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The U.S. Government's Global Hunger & Food Security Initiative



COMPETITION RATE Summary

This document presents the findings of the Regional Agricultural Trade Environment (RATE) assessment conducted in the ASEAN region in 2012 by the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) Project.



USAID
FROM THE AMERICAN PEOPLE

COMPETITION

Regional Agricultural Trade Environment (RATE) Summary

USAID Maximizing Agricultural Revenue through Knowledge, Enterprise
Development and Trade (MARKET) Project

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*On the cover: A Sumatran Wet Market: Even the smallest traders benefit from healthy competition.
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In Brief

COMPETITION

Why Competition?

Free and fair competition among enterprises promotes economic efficiency, consumer choice and welfare, and economic growth and development. Competition impels companies to work as efficiently as possible and offer the most attractive price and quality options in response to consumer demand, rather than conspiring as cartels, for example, to fix prices or to block market entry. Government control and interference in domestic enterprise is significant in ASEAN, particularly with respect to agricultural production, processing, and trade. Throughout ASEAN Member States, subsidies, price controls, targeted import and export restrictions, state-owned enterprises (SOEs), and private monopolies constrain market competition.

ASEAN's Approach

The AEC Blueprint anticipates that, by the time the ASEAN Economic Community formally emerges in 2015, all Member States will have established a competition policy, jointly created a network of competition authorities or agencies, and developed regional guidelines on competition policy. To this end, the ASEAN Experts Group on Competition (AEGC) facilitates information exchange and cooperation on competition policy. In 2010, the AEGC issued the *ASEAN Regional Guidelines on Competition Policy*, which describe how Member States may address anticompetitive agreements among enterprises (including price-fixing and bid-rigging), abuse of dominant position, and anticompetitive mergers. The guidelines set a threshold for competition policy, but say little about such practical issues as price controls and the influence of SOEs on competition.

Regional Findings

Since 1999, five ASEAN Member States have enacted competition laws and endeavored to integrate competition policy into their economies. Specific competition challenges vary among the Member States, given differing degrees of state engagement in the economy and varied roles of large private actors.

ASEAN's agriculture sector is replete with government interventions into agricultural markets and trade. In rural areas, the competitiveness of farmers and traders is often limited by weak access to information.

The private sector does not speak with one voice on matters of competition. Large multinational players seek less government control over agricultural markets, while smaller, domestic enterprises often rely on government intervention.

Opportunities for ASEAN and Region Entities

- Recommit to region-wide adherence to international best practices in competition policy and law
- Integrate private-sector perspectives into policy dialogue on competition in the agriculture sector
- Provide conditions and resources for harmonization of existing and draft competition laws
- Support exchange of information among competition authorities, particularly as it pertains to advocacy

Opportunities for Member States

- Undertake comprehensive assessments of domestic competition in agriculture
- Promote domestic understanding and expertise in competition policy and law

AT ISSUE: ENCOURAGING FREE AND FAIR COMPETITION IN ASEAN'S AGRICULTURAL MARKETPLACE

Competition is at the heart of successful market economies. Free and fair competition promotes economic efficiency, consumer choice and welfare, and overall economic growth and development. Competition impels producers to work as efficiently as possible and offer the most attractive price and quality options in response to consumer demand. When consumers dislike the offerings of one seller, they can turn to others. This ability of consumers to “vote with their wallets” imposes a rigorous discipline on sellers to satisfy consumer preferences.

Over the past generation, recognition in ASEAN that domestic competition and innovation are required to succeed in global markets has increased. Most Member States have taken steps to reduce government interference in private-sector activity and to enforce laws and regulations fairly and with cost, efficiency, and consumer welfare in mind. Since 1999, five Member States—Indonesia, Thailand, Vietnam, Singapore, and Malaysia—have enacted free-standing competition laws supported by professional competition authorities. Referred to in the United States as “antimonopoly” or “antitrust” policy and law, these new competition regimes strive to protect the marketplace from behaviors associated with cartels and monopolies, such as price-fixing, bid-rigging, and other conspiracies that result in restraint of trade. Development of competition policy and law complements the commitment of ASEAN Member States, by way of trade laws and construction of the ASEAN Economic Community, to free and fair competition with regional and international trading partners.

Southeast Asia’s embrace of market forces—with respect to domestic competition and international trade—has resulted in some of the world’s highest economic growth rates since the turn of the millennium. Yet government interference in domestic enterprise, particularly agriculture, remains significant. In certain industrial and trade sectors, cartel-type activity among private companies is widely practiced to the detriment of smaller players. Along with several other tools, competition policy and law are important in dealing with these issues and promoting economic efficiency and consumer welfare.

To varying degrees, the governments of each ASEAN Member State intervene or even participate directly in domestic markets. In some instances, the reasons for doing so are consistent with international best practice: to manage public resources and public goods;

How Competition Relates to Other RATE Topics

Informal Economy. Where cartels and other anticompetitive activities go unchecked, new enterprises face unfair barriers to entry into the formal economy.

Access to Finance. State-owned enterprises often benefit from preferential access to finance, an unfair advantage over their private competitors.

Infrastructure. Large-scale infrastructure projects often give rise to cartel behavior, bid rigging, and other anticompetitive activity. This drives up costs and threatens the quality of infrastructure projects of critical interest to agricultural traders.

Intellectual Property Rights. IP laws promote competition by creating legally enforceable rights that enable innovators to compete with established enterprises. These laws also facilitate competition by protecting consumers and honest businesses against dishonest and deceptive business practices that might otherwise drive small companies out of business.

Nontariff Barriers to Trade. From the perspective of outsiders, state interference in domestic agricultural markets often amounts to NTBs that violate the spirit and the letter of regional and international trade agreements.

Transparency and Accountability. Lack of transparency in government regulatory and procurement activities often inhibits free and fair competition.

to limit market power; to protect the environment; to ensure the health and safety of consumers, workers, children, and others; and to reduce inefficiencies that may arise from limited (or false) information. However, some also do so for reasons that are less accepted among the world’s strongest market economies. These include revenue production for the state; preservation of certain industries or actors that are unlikely to survive on their own; protection of certain empowered groups; or simply a determination to avoid the uncertainties arising from the forces of supply and demand. In various places throughout ASEAN, market competition in the agricultural arena is limited by subsidies, price controls, state-owned enterprises (SOEs), private monopolies, and other restraints.

