



AN ASEAN COMPETITION ACTION PLAN (2016-2025)

I. Background

The ASEAN Competition Action Plan (ACAP) 2025 details the strategic goals, initiatives and outcomes on competition policy and law in ASEAN over the next 10 years (2016-2025).¹ The ACAP 2025 is based on the strategic measures under the ASEAN Economic Community Blueprint 2025 and builds upon the initiatives under the AEC Blueprint 2015.

The ACAP 2025 contains five strategic goals which are:

- I. Effective competition regimes are established in all ASEAN Member States (AMS);
- II. The capacities of competition-related agencies in AMS are strengthened to effectively implement CPL;
- III. Regional cooperation arrangements on CPL are in place;
- IV. Fostering a competition-aware ASEAN region; and
- V. Moving towards greater harmonization of competition policy and law in ASEAN.

These goals are designed to allow ASEAN to work towards the overarching vision of a competitive, innovative, and dynamic ASEAN with effective and enforceable competition policies and laws. The implementation of the ACAP 2025 will be overseen by the ASEAN Experts Group on Competition (AEGC) in cooperation with other ASEAN sectoral bodies, and relevant stakeholders.

¹ See Appendix A

Appendix A - Strategic Goals, Initiatives and Outcomes

Strategic Goal 1: Effective competition regimes are established in all ASEAN Member States

This strategic goal builds on the commitment of ASEAN to “endeavor to introduce competition policy in all Member States by 2015” (as outlined in the AEC Blueprint 2009-2015). Nine AMS already have competition laws in place by 2015. Several Member States are also currently in the process of reviewing their existing competition regimes, in light of their enforcement experiences, changing market dynamics and in accordance with international best practices.

Initiatives	Outcomes
1.1 Complete the legal framework on competition policy and law (CPL) in all AMSs	1.1.1 Competition Laws in all AMS are enacted by 2016
1.2 Strengthen the legislative framework of AMS to meet changing market dynamics and in accordance with international best practices	1.2.1 A Compendium of English translations of national competition laws, regulations, guidelines etc. (where applicable) is developed by 2017 toward standardizing language and/or compile terminologies to facilitate the understanding of competition rules across ASEAN Member States, and an ASEAN glossary of competition terms is developed by 2017. 1.2.2 Self-assessment carried out (with improvements clearly mapped and monitored) every two years based on the assessment toolkit on competition enforcement and advocacy 1.2.3 At least five peer reviews are conducted of competition regimes in ASEAN by 2025

Strategic Goal 2: The capacities of competition-related agencies in AMSs are strengthened to effectively implement CPL

Once a competition law has been adopted, the more complex challenge of implementation begins. The initiatives under this strategic goal are oriented towards addressing capacity building gaps in view of a set of skills or competencies that competition agencies and related actors (including, among others, judges, lawyers, economists) should possess in order to be able to effectively enforce the law. The ASEAN Regional Core Competencies (RCC) Guidelines already provide guidance to Member States on their required competencies in CPL and recommendations on how to develop these. Capacity building measures would have to be delivered in a holistic approach and customized to various (groups of) Member States, according to the degree of development of their respective competition regimes.

Initiatives	Outcomes
2.1 Conduct assessment of national and regional capacity needs related to CPL	2.1.1 Comprehensive capacity needs assessment undertaken in 2016, with a reference to the RCC Guidelines 2.1.2 Updated Regional Capacity Building Roadmap 2016-2020 by 2017, with a vision until 2025
2.2 Enhance capacity in institutional development, enforcement, advocacy, economic analysis / sector studies and related policy areas	2.2.1 An increasing three-year moving average of number of completed competition initiatives (i.e., competition advisories, market studies, investigations, merger assessment and notifications) for a Competition Authority 2.2.2 A set of in-house training tools for competition agency staff has been developed by 2017 2.2.3 Organize two staff exchanges of officials from competition agencies among ASEAN Member States per year 2.2.4 An e-learning course on substantive areas of competition law is developed and hosted on AEGC web portal by 2017

2.3 Establish ASEAN Competition Center(s) to conduct regional research and training activities related to CPL	2.3.1 Feasibility study for the ASEAN Competition Center(s) conducted by 2017 2.3.2 ASEAN Competition Center(s) set up by 2020 with activity plan until 2025
2.4 Develop enforcement strategies tailored to ASEAN economies to facilitate the effective implementation of CPL in the region	2.4.1 Toolkit or checklist for formulating national strategies ready by 2018 2.4.2 National enforcement strategies formulated in all AMSs by 2020 2.4.3 Enforcement tools tailored to ASEAN context (methodologies, checklists etc. to define markets, identify dominant positions and exclusionary practices, conduct sector studies, etc) developed by 2025
2.5 Engagement with the judiciary is developed at the national and regional level	2.5.1 The Judiciary was engaged in at least two ASEAN regional competition events per year.

Strategic Goal 3: Regional cooperation arrangements on CPL are in place

The initiatives under this strategic goal serve to advance the regional cooperation agenda on CPL and essentially build on the initiatives carried out under the strategic goals related to the strengthening of national competition regimes in ASEAN (no. 1 and no. 2). Efforts need to be directed towards addressing competition issues or cases that are cross-country/-border or regional in nature. It is anticipated that in a post-2015 landscape, issues such as cross-border mergers of multinational companies, international private as well as export/import cartels, abuse of dominance in export or global markets, as well as competition problems related to foreign direct investment etc. will increasingly occur, exceeding the mandate of single national jurisdictions. This will prompt ASEAN Member States to establish and enhance cooperation arrangements on CPL, with a view towards working out a common understanding as well as joint actions.

