



**Asia-Pacific  
Economic Cooperation**

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**Cooperation in Practice: ASEAN-Australia-New  
Zealand Free Trade Agreement and Capacity  
Building**

Submitted by: Australia



**Free Trade Area of Asia-Pacific Capacity  
Building Workshop on Competition Policy:  
Sharing Good Examples of Free Trade  
Agreements and Economic Partnership  
Agreements  
Puerto Varas, Chile  
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# Cooperation in Practice: AANZFTA & capacity building

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# Presentation Overview

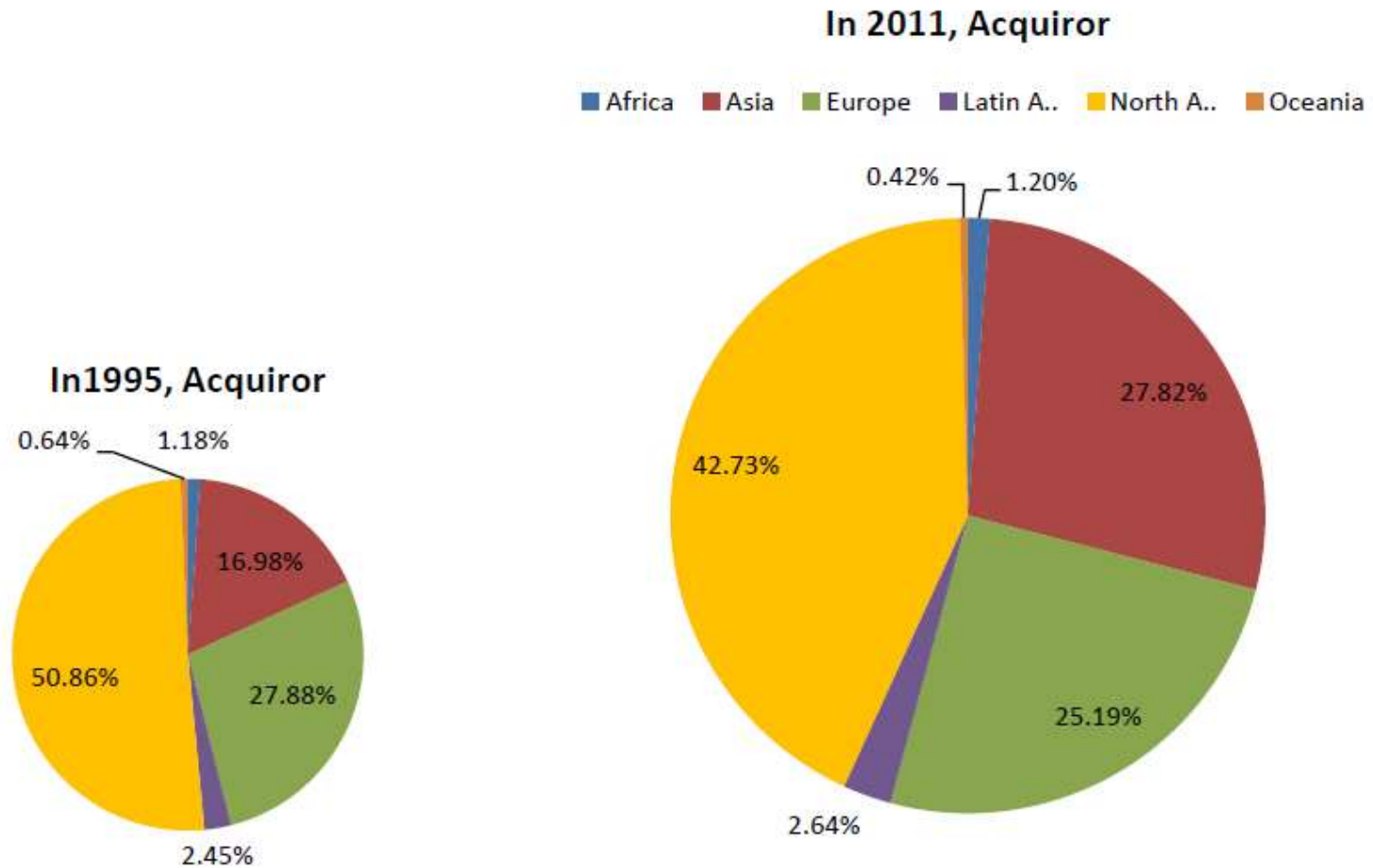
This presentation:

