POST-BALI BUSINESS PRIORITIES
EXECUTIVE SUMMARY

ICC urges trading countries to act on the following priorities:

1. Continue to liberalize trade in goods and services worldwide. The overarching goal should be the elimination of tariffs and non-tariff barriers to world trade.

2. Accelerate multilateral trade liberalization within the WTO by the early conclusion of ongoing global negotiations through a balanced and satisfactory outcome on the critical issues of agriculture, non-agricultural market access, and services.

3. Move forward with positive regional efforts worldwide to reduce barriers to trade and investment, and ensure that those efforts complement and reinforce the multilateral trading system.

4. Expand the product coverage of the WTO Information Technology Agreement, continue to refrain from taxing electronic commerce, develop better disciplines on export restrictions and state-owned enterprises, and reach an early conclusion in the newly announced WTO negotiations to reduce and eliminate tariffs on green goods.

5. Improve the protection and promotion of investment worldwide through bilateral and other international agreements, while laying the groundwork for more global investment protection and promotion through a high-standard multilateral framework on investment.

I. INTRODUCTION

Businesses – from small- and medium-sized enterprises (SMEs) to large transnational corporations (TNCs) – produce the goods and services that are traded on a daily basis throughout the world. Technology and internet communication are allowing new businesses to join the global marketplace. One of the challenges faced by business in an increasingly integrated global economy is the absence or inadequacy of global rules in many crucial areas. The WTO has a fundamental role to play in expanding and modernizing international rules for trade and investment – and in promoting effective implementation of and compliance with those rules – in order to create an effective 21st century rules-based multilateral system. For these reasons, the International Chamber of Commerce (ICC), in partnership with Qatar Chamber, is mobilizing business worldwide around a 21st century multilateral World Trade Agenda (WTA) for economic growth and job creation.

Global value chains (GVCs) have become a dominant feature of today’s integrated economy, and as a result there is growing evidence and recognition that the nature of trade is changing. The globalization of production – driven by technological progress and access to resources and markets – now characterizes world trade. Traditional measures of trade that record gross flows of goods and services each time they cross borders do not reflect the value that is added by the production of a good or service taking place within a country and then exported. Nor do such measures reflect the essential role of imports of intermediate goods and services in export performance. Looking at trade from a value-added perspective better reveals how upstream domestic industries contribute to exports, even if they have little direct international exposure. While 80% of global trade occurs in GVCs coordinated by TNCs, approximately 40%-50% of export value added is contributed by

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local SME suppliers within these chains. Participation of SMEs in GVCs is especially important in the developing world, where smaller firms can represent as much as 80%-90% of total employment. Yet in the Association of South-East Asian Nations (ASEAN), for example, the share of SMEs participating in GVCs is estimated to vary between 6% and 46%, depending on the country. These changes in the nature of world trade have considerable implications for the policy choices and global rules that will allow governments and business to leverage trade and investment in the most effective way to contribute to economic growth and job creation.

ICC applauds the renewed pursuit of a comprehensive multilateral trade negotiating agenda in the WTO following the recent Bali success. In addition, ICC supports further trade liberalization regionally, through negotiations on a Trans-Pacific Partnership (TPP), a Transatlantic Trade and Investment Partnership (T-TIP), a Regional Comprehensive Economic Partnership (RCEP), and the Pacific Alliance. Given this positive momentum, ICC sees a real opportunity to make progress on a global trade agenda.

II. POST-BALI BUSINESS PRIORITIES

ICC will continue to work with governments to identify and prioritize areas where WTO Members can achieve results. In setting a post-Bali work programme, ICC urges trading countries to act on the following business priorities:

1. Ensure rapid implementation and ratification of the WTO agreement on trade facilitation

Building on the success in helping WTO Members achieve the historic Agreement on Trade Facilitation in Bali, ICC will support efforts to implement the commitments undertaken in that agreement. In working with other organizations such as the World Customs Organization (WCO), the International Trade Centre (ITC), and the Organisation for Economic Co-operation and Development (OECD), ICC will communicate strategically to relevant stakeholders what the implementation process means for business.