This Topic Analysis summarizes the state of competition in ASEAN and its Member States, in particular as it pertains to agriculture-related commerce. In addition to discussing enactment and implementation of formal competition policy and law, this paper details the relationship between significant state interference and meaningful competition in agricultural markets and suggests opportunities for action.

WHAT IS ASEAN’S CURRENT APPROACH TO COMPETITION?

Competition was formally made a part of ASEAN’s regional agenda in 2007 when Member States committed to accelerate economic integration and the creation of the ASEAN Economic Community (AEC) Blueprint.¹ The Blueprint anticipates that, by the time the AEC formally emerges in 2015, all Member States will have established a competition policy, formed a network of competition authorities or agencies among themselves, and developed regional guidelines on competition policy. To this end, ASEAN established an Experts Group on Competition (AEGC) to facilitate exchange of information, experience, and cooperation on competition policy.² In 2010, with the support of the German government, AEGC issued *ASEAN Regional Guidelines on Competition Policy*, which was supplemented by the *Handbook on Competition Policy and Law in ASEAN for Business*.³

The regional guidelines are a milestone insofar as they promote awareness of and stimulate interest in strengthening the environment for competition throughout ASEAN. They emphasize how ASEAN Member States may address anticompetitive agreements among enterprises (including cartel-type activities, such as price-fixing and bid-rigging), abuse of dominant position in the marketplace, and anticompetitive mergers of companies.

The guidelines are also notable for what they do not do. Chiefly, unlike laws found in other regional bodies—such as the European Union, the Australia-New Zealand Closer Economic Relations and Trade pact, and the Caribbean Community—the guidelines do not amount to an enforceable authority over competition matters in Member States. Rather, as with most commerce-related topics, ASEAN Member

ASEAN Regional Guidelines on Competition Policy (2010)

The guidelines cover the following aspects of competition policy and law:

- Definition and objectives of competition policy
- Scope of competition policy and law, including prohibitions against anticompetitive agreements, abuse of dominant position, and anticompetitive mergers
- Exemptions or exclusions from competition policy and law
- Role and responsibility of regulatory authority
- Transitional issues
- Enforcement, including different approaches to and elements of enforcement
- Due process
- Advocacy and outreach
- International cooperation and relationship between competition and free trade agreements

States are free to create their own, wholly discrete and individualistic laws and policies. Although abiding by regional guidance is advised, that guidance is not binding, and no regional body addresses competition in any capacity beyond facilitating dialogue and providing advice (AEGC).

Nor do the guidelines address the matter of SOEs and their typically anticompetitive influence on national economies, one of the key competition concerns in the region. This is an especially important issue in ASEAN. In Malaysia, for example, enactment of the competition law was delayed for many years by debate over how it would treat SOEs, and a chief criticism of Thailand’s competition regime is that it excludes so many entities, including SOEs, from its requirements. The guidelines are also silent on the reasons typically cited by Member States for intervening in domestic economies, whether through SOEs, export or import bans, price controls, or other mechanisms.

Finally, the guidelines touch only lightly on “competition advocacy” as part of a government’s mission to promote competition in domestic markets. In fact, best practice in successful economies has determined a need for an internal advocate for competition—that is, a state-sanctioned body that reviews and issues policy recommendations pertaining to government policies and practices, as well as prospective legislation, for their potential impact on commercial competition and innovation.⁴ The AECG is mindful of this role, but has stated that competition advocacy in ASEAN is undermined or constrained by special interest lobbying, weakness in market-supporting institutions, and underfunded and understaffed competition authorities.⁵

Success in global markets requires competitive and innovative domestic markets.

—Organization for Economic Cooperation and Development

USAID has supported competition policy and law in ASEAN and its Member States since 2003, chiefly through the ASEAN Competition and Consumer Protection Program (ACCP). Through ACCP, ASEAN and individual Member States received technical assistance from the U.S. Federal Trade Commission (FTC) and the U.S. Department of Justice (DOJ) to develop sound competition policy and law, consumer protection policies, and associated enforcement capacity.⁶ FTC and DOJ experts have worked with individual competition agencies—in Indonesia and Vietnam especially—and with the ASEAN Secretariat. A 2011 USAID-sponsored evaluation of the project found ACCP to have been very effective, especially in Vietnam, and that ACCP helped institutionalize competition as “a key objective” in ASEAN and garnered interest and created multilateral pressure for the adoption of international best practices in competition policy and law. On the other hand, the project experienced considerable frustration in promoting competition in Cambodia and Laos, with its evaluation concluding that those countries may not yet have reached the level of development necessary to sustain and enforce a meaningful competition policy and law regime.

To date, Brunei, Cambodia, Laos, Myanmar, and Philippines have not enacted dedicated laws on competition, although to varying degrees they have enacted related legislation or are drafting new laws. The older laws in the region—Indonesia and Thailand enacted theirs in 1999—have faced significant challenges in implementation, and the newest law—Malaysia’s—is disadvantaged by a generally under-resourced competition authority.

In its 2012 mid-term review of ASEAN’s progress in meeting commitments in the AEC Blueprint, the Economic Research Institute for ASEAN and East Africa (ERIA) stated that the *ASEAN Regional*

Guidelines on Competition Policy are a significant step in realizing the goals of the AEC.⁷ ERIA advised that additional competition issues will arise as intra-ASEAN business relationships deepen due to the AEC efforts, and that ASEAN should keep promoting formal competition policies into 2015.⁸ Throughout ASEAN, there remain myriad opportunities to reinforce the value of competition as the heart of any successful market economy, particularly with respect to agricultural production and trade in agricultural products.

COMPETITION IN ASEAN: HIGHLIGHTS FROM THE RATE ASSESSMENT

The RATE assessment reviewed competition in ASEAN in four areas: legal framework; implementing institutions; supporting institutions; and social dynamics.⁹ Questions centered on the presence of a formal legal and institutional framework for competition that is in step with international best practice, as well as on other aspects of competition in the agriculture sector, including competition in input markets and domestic distribution channels, access to information, and human resources. Key findings of the assessment are set forth below.

Formal Competition Policy, Law, and Enforcement: Emerging Experiences

At its most basic, competition policy and law in step with international best practice prohibits contracts, combinations, and conspiracies that restrain commerce among domestic enterprises or between domestic and international businesses. Price-fixing, bid-rigging, restriction of output, and exclusive-dealing contracts are all examples of restraint of trade. In addition, classic competition laws prohibit mergers or acquisitions of stock or assets where the effect would be to substantially lessen competition or tend to create a monopoly. They also establish a competition authority charged with both enforcing the law and serving as an advocate on behalf of free and fair competition in nearly all segments of the economy.