- focuses on the ASEAN-Australia-New Zealand FTA (AANZFTA) and its support for capacity building and cooperation on competition
- looks at the Competition Law Implementation Program (CLIP) as a practical example of cooperation on competition
- offers suggestions on the impact, usefulness and lessons learned from cooperation and capacity building under CLIP

## AANZFTA: drivers behind the competition chapter

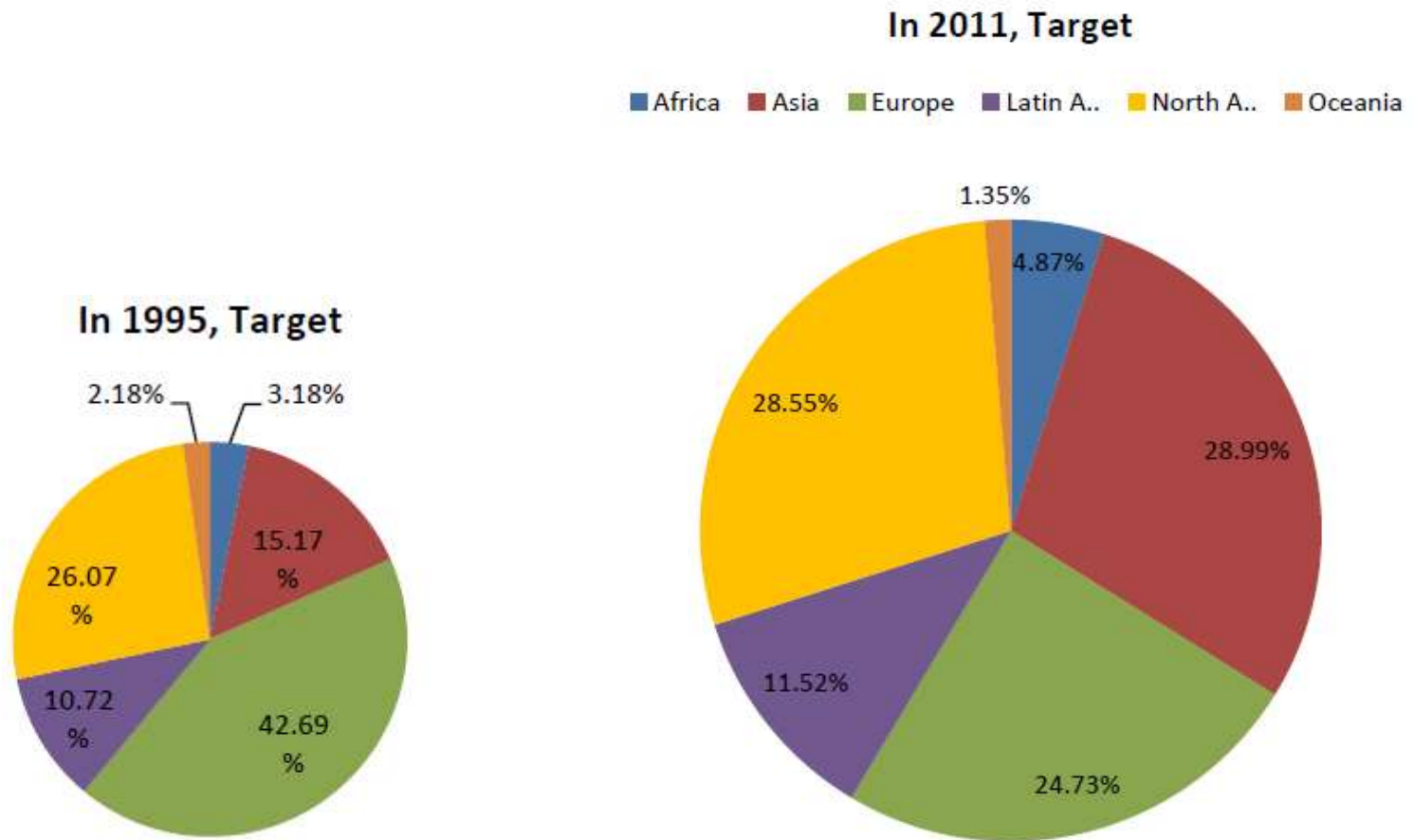
- Ensure that the potential gains to each Party from the removal of barriers to trade and investment can be realised
  - benefits not eroded by anti-competitive conduct by traders in local markets
- Globalisation of the economy
  - in 1995, cooperation between the US, EU and Japan would cover about 65% of world GDP
    - and about 95% of the GDP of countries with competition law
  - in 2010, the same trilateral co-operation covered only 60% of world GDP
  - expect a growing number of multi-jurisdictional cases
- Number of ASEAN jurisdictions with competition laws and authorities was set to increase
  - with a number of legislative and regulatory frameworks to be developed