Attention should be given to specific challenges to ensure the timely implementation of the agreement. The country commitment language will determine how countries operationally implement each commitment. It will be essential to minimize divergence of implementation. ICC will engage with policymakers and stakeholders to ensure the agreement is implemented in an efficient manner, with as much alignment among WTO Members as possible. The procedures for implementation in Section II need to be applied in a practical way, especially the category commitments for developing and least developed countries, to preserve the benefits of the agreement. This will result in greater dividends in terms of economic growth for each country, not only from the actions others take to reduce customs barriers but also through domestic reforms. Public-private sector collaboration will be essential to ensure successful implementation of the agreement at the country level. ICC will encourage the private sector and its representative bodies, including chambers of commerce, to participate in national trade facilitation committees.

2 Progress report on Analysis of Global Value Chains: Challenges, Opportunities and Implications for Policy (Paris, OECD, 12 March 2014)

Recommendation: Adhere to the greatest extent possible to maximum obligations under the WTO Agreement on Trade Facilitation.

2. Reach a balanced and satisfactory outcome on agriculture, non-agricultural market access, and services

ICC reaffirms its historic commitment to multilateral trade liberalization and supports WTO Members’ efforts to realize this commitment, including an ambitious approach to further tariff reduction and elimination. Reducing industrial tariffs is a core part of the market access mandate of the Doha Development Agenda (DDA). In today’s integrated world economy with cumulative tariff burdens on every input along the global value chain, tariff reduction is an essential requirement to facilitating trade flows, both for developed and even more importantly for developing countries. To promote sustainable growth globally, there is an urgent need to open trade for a wide range of sectors in the supply- and value-chains. Therefore, given the WTO’s overall goal of sustainable development through further trade liberalization, recent analysis of global value chains and the newly won momentum of Bali, a fresh attempt to liberalize trade across the broad range of sectors that are necessary to realize the full potential of sustainable development should be undertaken.

ICC supports efforts to establish a work programme by the end of the year that provides a clear path towards conclusion of the DDA. The largest development benefits will come from reaching a balanced and satisfactory outcome on the key areas of agriculture, non-agricultural market access (NAMA), and services. Recognizing that these three core issues are interconnected and must be addressed together to strike the right balance within and between the issues, a realistic level of ambition is necessary to build a final DDA package upon which all Members can agree. WTO Members should move beyond previous negotiating positions to identify achievable progress that can be made in these core areas.

Recommendation: Establish a realistic work programme by the end of the year that provides a clear path towards conclusion of the Doha Development Agenda by providing a balanced and satisfactory outcome on agriculture, non-agricultural market access, and services.

3. Expand trade in IT products and encourage the growth of e-commerce worldwide

To build upon the benefits of the Information Technology Agreement (ITA), negotiations have begun on expanding product coverage under the ITA. Given the key role that information technology (IT) plays in driving global growth, ITA expansion could make a significant contribution to eliminating tariffs and increasing trade in IT products, thereby providing a strong stimulus to the world economy. WTO figures show that exports of IT products almost tripled in value between 1996 and 2010. With an annual average growth rate of 7% over this period, global exports of IT products reached US$1.4 trillion in 2010, becoming one of the most important product categories in world trade.4

Since the ITA came into force almost 17 years ago, numerous IT products incorporating increasingly sophisticated technologies have entered the world market. This has resulted in disputes regarding the classification of certain IT products and whether they are covered by the ITA. It is vital that product coverage under the ITA is broadened using the widest possible definition of IT goods. Expanding product coverage under the ITA could boost exports of the five large ITA exporting countries by US$100 billion, with imports increasing by US$98 billion. Importing countries would also benefit in that information technologies are essential in transforming both industrial and social structures, for example, by providing enhanced access to higher quality education, health services, improved business and manufacturing efficiency. As a non-discriminatory agreement, the ITA benefits all WTO Members and their societies. The broader the product coverage and the wider the active participation, the greater the benefits will be for all.

For micro-, small-, and medium-sized enterprises (SMEs), technology increasingly provides wider access to global trade. Increased SME access to world trade is a positive development for developing countries in particular. The application of information technology and internet communications enhances the ability of countries to increase national growth rates through world trade. Localization barriers to trade, however, impede greater efficiency at the company level and curtail access to global markets. Therefore, countries should maintain the free flow of communications across borders to continue participating in the global economy.