Initiatives	Outcomes
3.1 Establish a Regional Cooperation Agreement on CPL	3.1.1 Identify common elements, guidelines or principles of a regional cooperation agreement on CPL enforcement for ASEAN by 2018 3.1.2 The regional cooperation agreement endorsed by all AMSs by 2020 (pending the outcomes of the RCEP)

3.2 Develop enforcement mechanisms to handle cross-border cases in ASEAN	<p>3.2.1 An ASEAN Competition Enforcers' Network being established and launched in 2019</p> <p>3.2.2 A study on recommended procedures for joint investigations and decisions on cross-border cases by 2020</p>
3.3 Strengthen the AEGC	<p>3.3.1 Representation level in the AEGC is enhanced.</p> <p>3.3.2 AEGC widens its agenda to look at broader competition policy issues at the regional level by 2025</p> <p>3.3.3 Contributions by AMSs to support ASEAN activities (for sustainability purpose) have increased in respect of hosting of meetings, contributing speakers and resource persons, and staff exchanges.</p> <p>3.3.4 Annual reports of the AEGC published</p>

Strategic Goal 4: Fostering a competition-aware ASEAN region

This strategic goal is cross-cutting and focuses on developing both a competition culture and a wider competition community to promote fair competition in the region. With the ASEAN Competition Conference (ACC) as its flagship event, the AEGC has already established a regular forum for the interaction with different stakeholder groups. In the future, there could be additional specific initiatives for regional advocacy campaigns, particularly vis-à-vis the private sector. This is in the understanding that the effectiveness of a competition regime is not only founded on a sound legal framework, adequate institutional capacities and a considerable enforcement record, but also on widespread business compliance and understanding by the general public about the benefits and principles of CPL.

Initiatives	Outcomes
4.1 Assess the impact of competition law and policy on the markets of ASEAN Member States	<p>4.1.1 Regional study is undertaken on the impact of exceptions and exemptions from competition law on the markets of AMSs by 2019, with recommendations</p> <p>4.1.2 Regional study is undertaken on the impact of non-tariff barriers on competition in the markets of AMS by 2020, with recommendations</p>

4.2 Assess the impacts on competition in the markets of AMSs relating to State-owned enterprises and/or government-linked monopolies	4.2.1 Regional study is undertaken by 2021, with recommendations
4.3 Strengthen interface between competition policy issues and other economic areas	<p>4.3.1 Dialogue between the AEGC and other ASEAN Sectoral Bodies (transport, energy, consumer protection, minerals, and telecommunication) initiated by 2016</p> <p>4.3.2 At least five opinions on regional policies that have possible impacts on intra-regional trade and competition released by the AEGC by 2025</p>
4.4 Establish a platform for regular exchange and engagement by competition agencies with relevant stakeholder groups (general public, judges, relevant public institutions etc.)	4.4.1 Regular platforms such as the ASEAN Competition Conferences (ACC) are maintained
4.5 Encourage competition compliance among businesses	<p>4.5.1 The ASEAN Handbook on CPL for Business is updated every two years beginning 2017, taking into account the latest legislative and enforcement developments in ASEAN</p> <p>4.5.2 Percentage increase in the ASEAN Competition Business Perception Index to be carried out every 5 years</p> <p>4.5.3 AEGC web portal is enhanced and integrated into ASEC website and maintained as an online information center for businesses by 2020, with regular updates specific information on CPL-related developments in the AMSs and reference documents</p> <p>4.5.4 Toolkit or checklist on competition compliance for businesses by 2017</p>
4.6 Build the capacity of the media to cover competition issues	4.6.1 Major media in AMS have improved capacity to cover competition issues regularly and demonstrated strong understanding of competition issues as seen in the published articles

Strategic Goal 5: Moving towards greater harmonization of competition policy and law in ASEAN

Regional harmonization of competition policy and law is one step further, after the ASEAN has successfully introduced national legislations in respective Member States (under goal no. 1) and effectively enforced these rules (under goal no. 2). It means, while recognizing that one size does not fit all and differences might continue to exist for a number of valid reasons, the ASEAN is also committed to promoting similarities and convergence and eliminating contradictions. Greater harmonization of competition policy and law in ASEAN is expected to create a seamless policy environment for goods, services and capitals to move around freely and without barriers; while companies could operate and allocate their resources in the most efficient ways possible. It would also contribute to enhancing the transparency and predictability of the investment climate. Finally, greater harmonization would certainly serve to facilitate regional cooperation with regard to the competition law enforcement (under goal no. 3).

Initiatives	Outcomes
5.1. Identify commonalities and differences across national competition laws in ASEAN	5.1.1 Commonalities and differences in competition legislations assessed by 2017 5.1.2 Recommendations on substantive as well as procedural standards in CPL enforcement for ASEAN by 2018
5.2. Develop a strategy for regional convergence on CPL matters	5.2.1 Strategy paper on areas feasible for regional convergence developed by 2018
5.3. Improve the Regional Guidelines on Competition Policy	5.3.1 An improved Regional Guidelines on Competition Policy with an accompanying Joint Statement for endorsement by AEM by 2020
5.4. Formulate an ASEAN Set of Agreed Principles as the model law framework	5.4.1 An ASEAN Set of Agreed Principles drafted by 2022 5.4.2 A Declaration on the ASEAN Set of Agreed Principles endorsed by 2025

