

REPORT NO. 4 OF THE
SECTION OF INTERNATIONAL LAW AND PRACTICE

RECOMMENDATION*

BE IT RESOLVED, That the American Bar Association recommends that the United States (1) establish, with representatives of the trade agencies of the Government and private enterprise, a Task Force to examine elements of a possible Pacific Rim Economic Agreement and to report its findings to the President by March 31, 1991; (2) encourage existing economic associations such as The Association of South Asian Nations ("ASEAN"), the Australian New Zealand Closer Economic Relations Trade Agreement ("CER"), The Pacific Economic Cooperation Council ("PECC") and The Australian Pacific Economic Council ("APEC") to undertake their own examinations of ways the Pacific Rim countries could enter into new more formal economic arrangements; (3) explore vigorously with its Pacific Rim Government partners the possibility of entering into more formal Pacific Rim economic arrangements; and (4) commence formal negotiations on a Pacific Rim Economic Agreement in 1992.

REPORT

The Pacific Rim countries are positioned to become one of the more important economic regions of the world. These twenty-six¹ or more developed or developing countries are at peace and have strong economical potential in natural and manufactured resources and services. They are increasingly moving towards market-oriented policies including lowering of tariff and nontariff barriers and increasing reliance on the private enterprise system. (There are disparities in development, most of which are trade and debt related.) In 1989 Pacific commerce totaled \$280 billion overshadowing by almost 50% the \$190 billion in transatlantic trade. U.S. trade with East Asia now accounts for more than one-third of our total foreign

*The recommendation was approved. See page 32.

¹The U.S., Canada, PRC, Japan, Australia, Pacific Islands, New Zealand, Hong Kong, Singapore, Taiwan, South Korea, Indonesia, Malaysia, Philippines, Thailand, Brunei, and Papua New Guinea are active PECC participants. The USSR, Chile, and Mexico have requested membership in the PECC. Peru and Colombia have expressed increasing interest in Pacific economic arrangements, and presumably Ecuador, Costa Rica, Panama, Guatemala, and El Salvador will wish to participate in some form in the Pacific-based agreements, perhaps after further Caribbean collaboration.

commerce and our exports to East Asia now exceed those to Europe.² U.S. investment in East Asia now is in excess of \$33 billion, accounting for 23% of all overseas profits by American corporations.³

Various regional economic organizations and initiatives have affected this growth. On August 8, 1967, the ASEAN Regional Governmental Group was formed between Malaysia, Indonesia, Philippines, Singapore, and Thailand. In 1984 Brunei became its 6th member.⁴ In 1968 PBEC, an organization of business executives from the Pacific Rim countries, was initiated.⁵ The New Zealand-Australia Free Trade Agreement ("NAFTA") was initiated on March 28, 1983, and supplemented by the Australia New Zealand CER in 1988.⁶ (NAFTA encouraged trade and reduced trade barriers over a limited product range—CER is all inclusive. Goods are automatically included in free trade unless otherwise specified, with a pre-arranged timetable for the dismantling of all protective barriers.) In 1980 PECC was established composed of governments, business leaders and academics.⁷ Meetings are held on a

regular basis to discuss range of trade, economic environmental and financial issues. In February 1990 ("APEC") (The Australian Pacific Economic Council) was formed, a government-to-government organization with a secretariat, composed of Australia, New Zealand, the 6 ASEAN countries, South Korea, Japan, Canada and the United States.⁸ It does not include Taiwan, Hong Kong and the People's Republic of China.

In addition to the above, there have been many other foreign and United States supportive institutions, initiatives and proposals such as the Asian Bank, the Asia Foundation, the Asis Society, the East-West Foundation, the Nomura Foundation, the Mitsui Research Institute, the Koyoshi Kojima proposal,⁹ the Maekawa Reports, the Schultz initiative,¹⁰ Ambassador Mansfield's, Senator Bentsen's and Senator Byrd's submissions to U.S. International Trade Commission.¹¹ All of the above regional organizations, initiatives and proposals have

²"The Promise of Pacific Economic Cooperation," Statement by Richard H. Solomon, Assistant Secretary of East Asian & Pacific Affairs, Department of State, September 21, 1989, Bureau of Public Affairs, Current Policy, No. 1208, p. 1.

³*Ibid.*, page 2.

⁴See Background Notes, ASEAN, U.S. Department of State, Bureau of National Affairs, March 1989.

⁵*Supra*, footnote 2, p. 2.