Recognizing the importance of e-commerce for the world economy, WTO Members agreed in 1998 to a “standstill” whereby no customs duties are imposed on e-commerce transmissions. This “standstill” has been repeatedly extended; however, it remains an informal agreement. Agreeing to make the “standstill” permanent would inject confidence in the growth of e-commerce and the millions of companies worldwide that provide goods and services to consumers through e-commerce transmissions.

**Recommendation:** Eliminate barriers to trade in information technology products and services by expanding product coverage under the WTO Information Technology Agreement (ITA), continue to refrain from taxing electronic commerce, and create the conditions for the further development of the global digital economy.

4. **Liberalize trade in services**

The General Agreement on Trade in Services (GATS) provides a legal framework for negotiating and binding multilateral liberalization of trade in services. The GATS has not been used to its full extent by WTO Members as a driving force for services liberalization and reform. Nonetheless, the potential for liberalizing services multilaterally through WTO negotiations is considerable. Negotiations under the GATS have already shown that they can produce impressive results, such as the post-Uruguay Round negotiations on basic telecoms and financial services. It is estimated that removing barriers to global exports of tradable services could generate world trade gains of US$1.0 trillion, which would translate to global employment gains of almost 9 million jobs. The current Trade in Services Agreement (TiSA) negotiations and China’s recent interest to take part in these could lead to renewed impetus to liberalize trade in services and serve as a starting point for future multilateral negotiations. ICC recognizes the important distinction between liberalization of trade in

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services and de-regulation. Indeed, liberalization of trade in services may need to be accompanied by new means of regulation in some situations.

**Recommendation:** Make concrete progress on the liberalization of trade in services in 2014 through alternative negotiating approaches, including plurilateral approaches such as the Trade in Services Agreement (TiSA) with the ultimate aim of transferring results into the WTO.

### 5. Multilateralize trade liberalization under the WTO framework

In addition to multilateral trade liberalization, WTO Members advance trade opening through a variety of regional and preferential trade agreements (RTAs and PTAs). These may bring faster results than the multilateral process, may enable parties to conclude levels of liberalization beyond the multilateral consensus, and may be able to address specific issues that do not register on the multilateral menu. The resulting achievements in trade liberalization can be substantial complements to the WTO system, and they can be important building blocks for future multilateral liberalization. However, RTAs and PTAs must maintain and strengthen momentum towards global economic integration. Business is concerned that regulatory fragmentation may increase with the continued proliferation of RTAs and PTAs, thus increasing the cost of doing business, especially in a world where trade increasingly takes place through global value chains. This proliferation can make it increasingly difficult for some SMEs to participate in international trade since they often lack the capacity to adapt to each new set of conditions posed by these agreements. In this context, business particularly stresses the need for increased harmonization of preferential rules of origin.

The St. Petersburg G20 Leaders’ Declaration included a commitment to “ensure that RTAs support the multilateral trading system” with Leaders pledging to continue work within the WTO on enhancing the transparency of RTAs. The G20’s approach was further developed in a one-page document annexed to the Leaders’ Declaration entitled, “Advancing Transparency in Regional Trade Agreements”. This document reaffirmed the G20’s position that RTAs should remain complementary to, not a substitute for, the multilateral trading system and proposed that the WTO Transparency Mechanism for RTAs – adopted in 2006 and implemented on a provisional basis – be made permanent. The document also urged WTO Members to advance their discussions of the systemic implications of the increasing number of RTAs on the multilateral trading system and called for full adherence to WTO rules and procedures.

Integrating the advances of RTA/PTAs into WTO rules helps create a level playing field for all companies in every region of the world. From a business perspective, the costs related to compliance with preferential rules, such as rules of origin, means that the actual use of preferences is below what is eligible, especially for SMEs from less developed economies.\(^6\)

Business, therefore, strongly supports increasing the capacity of the WTO to foster convergence between RTAs/PTAs and WTO rules while addressing the free rider problem. Implementing and making permanent the WTO Transparency Mechanism for RTA/PTAs will strengthen the oversight function built into General Agreement on Tariffs and Trade (GATT) Article XXIV and General Agreement on Trade in Services (GATS) Article V. This should facilitate the establishment of best-practice guidelines to reduce complexity and variance from the WTO agreements including in rules of origin, and promote the integration of RTAs/PTAs gains into the WTO. Therefore, business

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strongly supports the application of the Transparency Mechanism for RTA/PTAs as a practical measure that should encourage greater compatibility and complementarity of RTAs/PTAs with the multilateral trading system.