Notwithstanding these widely shared standards for competition, certain “exemptions” have been carved out in numerous sectors across the world. These include energy and utilities, transport, communications, and, to a significant extent, agriculture. For each of these exemptions, reasons of efficiency, national security, protectionism, and political reality are often cited. Evidence indicates, however, that exemptions “can reduce economic performance by allowing anticompetitive practices such as abuses of dominant position and collusive conduct” and that, overall, “there are significant benefits to applying general competition law as widely as possible,” as summarized by the Organization for Economic Cooperation and Development (OECD).¹⁰

Since 1999, five ASEAN Member States have enacted and launched implementation of formal competition laws. Indonesia, Vietnam, and Singapore each substantially based their laws on international best practice and benefited from the technical input of international authorities, including OECD and the U.S. Federal Trade Commission. Thailand’s law was enacted in 1999 with considerably less external influence and assistance, and is far less in step with international best practice. Malaysia’s law emerged in 2010 after many years of domestic negotiation, including the insistence by the private sector that the law must apply to state-owned enterprises. As summarized in the following discussion, implementation of the five national competition laws in ASEAN has shown mixed results.

ASEAN Member States with Competition Laws

| Member State | Name of Law | Year Enacted | Implementing Authority |
|--------------|---|--------------|---|
| Indonesia | Law Number 5 Concerning Prohibition of Monopolistic Practices and Unfair Business Competition | 1999 | Commission for the Supervision of Business Competition (KPPU) |
| Thailand | Trade Competition Act | 1999 | Office of Trade Competition Commission in the Department of Internal Trade (Ministry of Commerce) |
| Vietnam | Law on Competition | 2004 | Vietnam Competition Authority; Vietnam Competition Council |
| Singapore | Competition Act | 2005 | Competition Commission |
| Malaysia | Competition Act; Competition Commission Act; Price Control and Anti-Profiteering Act | 2010 | Competition Commission |

Indonesia

In Indonesia, the first ASEAN Member State to enact a competition law,¹¹ the competition authority (KPPU) is respected for the quality of its staff, the independence and transparency of its processes, and its leadership in the region. Over the years, KPPU has investigated the cement industry for cartel activity; fined airlines for fixing fuel surcharges (an action overturned by the District Court in February 2011); ruled against the Pfizer company’s distribution arrangements for blood pressure drugs; and sanctioned four oil and gas companies for bid-rigging. The KPPU took action in 2009 against Carrefour Indonesia on the grounds that it used its dominant position achieved through acquisition of Alfa Market to impose unfair trading terms on its suppliers. The allegation was ultimately rejected by the Indonesia’s Supreme Court.¹²

The KPPU takes seriously its mandate to oppose anticompetitive actions through both enforcement powers and outreach and advocacy authority. With respect to advocacy, the KPPU issues between 10 and 20 policy recommendations each year, chiefly on draft laws and regulations pertaining to finance, transportation, and telecommunications. Of the seven policy recommendations pertaining to agriculture that the KPPU issued between 1999 and 2011, four resulted in policy change. With respect to trade policy, four policy recommendations out of ten resulted in change.¹³ Indeed, although KPPU’s advocacy does not invariably result in competition-directed change (its overall

View from Indonesia

COMPETITION ADVOCACY RESTORED COMPETITIVENESS TO POULTRY HOUSES

In 2007, the local government of Jakarta issued a regulation that required poultry traders outside of Jakarta to have their products examined in Jakarta’s poultry houses before distribution in and around Jakarta. Outside traders who had had products inspected in their own local facilities suddenly faced higher costs.

In March 2010, the competition authority recommended restoring past conditions so traders could have poultry inspected in their own jurisdictions.

In December 2010, the local government accepted the recommendation, restoring the past conditions so long as the poultry houses outside of Jakarta met certain technical and sanitary standards. Poultry traders may now use any poultry house and inspection service that meets the standards of Jakarta’s local government.

SOURCE: A. Junaidi, Bureau of Policy, KPPU, Exchange of Experience in Setting Up Strategy in Competition Advocacy (2011).

rate of achieving change is 43 percent), an absence of advocacy would clearly result in less competitive agricultural markets and trade policy.

Thailand

In Thailand, the Trade Competition Act (1999) prohibits practices that international consensus generally deems anticompetitive. These include (1) abuse of market power by a firm in a dominant position; (2) mergers and acquisitions that may amount to a monopoly; (3) agreements and collusive practices that adversely affect competition; (4) exclusive distribution of imported products that impairs consumers' opportunity for direct importation; and (5) practices that tend to exclude or restrict other firms from conducting business that are not otherwise free and fair. However, unlike other competition laws in the region, the Act contains exemptions for state enterprises, cooperatives and agricultural cooperatives, central and regional government agencies, and other businesses periodically prescribed by ministerial regulations. Moreover, unlike Indonesia's KPPU, the Thai Competition Commission has never been considered independent of other branches of government. Indeed, the Commission is regarded as nontransparent, heavily influenced by the priorities of large enterprises and powerful political forces, and, in recent years, virtually inactive. A 2008 analysis of the law referred to the Commission's performance as "dismal," noting that, between 2004 and 2008, it never met at all.¹⁴ By 2010, a significant overhaul of the law had been proposed by the Ministry of Commerce, but no changes had taken place by late 2012.

Vietnam

After several of years of drafting, business and state agency input, and international assistance, Vietnam enacted a Competition Law in 2004, which came into effect in January 2005.¹⁵ From 2008 through 2011, a significant consultative relationship between the Vietnamese Competition Authority (VCA) and the U.S. FTC yielded both evident progress and stagnation. Vietnam's ranking in the World Economic Forum's annual Global Competitiveness Report (GCR) initially improved dramatically in the area of "effectiveness of antimonopoly policy" (but then fell after the program was ended). In addition, during that time Vietnam prepared a consumer protection law that is widely considered to be in step with international best practice. With respect both to "extent of market dominance" and "intensity of local competition," Vietnam's GCR scores diminished, but then, in the 2012-13 survey, "intensity of local competition" rebounded considerably. USAID's formal evaluation of the program considered the possible explanations for these mixed results:

