



**Asia-Pacific  
Economic Cooperation**

---

2017/SOM3/CTI/WKSP1/006

**Challenges and Opportunities in Relation to  
Acceptance of the Chapter on Competition in  
FTAs/EPAs**

Submitted by: Thailand



**Free Trade Area of the Asia-Pacific Capacity  
Building Workshop on Free Trade Agreement  
Negotiation Skills on Competition  
Ho Chi Minh City, Viet Nam  
19 August 2017**

# Challenges and Opportunities in Relation to Acceptance of the Chapter on Competition in FTAs/EPAs

FTAAP Capacity Building Workshop on  
FTA Negotiation Skills on Competition

@Ho Chi Minh City, Vietnam

Parima Damrithamanij  
Senior Trade Officer  
19 August 2017

**Office of Trade Competition Commission Thailand**



# Outline

- Development of negotiations of FTAs/EPAs
- Competition policy and international trade
- Examples of competition chapters in FTAs/EPAs of Thailand
- Negotiating Competition Chapter as a Developing Country - Thailand's Experience

# Development of negotiations of FTAs/EPAs

Typical Issues (MA oriented)	New Issues (Related to trade)
<ul style="list-style-type: none"><li>• <b>Market Access</b><ul style="list-style-type: none"><li>• Tariffs</li><li>• Services MA limitations</li></ul></li><li>• <b>Non-Tariff Measures</b><ul style="list-style-type: none"><li>• Domestic taxes Standard of goods</li><li>• Food safety</li><li>• Technical requirements</li><li>• Subsidies &amp; Countervailing duties</li><li>• Anti-dumping duties</li><li>• Safeguard measures</li><li>• Custom valuation</li><li>• Import licenses</li></ul></li></ul>	<ul style="list-style-type: none"><li>• Intellectual property</li><li>• Competition policy and law</li><li>• Environment</li><li>• Labour</li><li>• Government procurement</li></ul>

# Competition policy and International trade

- From the start, competition policy has domestic nature in itself.
  - promoting and protecting the competitive process
  - attaining greater economic efficiency / economic welfare / the welfare of society
  - providing consumers with competitive prices and product choices
  - promoting efficient resource allocation

**THINK : “MARKET”**

## Competition policy and International trade (2)

- With “**market**” has expanded beyond borders
  - Not only more goods and services are crossing the borders, but also more businesses / investments.
  - International business operations / foreign business people’s conducts can affect domestic business environments.

# Competition Chapter in Thailand's FTAs/EPAs

	FTAs/EPAs	Effective Date	With Competition Chapter	Without Competition Chapter
1	TH – Australia	1 Jan. 2005	✓	
2	TH – New Zealand	1 Jul. 2005	✓	
3	TH - Japan	1 Nov. 2007	✓	
4	TH – India	1 Jun. 2010		✓
5	TH - Peru (early harvest)	31 Dec. 2011		✓
6	TH - Chile	5 Nov. 2015		✓
7	ASEAN - China	20 Jul. 2005		✓
8	ASEAN - Japan	1 Jun. 2009	✓	
9	ASEAN - Korea	1 Jan. 2010		✓
10	ASEAN - India	1 Jan. 2010		✓
11	ASEAN-Australia-New Zealand	12 Mar. 2010	✓	
12*	RCEP	under negotiations	✓	

---

# Competition Chapter Structure

---

**Competition Principles**  
**Objective and Definitions**  
**Promotion of Competition**  
**Application of Competition Laws**  
**Exemptions**  
**Cooperation**  
**Exchange of Information**  
**Consultations**  
**Review**  
**Transparency**  
**Dispute Settlement**

---



# Negotiating Competition Chapter as a Developing Country - Thailand's Experience

- RCEP's Competition Chapter provisions – relatively more comprehensive than competition provisions in Thailand's other FTAs/EPAs.
- Some examples of obligations
  - Competition laws and regulations to apply to all entities engaged in commercial activities. Exclusions / exemptions are allowed on grounds of public policy or public interest.

# Negotiating Competition Chapter as a Developing Country - Thailand's Experience

- Some examples of obligations (con't)
  - Transparency : publication of the law and grounds of decisions with sufficient grounds to safeguard confidential information.
  - More concrete steps to undertake regarding cooperation, confidentiality of information, cooperation and capacity building.

# Thailand has been in the process of reforming its competition law and policy

- In 2016, the Department of Internal Trade submitted a proposal for an amendment to the Trade Competition Act B.E. 2542 (1999)
- Aims for the new competition law:
  - to become more up-to-date, flexible, and efficient as well as more independent law enforcement;
  - to play a key part in building up a confidence of all domestic and foreign business operators of all sizes;
  - to nurture trade and investment environment of the country coherent with the government's policy.

# Reforming Thailand's competition law and policy

- **Key amendments:**
  - **Coverage:** under the new law, state-owned enterprises will be subject to the law except for conducts undertaken for the purposes of national securities, public policy or public interest.
  - **Efficiency and effectiveness:**
    - clearer main provisions on anti-competitive conducts and M&As
    - different levels of punishments proportionate to seriousness of each anti-competitive conducts.
  - **Independence:** The Commission and competition authority will become more independent with a transparent selection process and new establishment of the Office of Trade Competition Commission.

# When negotiating, it is very important to know:

- Your country's and other Parties'
  - interests (past and present, how they developed over time)
  - positions (past and present (government's policy and direction))

<b>Yours/Other's</b>	<b>Interests</b>	<b>Positions</b>
<b>Interests</b>		
<b>Positions</b>		



**Thank you for  
your kind attention!**

**parimad@gmail.com**

All the views expressed here are  
solely mine and do not necessarily  
reflect the agency's views.

**Office of Trade Competition Commission Thailand**

