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## Handbook on Competition Policy and Law in ASEAN for Business 2013

All ASEAN Member States (AMSs) have committed to endeavour to introduce a national competition policy and law (CPL) by 2015. This is to ensure a level playing field and develop a culture of fair business competition for enhanced regional economic performance in the long run.

In August 2007, the ASEAN Economic Ministers (AEM) endorsed the establishment of ASEAN Experts Group on Competition (AEGC) as a regional forum to discuss and cooperate in competition policy and law.

AEGC has completed the first edition of Handbook on Competition Policy and Law in ASEAN for Business ("Handbook") which was launched at the 42<sup>nd</sup> AEM Meeting in August 2010.

This updated Handbook, released in 2013, captures the progress that has been made in advancing the development of competition policy and law in AMSs. It will help business to be aware and understand the important developments and differences in ASEAN competition laws.

Progress in the implementation of CPL in AMSs has been steady. Brunei Darussalam, Cambodia, Myanmar, and the Philippines are making progress in designing competition laws appropriate to their circumstances. Lao PDR is in the process of revising its existing (but so far non-implemented) competition law decree.

Brunei Darussalam has been in the process of drafting a national competition law since 2011. Competition-related provisions have been implemented, already, in the telecommunications sector. Upon passing the national competition law, there are plans to publish clear guidelines to provide a proper framework for general competition law enforcement.

Cambodia is currently finalising a draft law that will be submitted to the Council of Ministers soon. The Cambodian law at this stage covers anti-competitive conduct by business operators producing or supplying public utility products or services and also business operators conducting business in government monopoly industries. In addition to the normal prohibitions on anti-competitive practices the law also covers deceptive conduct.



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Indonesia has made changes to case handling procedures and the merger provisions. Revisions are also being considered to the existing competition law (Law No. 5 of 1999) that will mainly deal with procedural matters such as allowing a longer investigative time-frame, giving increased investigatory powers as well as improving the institutional capacity of the competition authority (KPPU).

Lao PDR is reviewing its existing law Decree 15/PMO (4/2/2004) and it is expected that a revised competition law will be passed by the National Assembly in 2015. The Division on Consumer Protection and Competition under the Ministry of Industry and Commerce has been set up.

Malaysia's Competition Act 2010 came into effect on 1 January 2012. The Act deals with anti-competitive agreements and abuse of dominance but does not explicitly prohibit anti-competitive mergers. Importantly, for business, there are private rights of action to prove a breach of the Act. The Malaysian Competition Commission (MyCC) has produced several guidelines, including Guidelines on market definition, anti-competitive agreements, abuse of dominance and complaints procedures.

Myanmar is in the process of drafting a competition law. Myanmar's New Constitution in 2008 includes Article 36b which says that Myanmar shall "protect and prevent acts that injure public interests through monopolization or manipulation of prices by an individual or group with intent to endanger fair competition in economic activities".

The Philippines has long adopted a sectoral approach to competition law. The Executive Order No. 45 in 2011 created the Office for Competition (OFC) under the Secretary of Justice as the competition authority to investigate all cases involving violations of competition laws. The sector regulators will continue to enforce their respective sector's competition policies.

Singapore, Thailand and Viet Nam have not changed their competition legislation since the first edition of Handbook. Since then, Competition Commission of Singapore (CCS) has taken action against employment agencies for fixing the monthly salaries of Indonesian domestic workers in Singapore, the fixing of modelling rates by modelling agencies and the exchange of commercially sensitive price information on ferry tickets by ferry operators. The Viet Nam Competition Authority is currently investigating a possible price-fixing agreement in the roofing market.

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