... Vietnam has not been able to translate [its policy] success into observable improvements in competition outcomes on the ground. One explanation for this is that the VCA has, with the assistance of [the FTC], raised the standards and expectations of the businesses who responded to the GCR survey through their education, publicity, and outreach efforts between 2008 and 2010. It may be that the Vietnamese government has not yet matched those increased standards and expectations by reducing the power of incumbent SOEs. It may also be that the increased awareness raised standards and expectations among businesses, causing the other two indicators to get worse before they potentially get better. This type of phenomenon is actually quite common. For example, anticorruption campaigns can create increased awareness of the issue which causes people to recognize the problem and assess it more critically.¹⁶

After several years of capacity building and outreach, the VCA recently engaged in specific enforcement activities, primarily in the industrial and service sectors. In 2009, the VCA issued a fine against the Vietnam Air Petrol Company for abuse of a monopoly position and took further steps to break up the company’s monopoly on airplane fuel. VCA investigations have also involved the Vietnam Steel Association on the issue of price fixing and various insurance companies on the matter of anticompetitive agreements.¹⁷

Vietnam’s World Economic Forum Global Competitiveness Report rankings for “Competition”

| Category | 2007-08 (131 countries surveyed) | 2010-11 (139 countries surveyed) | 2012-13 (144 countries surveyed) |
|---------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Effectiveness of anti-monopoly policy | 100 | 58 | 82 |
| Extent of market dominance | 41 | 48 | 73 |
| Intensity of local competition | 61 | 75 | 44 |

Singapore

Singapore’s Competition Act of 2005 is largely modeled on the United Kingdom’s Competition Act of 1998 and includes the establishment of the Competition Commission of Singapore (CCS).¹⁸ Following its entry into force on January 1, 2006, the Act was implemented in phases, starting with prohibitions on anticompetitive unilateral conduct (abuse of dominance provisions) and anticompetitive agreements. On July 1, 2007, the CCS introduced regulations pertaining to mergers of companies, which have been followed by a number of other implementing regulations.¹⁹ Given Singapore’s status as an industrial and service-based economy, enforcement of the Act has rarely touched on agriculture or even agricultural trade. Rather, enforcement actions have involved such anticompetitive activities as bid-rigging among six pest control companies and price-fixing by 16 coach operators on the cost of tickets from Singapore to certain destinations in Malaysia.²⁰ The CCS has also delivered opinions to stakeholders seeking guidance under the law. For example, the Singapore Medical Association sought and received guidance on how doctors may price their services.²¹

Malaysia

On January 1, 2012, after 15 years of negotiations, a three-part legal framework for competition—the Competition Act, the Competition Commission Act, and the Price Control and Anti-Profiteering Act—came into force in Malaysia. The Competition Act prohibits anticompetitive agreements such as price-fixing, market-sharing, bid-rigging, and limiting or controlling production, as well as abuse of a dominant position, which includes exploitative and exclusionary conduct such as excessive pricing, tying/bundling, refusal to deal, and predatory pricing. The legal framework for competition does not contain a mergers and acquisitions provision, which remains in the domain of the country’s Securities Commission. The previously existing Consumer Protection Act remains under the authority of Ministry of Domestic Trade. In general, the Competition Act aims to promote consumer welfare, although it exempts industries that are protected by other national laws (such as rice).

Business representatives characterize the Act as very “industry-driven”—that is, the private sector generally believes that the law will have a positive impact on the economy. After years of debate over the scope of the law, the Act covers most government-linked companies—which are said to make up 40

percent of domestic economic activity—thus affording them the same “rules of the road” as private companies. Still, a great many products remain under government price controls, including petrol, rice, sugar, and flour, as well as chicken, meat and a few other products during festival periods. The RATE assessment also found that many mid-sized trading companies remain confused about the scope and requirements of the Competition Act.

The Competition Commission Act establishes the authority of the Commission in Malaysia, which consists of 10 part-time members and one full-time chair. The Commission is charged with advising the government, including any public or regulatory authority, on all matters of competition, including actual or likely anticompetitive effects of current or proposed legislation and international agreements relevant to competition. The Commission also is charged with implementing and enforcing the provisions of the competition laws and carrying out general studies pertaining to competition issues. As of August 2012, however, the Commission employed fewer than 10 staff, a number insufficient to achieve its mandate.

Other Member States

The five ASEAN Member States that have not enacted competition laws are at varying stages of understanding and integrating the issue into their economies. As of late 2012, Brunei was actively engaged in the drafting process, while Cambodia, with support from the Asian Development Bank, has formed a working group to develop a competition policy framework and draft a competition law. “Building awareness of competition policy issues will be a critical function of this working group,” according to the ADB.²² Indeed, although government interference in Cambodia’s agricultural markets in certain aspects is considerably less than what is found in other ASEAN Member States, the high incidence of corruption and lack of judicial independence, among other factors, means that Cambodia “might not be ready for [Competition Policy and Law] and, even if they were implemented, could quickly become ‘paper tigers’ without any real enforcement powers,”²³ according to the USAID evaluation of its sponsored work with Cambodia.

In Burma, some officials reportedly aspire to enact a competition law by 2015, but observers of the business environment doubt that a meaningful competition regime, if it is in fact established, could be enforced, given the military’s involvement and ownership of large enterprises. Similarly, in Laos, while the 2003 Constitution encourages competition in all economic sectors, there is currently no competition law. A 2004 Decree on Trade Competition is regarded as the first step in Laos toward the legislative drafting of such a law.

The Philippines presents a relatively unique case in ASEAN. Competition policy and law represents not merely a potential shift in the relationship between the government and private markets, but also a direct

View from Laos

“GOVERNMENT MUST BE AT THE CENTER OF THE EQUATION”

Many business people in Laos are deeply attached to government intervention in the agricultural marketplace. Asked during the RATE assessment whether he thought it was a good idea that government charges a 1 percent fee on imported fertilizers, one farmer replied that “Government’s role is to help me succeed. If government feels it is necessary to charge me the fee, then I believe they know what they are doing.”

Some farmers and farmers associations in Laos say they want guidance from the government on what to grow, and that government must control middlemen to guarantee fair pricing. One association representative said, “Government must be at the center of the equation.”

challenge to a system in which basic control of the consumer economy lies in very few hands, often large, family-run conglomerates. Currently, certain competition principles appear in the Civil Code, the Consumer Act, the Penal Code, and the Price Act. Although hoarding, profiteering, and cartels are illegal under these laws, the prosecution of persons engaged in antitrust or unfair competition behavior as well as recovery of civil damages has long been the primary responsibility of the private offended party.²⁴ For generations, economic policy in Philippines has reflected the prevailing role of sectoral oligarchies and cartel behavior in many of its key industries, including transport, retailing, energy, and others. Still, the current Philippines' government appears to take antitrust issues more seriously than previous regimes. In 2011, an Executive Order designated the Department of Justice as the country's Competition Authority and gave it enforcement responsibilities to prevent, restrain and punish monopolization, cartels and combinations in restraint of trade. In the first five months since its creation, the new office reportedly opened five separate investigations involving monopoly abuse, bid-rigging, and restraints of trade.