ICC also encourages RTAs and PTAs to use or adapt existing mechanisms that can support both the public and private sector needs to reinforce security and ensure compliance, such as business certification systems and registration programmes. Furthermore, given the importance business places on tariff reduction and elimination, efforts should be pursued progressively to consolidate the gains being made through RTAs/PTAs into the WTO on an MFN basis, with the aim of creating a truly level playing field.

Recommendation: Encourage multilateralization of trade opening achieved through RTAs/PTAs, strengthen WTO rules to increase compatibility and complementarity between RTAs/PTAs and the multilateral trading system, and make permanent the WTO Transparency Mechanism for RTAs/PTAs by the next WTO Ministerial Conference.

6. Foster “greener” economic activity through trade

As previously noted, there remains the need to reduce barriers in all areas of trade and ideally this should be done on a multilateral basis. However, ICC understands that to move the process forward it can be useful to launch initiatives for trade liberalization initially on a plurilateral and/or sectoral basis, such as the recently announced green goods initiative.

A “green economy” emphasizes the importance of sustainable growth and access to open, well-functioning, and efficient markets. It recognizes that market mechanisms can play a key role in the evolution of both societies and businesses towards “greener” economic activity and prosperity. Business has developed knowledge and skills that have produced many efficient and environmentally effective technologies and products across all sectors.

There is an urgent need to open trade for a wide range of sectors in the supply- and value-chains upon which sustainable growth depends. Therefore, trade should be liberalized not only for “environmental goods and services”, but for the broad range of technologies and sectors needed in the long run to realize the full potential of sustainable economic activity. Further trade liberalization is essential to the diffusion and deployment of “greener”, more efficient and climate-friendly technologies, particularly to developing countries. More broadly, the avoidance and removal of “non-tariff” barriers posed by some unilateral environmental policies is imperative. The synergy of trade liberalization and greener growth is best realized through collaborative policies and approaches.

In January 2014, Australia, Canada, China, Chinese Taipei, Costa Rica, the European Union, Hong Kong, Japan, Korea, New Zealand, Norway, Singapore, Switzerland, and the United States issued a joint statement of their intent to begin negotiations aimed at freeing trade in environmental goods. They expressed their shared view that “one of the most concrete, immediate contributions that the WTO and its Members can make to protect our planet is to seek agreement to eliminate tariffs for goods that we all need to protect our environment and to address climate change”.7 These 14 WTO

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Members will use the list of 54 environmental goods agreed by Asia-Pacific Economic Cooperation (APEC) leaders in 2012 as a starting point to build upon and expand in substantive negotiations.8

More countries need to join this initiative to develop a truly global agreement with a view to eliminating most barriers to trade in this key area.9 Estimates show that a meaningful WTO agreement in liberalizing trade on environmental goods, even on a plurilateral basis, could deliver US$10.3 billion of additional exports and augment employment gains by 256,000 jobs.10

**Recommendation:** Encourage more countries to join the recently announced plurilateral initiative to eliminate tariffs on environmental goods and expand product coverage using the widest possible definition of green goods. Furthermore, encourage cooperative approaches and alternatives to unilaterally-imposed environmental rules that are trade-restrictive or create barriers to trade.

7. Improve protection and promotion of investment worldwide through bilateral and other international agreements, while laying the groundwork for more global investment protection and promotion through a high-standard multilateral framework on investment

Cross-border investment generates employment, increases government revenues, enhances competition and consumer choice, and creates trade opportunities. Domestically, foreign direct investment (FDI) links local companies to global value chains, underwrites trade and export opportunities, and facilitates the inflow of capital, technology, and skills across sectors.

