-9-AVIATE), or e-mail the Association at ideas@nbaa.org. ■

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