There remains enormous opportunity in ASEAN to coalesce around the key values of competition, beginning with outreach to private and public sector stakeholders on the value of competition policy and law and improvement of human capital levels for the purpose of implementation. As suggested in the USAID evaluation of its long-term competition assistance program, there is great room to strengthen university curriculums in law and economics (or "industrial organization") courses: "Sustainable progress is unlikely if countries cannot develop their own internal supply of experts in law and economics."²⁵ With respect to agricultural production, processing, and trade, individual competition agencies should be encouraged to share their experiences with enforcement and advocacy, for the long-term benefit of their regional counterparts.

ASEAN's Agriculture Sector: Abundance of Regulatory and Institutional Interventions

The enactment of competition policy and law signals a government's commitment to promoting improvements in price, quality, and variety of products in markets. The impact of competition policy and law is undermined, however, when the same government enacts (or fails to repeal) laws and regulations that directly interfere with free and fair competition, including in the agriculture sector. Under such conditions, certain protected enterprises typically resist improvements that may make them more productive, more responsive to consumer demand, or less expensive in the marketplace. In most ASEAN Member States, the RATE assessment found a range of legislative and regulatory interventions which, irrespective of the formal competition policy and law, sharply diminish competition in domestic agricultural markets.

Rice presents a unique case throughout ASEAN. This economically and culturally revered crop is generally kept separate from the normal dynamics of supply and demand. For example, in Vietnam, the mechanics of rice production and distribution are heavily dominated by the government and, albeit with some limited exceptions, the government oversees most rice trade on the international markets. In Indonesia, the government sets national minimum prices for rice production as well as heavy restrictions on rice imports. In Malaysia, the country's tenth economic plan (2011-15), the latest iteration of the government's framework for development, commits state institutions to ensuring "the availability, accessibility and affordability of food, particularly rice for the general public." Malaysia's national rice policy has been in place since 1974, when, following a major food shortage, the government mandated that wholesale quantities of rice could only be purchased, both domestically and internationally, by a

single buyer. That sole designated buyer, the Bernas company, is obliged to (1) serve as a buyer of last resort for Malaysian paddy farmers, (2) guarantee rice prices to domestic farmers, (3) maintain a national stockpile, (4) manage government subsidies to farmers, and (5) implement a rice milling scheme directed at indigenous farmers. As a final example, in Thailand, the government's controversial rice-pledging scheme means that the state is the key determinant of market prices for this highly valued crop. In 2012, resulting high prices of Thai rice has cut that country's exports.

Although rice is unlikely to emerge from government control in most ASEAN Member States in the near future, the domestic markets for several other crops, foodstuffs, and inputs—most holding a less culturally vital place in Southeast Asia than rice—are constrained to varying degrees, with a cumulative, anticompetitive effect. In Indonesia, a government-supported fertilizer system discourages foreign competition, and representatives of major cash-crop sectors complain that the domestic fertilizer they are required to buy is considerably less effective than the preferred foreign alternatives. Similarly, the Indonesian government strictly controls the distribution of sugar, both as a finished product for consumers, and for import one month prior to, during, and two months after the season when local cane is milled. This and similar actions result in some of the highest food prices in the region.

In Thailand, the government retains authority to control prices or set *de facto* price ceilings for 39 goods and 2 services, including staple agricultural products (sugar, pork, cooking oil, condensed milk, wheat flour, and others). In Malaysia, the government guarantees a market (though not a price) for many farm products, including fruits and vegetables, and also sharply restricts the import and distribution of sugar. As a final example, the world's three largest rubber exporters—Thailand, Indonesia and Malaysia—jointly announced in August 2012 that they would cut exports to strengthen up prices, which hit a near three-year low on weak industrial demand. (Vietnam, however, resisted joining the rubber consortium, and is likely to overtake Malaysia in 2013 as the world's third-largest exporter of rubber.²⁶)

Notwithstanding these persistent interventions, recent years have undoubtedly witnessed certain increases in competition in the domestic agriculture markets of ASEAN Member States. Vietnam, for example, has introduced principles of competition into its vast network of SOEs. Many Vietnamese SOEs have been "equitized"—that is, stock has been sold to private investors—and even those that have not are increasingly held accountable for competitiveness in quality and efficiency. Where it did not do so in the past, the government now allows private sector enterprises to surge in market dominance where their business models indeed are better than that of SOEs. Still, the state remains vastly engaged in the economy, with many factors—access to land and finance and special employee benefits, in particular—skewed to the advantage of its SOEs.

From the Brunei Times, January 9, 2013

PRICE CONTROL ORDER COMES INTO FORCE

The Price Control Act Amendment Order 2012, designed to keep the cost of necessities down to help Bruneians on low incomes, came into force on January 1 this year, the Department of Economic Planning and Development (JPKE) announced yesterday in a press release..... The Act Amendment Order caps the price of cars, rice (Thai Hom Mali and regular and glutinous rice), sugar (white, referred, granulated, cane sugar and fine grain), plain flour, baby milk powder, milk (evaporated and condensed), petrol (Premium 97, Super 92 and Regular 85), automotive oil (diesel), dual purpose kerosene, bottled liquefied petroleum gas, cooking oil (canola, corn, palm, vegetable, sunflower and soya bean) and construction materials such as sand, stone (aggregate 3/4), cement, bitumen, asphalt, ready-mix concrete and bricks (clay and concrete).