More than 3240 international investment agreements now exist.11 This complex network of treaties can be too large and complex for investors to handle, particularly smaller investors. Yet they are far from sufficient to address the investment needs. These 3240 treaties protect only two-thirds of global FDI and cover only one-fifth of possible bilateral investment relationships. UNCTAD estimates that a further 14,000 bilateral treaties would be needed to provide full coverage of international investment.12

Business is concerned with the trend toward re-regulation of cross-border investment. According to UNCTAD 2014 World Investment Report, 27% of all new investment regulations were classified as “restrictive” in 2013, compared to 2% in 2000. “Liberalizing” regulations were 73% of the total in 2013, compared to 98% in 2000.13 Clearly this trend is cause for concern.

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8 G. Hufbauer & J. Schott supra note 5 at 43 stating, “[i]n 2010, regional trade in the APEC EGs was about $115 billion, and APEC imports from the world of the 54 EGs were $195 billion, or about a 3 percent of total imports...Moreover, APEC Members account for 60 percent of world exports of these products.”
9 The APEC harmonized tariff (5%) will be higher than the actual EU tariff (2.9%). Engagement of the EU will most likely require the movement towards tariff elimination on the APEC list.
10 G. Hufbauer & J. Schott supra note 5 at 44.
A number of reasons help to explain this adverse trend, which is most apparent among developed countries. The protection of “strategic” industries and national security interests has gained momentum in recent years as has forced localization. Government reviews of foreign investments for national security reasons, while proclaimed to be limited to national security, in practice exhibit several instances that may be drifting towards the protection of “national champions”.

Some countries, which historically welcomed foreign investment openly, are now also setting more stringent standards for foreign investors and giving more weight to the impact of such investment on domestic competitors and on environmental and social concerns. Forced localization requirements have proliferated in recent years, in developed as well as developing countries. This trend works in direct opposition to the trend noted earlier of production organized by global value chains. Local content requirements not only limit the effective development of those production chains, they also insert inefficiencies into the system.14

Business needs a secure, stable, and predictable investment environment, especially in a time of economic uncertainty, to continue to generate employment and wealth creation. Therefore, broad discussion should be encouraged on investment issues to improve investment promotion and protection. This should take place in international organizations where discussions are already underway – such as the OECD, UNCTAD and the WTO.

Overlap between the GATS and bilateral investment treaties increases the need to address investment-related issues within a WTO context. The objectives should be to promote mutual understanding among governments and between governments and business, and to build a common framework for international investment in the interest of all stakeholders. A recent positive development in this respect occurred at the 2013 G20 Summit in St Petersburg (Russia), where G20 leaders “recognize[ed] the key role of long-term investment for sustainable growth and job creation” and “the paramount importance of the investment climate in attracting long-term financing”.15

Recommendation: Encourage moving towards a high-standard multilateral framework for international investment to support economic growth and development, while enhancing the level of protection and promotion provided under existing international agreements.

8. Sustain and strengthen the WTO dispute settlement system

The WTO Dispute Settlement Understanding (DSU) is a cornerstone of the rules-based multilateral trading system. It provides an assurance that WTO Members will respect their commitments. Since the creation of the WTO, more than 400 disputes have been filed with the Dispute Settlement Body and over 100 reports have been issued by the WTO Appellate Body.16 These disputes have involved a broad spectrum of subjects raised by WTO Members at all levels of economic development.

As part of the work achieved during the Doha Round, WTO Members agreed to a number of practical modifications to the DSU. These modifications should result in more rapid decisions, greater possibility to settle without going to final judgment, and more transparency of hearings and

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14 “Localization Barriers to Trade” ICC Policy Statement 103/323 available at www.iccwbo.org
15 G20 Leaders’ Declaration, St Petersburg, Russia, September 2013 para. 35 available at www.g20.org
submissions by parties. Of course, ICC encourages the continued protection of the confidentiality of proprietary business information in WTO dispute settlement proceedings.

Proposals for reform include:

- extension of third-party rights, provided that an adequate balance between the rights of main parties and third parties is maintained
- improved conditions for Members seeking to be joined in consultations
- introduction of remand, allowing the Appellate Body the ability to remand the case back to the panel for factual findings
- “sequencing” issue and other problems concerning the suspension of concessions or other obligations, thus clarifying ambiguous language in the DSU
- enhancement of compensation as a temporary remedy for breach of WTO law
- strengthening of notification requirements for mutually agreed solutions,
- strengthening of special and differential treatment for developing country Members,
- encouraging Members from developing countries to participate more actively in the process of settlement of disputes

Recommendation: Implement the proposed modifications to the DSU by the next WTO Ministerial Conference.

