



Australia's Continuing Role in the Development of ASEAN Competition Laws

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Overview

1. Introduction to competition law and policy (CPL)
2. Why is competition law in ASEAN relevant to Australia?
3. Current status of ASEAN CPL
4. Challenges in introducing CPL in ASEAN



Introduction

Background

- ▶ More than 130 countries around the world now have a competition law
- ▶ Increased globalization of corporations and business = increased need for global cooperation on competition law
- ▶ Australia cooperates with a large number of competition agencies internationally
- ▶ ASEAN Economic Community (AEC) established in 2015
- ▶ New AEC Blueprint (2016-2025) adopted. It states:
 - ▶ “...for ASEAN to be a competitive region with well-functioning markets, rules on competition will need to be operational and effective.”
- ▶ 9 out of 10 ASEAN Member States now have competition laws in place

Benefits of CPL

- ▶ UNCTAD (2002) says benefit of CPL:
 - ▶ Wider consumer choice, lower prices, increased innovation
 - ▶ Promote transparency
 - ▶ Enhance attractiveness of economy to foreign investment
 - ▶ Advocacy role - create a culture of competition
- ▶ But what about in developing countries?
 - ▶ Needs to take into account stage of development and structure of economy
 - ▶ Needs to emphasize dynamic, as well as static, efficiency
 - ▶ Broader social objectives may be built in e.g. employment
 - ▶ Likely to need ongoing review as country develops
- ▶ **NO ONE SIZE FITS ALL**

CPL - a tool for economic development?

- ▶ Relationship between competition law and economic growth and development?
- ▶ To achieve sustainable and inclusive growth and development, UNCTAD argues that competition policy needs to be part of a wider mix of trade, economic, social and environmental policies (UNCTAD, 2015)
- ▶ To do this, UNCTAD argues:
 - ▶ Inclusive engagement with stakeholders (governments, businesses, consumers, academia, civil society)
 - ▶ Set priority sectors - relevant to economy and poor people (e.g. agriculture)
 - ▶ Consider if exemptions are needed for certain sectors e.g. farmers cooperatives (US and EU have exemptions in the agricultural sector)



Why does ASEAN matter to Australia?

Why is ASEAN relevant to Australia?

- ▶ Geographic location
- ▶ Size of ASEAN
- ▶ Continuing growth of ASEAN
- ▶ Trading relationship with ASEAN



ASEAN - Facts and figures

- ▶ Population: 643.5 million (2017)
- ▶ GDP: USD 2.974 trillion (2018)
- ▶ ASEAN no.5 in 2017 GDP world rankings (after Germany but above UK)
- ▶ GDP forecast to double by 2020
- ▶ Foreign direct investment between Australia and ASEAN continues to grow:
 - ▶ A\$40.3 billion invested by Australia in ASEAN (6.2% growth year on year) (2017)
 - ▶ A\$42 billion invested by ASEAN in Australia (13.4% growth year on year) (2017)

** Sources: ASEAN Secretariat: Key Socio-Economic Indicators; DFAT: ASEAN-10; World Bank GDP Ranking 2017*

Growth in ASEAN continues

GDP Economic Growth (%)				
	2016	2017	2018	GDP 2017 (million USD)
Brunei Darussalam	-2.5	1.3	2.0	12,128
Cambodia	7.0	6.9	7.0	22,158
Indonesia	5.0	5.1	5.2	1,016,000
Laos	7.0	6.9	6.6	16,853
Malaysia	4.2	5.9	5.0	314,500
Myanmar	5.9	6.8	6.6	69,322
Philippines	6.9	6.7	6.4	313,915
Singapore	2.4	3.6	3.1	323,907
Thailand	3.0	3.5	4.5	455,220
Viet Nam	6.7	6.5	6.9	223,864
AVERAGE	4.7	5.2	5.1	

Source: ADB Asian Development Outlook 2018

Australia's trade relationship with ASEAN

- ▶ ASEAN is Australia's third largest trading partner, for both exports and imports (2017, DFAT)
- ▶ From ASEAN perspective, Australia ranks in the top ten for exports and imports

ASEAN Principal Export Destinations (2016)		ASEAN Principal Import Destinations (2016)	
1. China	16.3%	1. China	26.8%
2. United States	15.2%	2. Japan	12.5%
3. Japan	11.0%	3. United States	9.6%
7. Australia	3.8%	9. Australia	2.3%

Source: DFAT/ASEAN-10 Factsheet (updated June and December)

ASEAN Competition Laws

	Law passed	Law in force	Competition Authority established	Enforcement commenced	Decisions issued
Brunei Darussalam	✓	To be phased in	✓ (2017) Competition Commission of Brunei Darussalam	✗	✗
Cambodia	✗	✗	✗ Competition Commission of Cambodia (CCC)	✗	✗
Indonesia	✓	✓	✓ (2000) Commission for the Supervision of Business Competition (KPPU)	✓	✓
Lao PDR	✓	✓	Underway Lao Business Competition Commission	✗	✗
Malaysia	✓	✓	✓ (2011) Malaysia Competition Commission (MyCC)	✓	✓
Myanmar	✓	✓	✓ (2018) Myanmar Competition Commission (MmCC)	✗	✗
Philippines	✓	✓	✓ (2016) Philippine Competition Commission (PCC)	✓	✓ (Mergers only)
Singapore	✓	✓	✓ (2005) Competition & Consumer Commission of Singapore (CCCS)	✓	✓
Thailand	✓	✓	Underway (New Commissioners to be appointed by 1.7.2018) Office of Trade Competition Commission (OTCC)	✗*	✗*
Viet Nam	✓	2019	✓ (2018) National Competition Committee (NCC) ? Viet Nam Competition and Consumer Authority (VCCA) ?	✗*	✗*

Source: Compiled by authors from various sources based on best information available as at November 2018

*Not under revised competition laws



Challenges

Implementation challenges

- Capacity building
 - Competition law is complex - need highly skilled and trained lawyers, economists, investigators
 - Judiciary needs to be familiar with competition law and economics
- Independence
- Creating a competition culture
 - Government, businesses, general public
 - Advocacy is key in early years
- Coordination with other government departments, regulators
- State owned enterprises, oligopolies, monopolies

Thank you

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