How do ASEAN Member States Intervene in Agricultural Markets?

| | Brunei | Burma | Cambodia | Indonesia | Laos | Malaysia | Philippines | Singapore | Thailand | Viet Nam |
|---|--------|-------|----------|-----------|------|----------|-------------|-----------|----------|----------|
| State-owned agricultural enterprises | • | • | • | • | • | | • | | | • |
| State-sanctioned private monopolies/oligopolies | • | | • | | | • | • | | • | |
| Price controls over food products | • | • | | • | • | • | • | | • | • |
| State as purchaser of last resort | | • | | | • | • | | | | • |
| Guaranteed minimum prices to producers | | • | • | • | • | | | | • | |
| Designation of mandatory buyer (i.e., crop board) | | • | | | • | • | | | • | • |
| Fertilizer subsidies | | • | | • | | • | • | | • | |
| Export bans | | | | • | | | | | • | |
| Quotas on exports | • | • | • | • | • | | | | | |
| Import bans | | | | • | | • | | | | |
| Quotas on imports | | • | | • | | • | | | • | |

Of course, not all state-sanctioned “interventions” in the market are considered, by international standards, anticompetitive. Every day, governments all over the world support their agricultural markets in ways that do not cross the line into direct competition with market forces. They do so by creating conditions for private agricultural activity—including production, processing, and trade—to flourish. These include streamlined private access to land or land use; institutionalized protection of trademarks and geographical indications; strengthened and well maintained infrastructure, including modes of transport at all stages of domestic value chains; dedication to building workforce skills that lead to heightened productivity; diminished “red tape” and elimination of petty corruption; and engagement in regional and international trading regimes so that competitive domestic products are poised to respond to demand from world markets.

Competition in Domestic Value Chains: Market Information and Understanding the “Middleman”

Another way to directly support the conditions under which domestic agricultural markets compete is by ensuring clear and varied mechanisms for producers, processors, and traders to learn about and evaluate market opportunities. Participants in the agricultural arena specifically need reliable information concerning price. This is true both for small, isolated farming families, who may have little idea of the price paid for their products in cities located hours away, as well as for commodity traders, who constantly seek the most promising markets for their goods. The source of this information may be public or private sources, or, ideally, a combination of the two.

Access to market information throughout ASEAN (including not only price, but also issues of quality and quantity) has improved significantly in recent years. In the Philippines, for example, public and private market information resources include the Agribusiness and Marketing Assistance Service Price Watch; the state-sponsored Price Monitoring Charts of Basic Consumer Goods; outputs of the Bureau of Agricultural Statistics; and the Metro Manila Price Bulletin. For some plantation crops, such as coconut, increased access to information has reportedly improved the terms of trade between producers and buyer agents for processors. In Cambodia, the Agricultural Marketing Office runs a market information service which collects wholesale agricultural price information three times weekly in 21 major markets in the country. This information is broadcast through local FM radio, and is accessible through the Food Security and Nutrition website and SMS-messaging.

In Thailand, the national Bank of Agriculture and Agricultural Cooperatives (BAAC) provides marketing information to farmers and assists them on how to use this information. The BAAC also created “Agricultural Marketing Cooperatives” as client institutions. These organizations aim to improve the marketing abilities of farmers, while ensuring they have access to information on how to get the best price for their product. As a result, the farmers with access to this information are better positioned to bargain with private sector buyers.

In Vietnam, access to market information varies significantly across regions and products. The best access to marketing information—specifically market price—is among those crops, such as coffee and cocoa, where international markets set a threshold price. In addition, large wholesale markets allow some farmers and semi-professional traders to become informed about market prices, but this information does not necessarily filter down to farms and villages. As of 2012, mobile phone penetration in Vietnam is around 80 percent, thus enhancing farmer access to market information.

In contrast, Laos appears relatively behind with respect to transmitting market information to producers. In practical terms, very little information gets to farmers, and the information deficit badly affects their ability to negotiate with traders and processors. With the Laos government so deeply involved in processing and in helping firms that add value to products, it has little incentive to provide market information-gathering tools to the lower ends of the value chains.

Indonesia provides an example of how farmers throughout ASEAN often believe that, even where price information is plentiful, domestic marketing channels are not competitive, and that they therefore lack leverage to ask for better prices for their products. Namely, small Indonesian farms typically sell their

View from Vietnam

A CHALLENGE FOR EDUCATORS

Integrate free-market values into the educational system while developing better quality agricultural products

The goals of economic efficiency and consumer welfare pertain to the demand for high-quality goods at the lowest possible prices, and Vietnam’s research and educational institutions generally support these goals. Students of economics and business increasingly graduate with a robust understanding of free-market policies and priorities, and law students are increasingly informed about the legal aspects of true competition in a society.

Vietnam has made big strides in improving its agricultural products, but quality, whether of raw or processed products, remains a critical concern (seafood, fruits, vegetables, coffee, cocoa, fresh milk). Research and educational institutions are increasingly pressed to develop solutions. Although there is much discussion and concern over the fragmented and inefficient state of agricultural land management in Vietnam, research and educational institutions are not yet particularly influential in developing and promoting viable solutions.

products to local “middlemen” (in Indonesia, the “tankuluk”) who are often skilled businessmen armed with significant resources and considerable market power. The middleman collects crops from farmers at prices based on long-standing arrangements, often related to loans the farmer has taken from the middleman earlier in the season. (This process is more “flexible” than the loans offered by the bank, according to comments received during the RATE Assessment). In many instances, the middleman provides the down payment to farmers to allow them to pay for planting, maintenance, school tuition, and other expenses. At harvest time, farmers are obliged to sell the crops to the middleman from whom they have taken loans (although they often resort to “side-selling,” when they believe an alternative buyer will give them a better price). The middleman then sells the products to processors, factories, manufacturers.

In Indonesia—indeed, all over the world—farmers resent this power exercised by their local middlemen, calling it “anticompetitive.” In fact, the prices they receive often reflect the opposite phenomenon. Highly competitive buyers are well aware of the going prices for raw materials, and are generally not inclined to pay more. For farmers, the most effective response is usually to engage in more productive farming practices (so that they have more or better products to sell), including better use of inputs; leveraging of economies of scale through farmer organizations and cooperatives; better tracking of on-farm costs and revenues; greater investment in education for family members, especially girls; and other productivity and opportunity enhancements. The difficulty of making these changes often leads to the temptation to advocate short-term political solutions, such as price controls or production quotas.

“It depends on who you ask”: Private Sector Perspectives on Competition

On the matter of whether and to what extent governments should intervene in agricultural economies, the RATE Assessment found varying perspectives, particularly from the private sector. Overall, different private-sector constituencies presented different agendas. Larger, more financially secure companies generally advocate policy that is consistent with economic efficiency. Producers of goods with high value in international markets, including cocoa, coffee, fish products, and others, similarly support efficient, consumer-oriented processes. However, sectors in various ASEAN Member States that are more vulnerable to foreign competition—such as, in Indonesia, producers of beef, cocoa, and soy—are more protectionist in their advocacy, often seeking anticompetitive measures such as guaranteed minimum prices or generous production subsidies. Similarly, service-providers in most ASEAN states protect their domains through such barriers to entry as language tests and strict, nontransferrable professional licensing regimes.