⁶See "Australia, New Zealand Closer Economic Relations Trade Agreement, Documents Arising from the 1988 Review," Australia Department of Foreign Affairs and Trade, Canberra, August 1988.

⁷The countries are Australia, Brunei, Canada, PRC, Indonesia, Japan, S. Korea, Malaysia, New Zealand, The Pacific Island

Nations, Philippines, Singapore, Taiwan, Thailand and the United States. See "Pacific Economic Outlook" (1989-1990), publication sponsored and prepared by the Asis Foundation.

⁸"12 Pacific Rim Nations Slow on Talks over Trade Group," *The Washington Post*, Washington, DC, Nov. 7, 1989, p. D3.

⁹See "Let's Organize the Pacific Basin Now," address by Walt W. Rostow, Report of the George C. Marshall Public Service Conference, "The Future of the Pacific Basin," Oct. 20, 1989., p. 9.

¹⁰*Supra*, footnote 2, p. 2.

¹¹See "Pros and Cons of Initiating Negotiations with Japan to Explore the Possibility of a U.S.-Japanese Free Trade Area Agreement," USITC Public 2121, Sept. 1988 and "Pros & Cons of Entering into Negotiations on Free Trade Agreement with Taiwan, The Republic of Korea and ASEAN or the Pacific Rim Region in General," USITC Publication 2166, March 1989.

basis to discuss range of economic environmental and issues. In February 1990 (The Australian Pacific Council) was formed, a point-to-government organization with a secretariat, composed of Australia, New Zealand, the 6 countries, South Korea, Canada and the United States does not include Taiwan, Hong Kong and the People's Republic of China.

In addition to the above, there are many other foreign and multilateral supportive institutions and proposals such as the Asian Development Bank, the Asia Foundation, the Asia Pacific Society, the East Asia Foundation, the Nomura Foundation, the Mitsui Research Institute, the Koyoshi Kojima Project, the Maekawa Reports, the U.S. Trade Commission's initiative,¹⁰ Ambassador Bentsen's and the U.S. Trade Commission's submissions to U.S. Trade Commission.¹¹ Above regional organizations and proposals have

resulted in positive developments in their sphere of influence and in some situations preliminary studies and recommendations have been made.

There must be harmony in trade, investment and development in this crucial Rim area—a unified approach is vital. This is an area of great economic and strategic importance to the United States and the world. We have experienced trade and economic confrontations in the past—we cannot afford to have this happen again. It is essential that action toward unity be taken in view of the volume of trade and investment in this area. Distance is no longer a factor today with modern means of contact by air, sea, and telecommunications. The Pacific Rim nations are heavily engaged in the current Uruguay Round negotiations in Geneva but wish to build and enlarge upon whatever trade liberalization may result from those negotiations. A Pacific Rim Economic Agreement can and will provide such a means

of adjusting and unifying, the trade imbalances that are currently the regions most serious economic problem and provide a means of strengthening the weaker Pacific Rim countries. It is proposed that a Pacific Rim Economic Agreement be "functional" without political overtones. It might emphasize agreements on transportation, energy, telecommunications, tourism and the environment at its initial stage.¹²

For more than twenty years leaders have proposed a Pacific Basin Organization but nothing has been done to implement such proposals. The American Bar Association should urge that such implementation begin now.

Respectfully submitted,

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Section of International Law
and Practice

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Philippines, Singapore, Taiwan, and the United States. See "Pacific Outlook" (1989-1990), published and prepared by the Asia

Pacific Rim Nations Slow on Talks Group," *The Washington Post*, (DC), Nov. 7, 1989, p. D3.

Organize the Pacific Basin by Walt W. Rostow, Report to the U.S. Marshall Public Service Commission, "The Future of the Pacific Basin," (1989), p. 9. Note 2, p. 2.

U.S. Study of Initiating Negotiations to Explore the Possibility of a Pacific Rim Free Trade Area Agreement—Public Law 100-2121, Sept. 1988 and U.S. Study of Entering into Negotiations for a Free Trade Agreement with Taiwan, The Pacific Rim and ASEAN or the Pacific Rim in General," USITC Publication 100-2121, March 1989.

¹²See "Pacific Rim Trade Pact Likely to Resolve Bilateral Problems than SSI xx," address by Michael B. Smith, former Deputy U.S. Trade Representative at American Bar Association Annual Meeting (August 8, 1989), *The Bureau of National Affairs, International Trade Reporter*, Vol. 6, No. 33, p. 1067 (August 16, 1989).