9. Develop better disciplines on export restrictions

Export restrictions are rising worldwide and are impeding world trade. Current WTO rules are inadequate to address this increasing global commercial concern. To the extent possible and without prejudicing the conclusion of work on DDA issues, ICC encourages informal, non-negotiation-based discussions on export restrictions to begin among WTO Members. WTO rules should be improved to impose the same obligations on quantitative restrictions on exports as are currently imposed on quantitative restrictions on imports. Furthermore, meaningful disciplines on export restrictions might facilitate a greater readiness by import-sensitive countries to undertake greater market access opening.

Recommendation: Start a process to consider increased WTO disciplines on export taxes and other export restrictions.
10. Develop disciplines over state-owned and state-supported enterprises that enter into commercial competition

Over the past decade, a new class of companies has entered into the global marketplace: enterprises that are owned, controlled, or closely aligned with their governments. Between 2004 and 2008, 117 state-owned and public companies from Brazil, Russia, India, and China appeared for the first time on the Forbes Global 2000 list of the world’s largest companies (measured by sales, profits, assets, and market value). During this same period, 239 US, Japanese, British, and German companies dropped off the list.

The home governments of these state-owned enterprises (SOEs) and state-sponsored enterprises (SSEs) provide them with benefits and protect them from competition in their home markets and in third markets, thereby creating market distortions despite having made trade-liberalizing commitments. Similarly, capital accumulated in these countries in many instances is invested abroad through sovereign wealth funds (SWFs). This new dynamic of “state capitalism” enables governments to obtain monopolistic economic advantages and political power over private competitors in the global marketplace. SOEs’ mode of operation can undermine the fundamental workings of a market-based system where individuals and companies engaged in trade, investment, and finance compete freely and on equal and non-discriminatory terms, and are mutually constrained by accepted rules to act according to commercial considerations. Few adequate and effective international disciplines now exist to address this issue.

These state ventures are not subject to the transparency required of the privately-owned companies with which they compete. SOEs and SSEs can be a means for governments to intervene in the marketplace skirting their WTO commitments, impairing the value of trade concessions with respect to the home market, and competing with an unfair advantage in other markets. It is important to ensure that SOEs and SSEs do not discriminate in their procurement, that they are regulated to the same extent as their privately owned competitors; and that they are not favored by government regulation. In short, if an SOE or SSE is competing in commerce, it should act on the basis of commercial considerations and not as an instrument of government policy.

Recommendation: Encourage the development of WTO disciplines on state-owned and state-supported enterprise that enter into commercial competition.
ICC COMMISSION ON TRADE AND INVESTMENT POLICY

As trade and investment are consistently top priorities for global business, the Commission on Trade and Investment Policy represents ICC’s main working body on multilateral trade and investment policy issues. The Commission examines issues that will facilitate cross-border trade and investment by business to sustain the economic recovery, job creation and sustainable development.

The mandate of the Commission is to break down barriers to international trade and investment so that all countries can benefit from improved living standards through increased trade and investment flows. The commission has 186 members from over 30 countries. They comprise trade policy specialists from ICC member companies and business representative organizations.

Senior trade policy experts from the staff of intergovernmental organizations such as the WTO, UNCTAD, and the OECD are frequently invited to address commission meeting. The Commission provides a forum for business experts to examine trade and investment policy issues and draw up policy recommendations for governments.

INTERNATIONAL CHAMBER OF COMMERCE (ICC)

ICC is the world business organization, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

A world network of national committees keeps the ICC International Secretariat in Paris informed about national and regional business priorities. More than 2,000 experts drawn from ICC’s member companies feed their knowledge and experience into crafting the ICC stance on specific business issues.

QATAR CHAMBER OF COMMERCE AND INDUSTRY

Qatar Chamber is a strategic partner of the ICC Business World Trade Agenda initiative. It is dedicated to promoting Qatar’s burgeoning economy and assuring that the interests of the business community are well represented. By providing key support services, networking opportunities and leadership, the chamber has helped oversee one of the most dynamic and fastest-growing economies in the world.