Economic progress depends on increasing productivity, which depends on undistorted competition. When government policies limit competition . . . more efficient companies can't replace less efficient ones. Economic growth slows and nations remain poor.

—William Lewis, *The Power of Productivity: Wealth, Poverty, and the Threat to Global Stability* (2004)

Vietnam provides a compelling example of how views on competition have evolved. Over the past generation, as the influence of SOEs has somewhat diminished, Vietnam’s private sector has exhibited increasing appreciation for the goals of economic efficiency and consumer welfare. Private multinational firms have helped drive production and develop markets for such products as cashews, rice, coffee, pepper and cocoa. Because international markets are so important, private sector actors have recognized the market forces that drive production toward greater efficiency, higher quality, and more uniformity in production practices. In the fisheries and aquaculture sector, SOEs have traditionally been less powerful,

so that the vibrant free market has resulted in greater efficiencies, according to participants in that sector. Improved efficiency has included the consolidation of small producers and diminishing numbers of smaller entities, which may not have had the ability to keep up with quality assurance practices required of global value chains.

For their part, private-sector stakeholders in Malaysia, depending on whether they work in more controlled sectors (such as producers of rice and certain products requiring sugar, or small farms requiring subsidized inputs) or more “free-market”-based sectors (including suppliers of most fertilizers; processed foods, including fish and meats; aquaculture; and others), display different attitudes toward the goals of economic efficiency and consumer welfare in the Malaysian economy. Throughout ASEAN, producers of goods that benefit significantly from anticompetitive protections tend to champion the official rationale for their existence. For example, farmers’ organizations and cooperatives can be some of the strongest advocates of competition-inhibiting measures that serve to protect their market share from better, cheaper products. For those sectors and enterprises that do not much benefit from government subsidies, there is greater confidence in free-market approaches to commerce.

OPPORTUNITIES FOR ACTION

There are many pathways to change in ASEAN and its Member States. Reforms can be advanced by a single, visionary champion or a by a groundswell of influential stakeholders. Some reforms take root after many years, while others happen quickly once empowered people act quickly and decisively in a way that reflects public demand and best practice. In most cases, a “big idea”—including the type often promoted by international organizations such as the OECD—can be broken down into many smaller tasks that can be executed by a variety of public and private actors. Accordingly, the Opportunities for Action set forth below are multifaceted. They may be viewed as a foundation for regional or domestic policy development, as a resource for private sector initiatives, as a benchmark for tracking change, as a reference for academic instruction, and, most immediately, as a “jumping off point” for stakeholder discussion and consensus-building.

Opportunities for ASEAN and Regional Entities

Recommit to Regionwide Adherence to Best Practice in Competition Policy and Law

In 2008, ASEAN Member States committed to integrating the principles of competition into their policy and legal regimes in keeping with the ASEAN Economic Community (AEC) Blueprint. Governments of most Member States, however, remain heavily involved in the day-to-day activity of agricultural production, processing, and trade, even in states where domestic competition laws have been enacted. To achieve the AEC by 2015, ASEAN needs to clarify and strengthen commitment to the “rules of the road” for competition. To this end, regional institutions with an interest in competition, including regional private-sector institutions, could

- Seek or independently prepare and disseminate semi-annual status updates on the status of each Member State’s integration of the *ASEAN Regional Guidelines on Competition* into policy and legal regimes.

- Develop for public dialogue shared principles on government intervention into domestic agricultural markets, including the specific areas of inputs, price controls, and nontariff barriers to trade.
- Drawing on the OECD’s *Competition Assessment Toolkit* (2011), support development of economic models for competition in agricultural markets, illustrating the costs and benefits of reducing interventions in agricultural markets.

Integrate Private Sector Perspectives into Dialogue on Competition Policy in the Agriculture Sector

While intervention in domestic agricultural markets is rarely subject to vigorous discussion much less regional alignment, regional private sector associations are well aware of the 2015 deadline for establishment of an AEC that meets, in letter and spirit, the objectives of the 2008 Blueprint. As noted in 2012 by Food Industry Asia:

The success of ASEAN’s efforts to stimulate the free flow of agricultural commodities and food products in and outside the ASEAN region are extremely important ... [R]egulatory convergence and the alignment of regulations and standards across ASEAN with international standards ... has a crucial role to play in the continued development of food industry exports from ASEAN to other parts of the world.²⁷

Thus, whether or not regional policymakers discuss how regional competition policy relates to domestic agricultural policy, the private sector is well positioned to discuss the issue from its perspective. In particular, those representing small, medium-sized, and large businesses should be consulted about how they view the following issues:

- Among the general threats to competition—price-fixing, bid-rigging, abuse of dominant position, anticompetitive mergers—which present the greatest threat to regional trade in agricultural products?
- With respect to competition in the agriculture sector, how can the private sector regulate itself, independent of government intervention?
- How does the private sector perceive the role of SOEs and their impact on competition in the agriculture sector? How should ASEAN should treat SOEs in competition policy and law?
- What are the private sector’s priorities for competition advocacy and outreach?

Provide Conditions and Resources for Harmonization of Competition Laws

Harmonizing law across 10 countries—that is, establishment of substantive consistency among laws—is not a simple task. Competition, however, is one area in which international best practice is clear, examples of successful implementation abound, and technical assistance from market-based economies is in good supply. The five ASEAN Member States have not yet enacted competition laws can “get it right the first time.” Accordingly, as Brunei, Burma, Cambodia, Laos and the Philippines start drafting laws, stakeholders concerned with regional competition policy could

- Develop and distribute model guidance and resources to assist the development and harmonization of new competition laws.

- Facilitate review and, as necessary, propose reforms of competition provisions (including several in the Thai Trade Competition Act) that are not yet generally consistent with international best practice.
- Invite and encourage support from international resources, such as the ADB, the OECD, and the international division of the U.S. Federal Trade Commission, in the development and harmonization of competition laws in ASEAN.

