

THE HARMONIZATION OF ASEAN COMPETITION LAWS

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Introduction

- Intra-ASEAN export volumes increase at roughly 1.5% each year, in nominal terms. FDI flows in 2016 increased by 14.4% year-on-year.
- With 25.2% of total inflows to the region, intra-ASEAN was the second largest source of FDI inflows to the region after the EU-28 with 32.9%.
- Cross border competition including merger cases is also proved to be increased.
- Competition policy is one of important pillars in ASEAN Economic Community's (AEC) Blueprint 2025.

Targets of competition policy and law

- Facing incomplete and relatively big gap among their developments, ASEAN put ambitious targets for their competition policy and law:
 - Peer review for ASEAN member states on competition law; establishing a regional cooperation agreement on CPL; procedures for joint investigations and decisions on cross-border cases; regional strategy on convergence; and an ASEAN Set of Principles on Competition Agreement. In addition, while developing such targets,
 - Narrowing gap of their developments.

Challenges

- The major challenge to competition policy and law in ASEAN is currently, the battle of transition;
- Different legal system and procedure across ASEAN cause difficulties in finding a suitable procedures for handling cross-border case;
- Imbalanced competition culture across ASEAN, both from policy maker and business perspectives;
- Reduced support from development partners in ASEAN.

Indonesia Current Progress

- Indonesia is anticipating significant changes in their government and competition policy and law. This year considers as regional election year, most of local governments elect their governor and local parliament. 2019 will be a national election year for presidential and national parliament election. Huge democracy euphoria has been coming to Indonesia. This makes Indonesia have to be prepared with some changes.
- On competition policy and law, the final draft of new law is being finalized by both the parliament and government, targeted to be passed by end of this year. While internally, competition authority of Indonesia, KPPU, is starting this year with their new commissioners and new set of priorities.

What ASEAN needs to do?

- ASEAN needs to rethink about their ambitions. ASEAN may undertake two efforts:(i) to shift the timeline of achieving output targets, or (ii) to simplify outputs, in particular by eliminating less important targets or incorporating closely related targets.
- ASEAN needs to accelerate the establishment and implementation of law enforcer network.
- ASEAN needs to increase the role of ASEAN countries in assisting other ASEAN countries.

Is the harmonization of CPL the Ultimate answer for the efficacy of CPL in ASEAN? ?

- Not in the short term. Harmonization must come from a need, not from coercion to achieve the target set.
- Instead, ASEAN should increase interaction among them.

Conclusions

- Increasing importance of competition policy and law. ASEAN has set a very ambitious target in the field of competition, so its potential achievement needs to be questioned.
- Different legal systems and resources are main challenges in achieving the targets. Therefore, rather than thinking about harmonizing the competition policies and law in the region, ASEAN should improve interaction prevention and enforcement of cross-border law and increase the contribution of ASEAN countries in assisting other ASEAN countries.

Thank You

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