Support Exchange of Information Among Competition Authorities

Competition advocacy is action by competition authorities that targets potentially anticompetitive regulations or protections.²⁸To encourage advocacy and outreach in ASEAN, stakeholders interested in regional competition policy may

- Publicize examples of advocacy by competition authorities in ASEAN, providing information on the immediate results and long-term impact of that advocacy.
- Publicize examples of outreach by competition authorities and other interested stakeholders in ASEAN, providing information on the immediate results and long-term impact of that outreach.
- Encourage competition authorities to review similar cases handled by other agencies.

To the extent permitted by a limited budget and resistant government agencies, the Indonesian competition authority has exemplified how to curb government's anticompetitive measures. That example can be highly instructive to counterparts in other ASEAN Member States.

Opportunities for Member States

Assess Domestic Competition in Agriculture, reviewing laws and regulations that entail government intervention into agricultural markets

Nearly all ASEAN Member States intervene in domestic agricultural markets. The laws and regulations applicable to the sector in each Member State warrant an independent cost-benefit analysis, based on a straightforward model established in the OECD's 2011 *Competition Assessment Toolkit*, to determine

- The specific harm the regulation is intended to address and whether the regulation is tailored to that purpose;
- Secondary effects of the regulation on competition and consumer welfare; and
- Whether secondary effects outweigh the harm the regulation seeks to prevent and whether the regulation can be better tailored to accomplish that purpose without constraining competition unduly.

As recommended by the OECD and other international authorities, laws and regulations that do not serve a specific consumer protection purpose should be evaluated and possibly abolished. Those that serve the purpose but are too broad should be more narrowly tailored to address the perceived harm while minimizing secondary costs. With appropriate funding and other resources, competition authorities may assume this responsibility under their competition advocacy mandates.²⁹

Promote Domestic Understanding and Expertise in Competition Policy and Law

The weak influence of competition laws in ASEAN, and the slowness of others to take form, is indicative of the shallow understanding in the region of the purpose of and opportunities presented by true market competition. Thus, ASEAN Member States should engage in a broad and concerted effort to form and educate a body of academics, lawyers, judges, and consumer NGOs in competition policy, law, and implementation. Opportunities for education and training include the following:

- Courses in international best practice in competition law and policy in law faculties and centers for continuing legal education.
- Courses in law and economics and industrial organization in economics faculties and business programs.
- Training in competition law and policy for commercial law judges.
- Training in competition law and policy for legislators and executive-branch officials.

Through its ASEAN Competition and Consumer Protection Program, USAID has facilitated capacity building and it would be advantageous for foreign competition authorities to continue to assist with training. In providing comprehensive assistance, they can draw on their institutional strengths and experience to emphasize the pragmatic over the theoretical, transfer skills for investigating, analyzing and remedying anticompetitive behavior, and foster working relationships that continue well any capacity-building program.³⁰

Endnotes

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² Pornchal Wisuttisak & Nguyen Ba Binh, “ASEAN Competition Law and Policy: Toward Trade Liberalization and Regional Market Integration” (from proceedings of 2nd International Conference on International Relations and Development, Chiang Mai, Thailand, July 26-27, 2012).

³ ASEAN, Regional Guidelines on Competition Policy (2010).

⁴ U.S. Department of Justice and U.S. Federal Trade Commission, U.S. Federal Trade Commission’s and Department of Justice’s Experience With Technical Assistance For The Effective Application of Competition Laws (2008) at 4 (“[C]ompetition advocacy ... readily lends itself to larger issues, such as privatization policy and whether, and how, to reform policies towards regulated industry sectors of the economy”).

⁵ APEC Competition Policy and Law Group Meeting, “Competition Advocacy in Southeast Asia” (Conference presentation, March 7-8, 2011).

⁶ See William M. Butterfield, et al., “Outlawing Monopoly: A Programmatic Evaluation of USAID’s ASEAN Competition and Consumer Protection Program from a Development Perspective” (USAID/Regional Development Mission for Asia, September 2011) (*Hereinafter* USAID/RDMA, “Outlawing Monopoly”).

⁷ Economic Research Institute for ASEAN and East Asia (2012). Executive Summary: Mid-Term Review of the Implementation of AEC Blueprint.

⁸ *Id.*

⁹ For a full description of the methodology, see the RATE methodology document.

¹⁰ OECD, *Competition Assessment Toolkit*, Vol.2, Competition Assessment Guidance (2011), at 73.

¹¹ See OECD, *Regulatory Policy by Country*, available at <http://www.oecd.org/regreform/regulatory-policy/bycountry.htm>.

¹² Drew & Napier, AntitrustAsia.com (Indonesia) (2013).

¹³ A. Junaidi, Bureau of Policy, KPPU, “Exchange of Experience in Setting Up Strategy in Competition Advocacy” (2011).

¹⁴ Deunden Nikomborirak, “The Political Economy of Competition Law: The Case of Thailand,” *Thailand J. of Law and Policy* (2007); *see also* Drew & Napier, AntitrustAsia.com (Thailand) (2013).

¹⁵ Drew & Napier, AntitrustAsia.com (Vietnam) (2013).

¹⁶ *See* USAID/RDMA, “Outlawing Monopoly,” at 22.

¹⁷ Drew & Napier, AntitrustAsia.com (Vietnam) (2013).

¹⁸ *See* Singapore Academy of Law, “Chapter 27, Competition Law,” available at <http://www.singaporelaw.sg/content/CompetitionLaw.html>.

¹⁹ Drew & Napier, AntitrustAsia.com (Singapore) (2013).

²⁰ *Id.*

²¹ *Id.*

²² Asian Development Bank, *Assessment of Public-Private Partnerships in Cambodia* (July 2012).

²³ *See* USAID/RDMA, “Outlawing Monopoly” at 14.

²⁴ Drew & Napier, AntitrustAsia.com (Philippines) (2013).

²⁵ USAID/RDMA, “Outlawing Monopoly” at 25.

²⁶ Business Standard, “Three-nation meet planned in Dec over natural rubber prices” (November 28, 2012).

²⁷ Food Industry Asia, “Harmonization of Food Standards in ASEAN: A Shared Vision for Regulatory Convergence” (FIA Executive Summary) (June 2012).

²⁸ Maurice E. Stucke, University of Tennessee, “Better Competition Advocacy” (2008).

²⁹ This recommendation is drawn in substance from a recommendation found in the USAID/Agriculture Climate Legal and Institutional Reform (AgCLIR) diagnostic for Tanzania (2010).

³⁰ This recommendation is also substantively grounded in a recommendation found in the USAID/Agriculture Climate Legal and Institutional Reform (AgCLIR) diagnostic for Tanzania (2010).