# Mergers by Continent of the Acquirer: 1995 and 2011



Source: Dealogic Global M&A database, OECD calculations

# Mergers by Continent of the Target: 1995 and 2011



Source: Dealogic Global M&A database, OECD calculations

# AANZFTA and Competition: our aims

- Build support for policy reform and institutional capacity building
- Communication, consultation, and information sharing
  - to develop a shared understanding of approaches to competition policy and law enforcement
- Common interest in preventing hard core cartels
  - want to see effective sanctions and enforcement procedures and institutions that can detect and remedy cartels
- Create a proactive investigatory culture and a capacity for high-quality decision making
  - establishment of simple, efficient and rigorous internal policies and procedures

# AANZFTA, Competition and Capacity Building: Competition Law Implementation Program

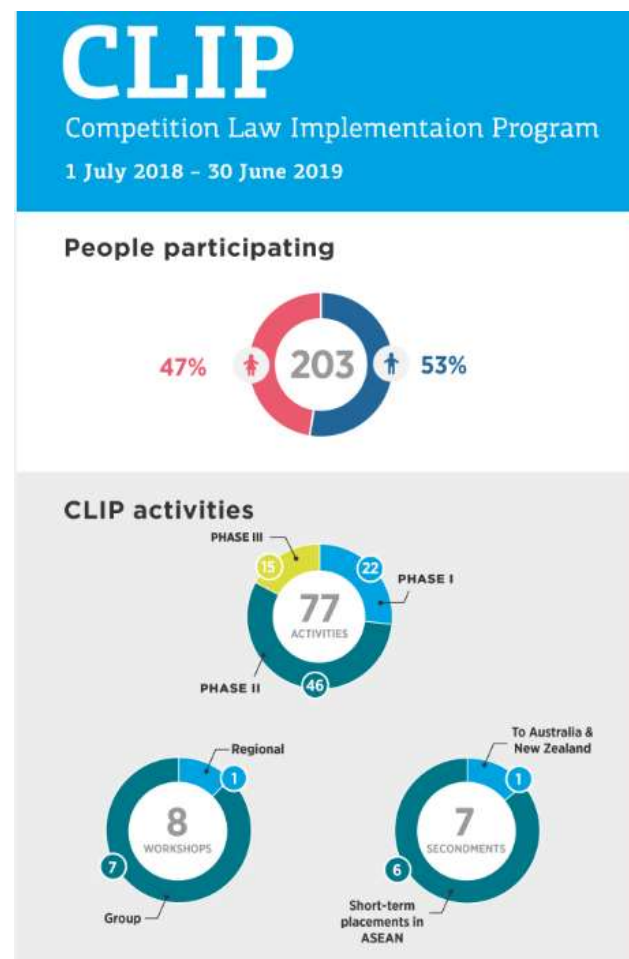
- **Commenced:** October 2014
- **Goal:** to promote competition in markets through support for ASEAN economies to:
  - develop their legal frameworks
  - build competition enforcement capacity
  - strengthen their law enforcement institutions
- **Priorities:**
  - regional cooperation
  - investigation skills
  - narrowing the development gap
  - building on strengths
  - expert placements and secondments





# CLIP: at a glance

- **What we do:**
  - regional, sub-regional and bilateral workshops
  - in-country and remote technical assistance and mentoring
  - staff secondments
  - e-Learning
  - special projects e.g. toolkits
- **Who we work with:**
  - AANZFTA officials, sectoral regulators, judiciary, academia, political decision makers, members of civil society, advisers to business
  - other development partners



# CLIP: examples of cooperation

- **Investigations:** workshops, toolkits, e-learning modules
- **Agency effectiveness:** Heads of Agency meetings, Commissioner Retreat
- **CLIP Academy:** e-learning modules
- **Secondments and expert placements:** focus on an identified skill/knowledge gap
- **Sectoral interface workshops:** aviation, telecoms, energy



## CLIP Reflections: what has worked well?

- ✓ **Being sustained over multiple years** has been helpful and important
  - plan strategically, draw on lessons learned, be committed to partnerships for the long-term
- ✓ **Tailoring support** is key:
  - ASEAN competition regimes are at different stages of development
  - recognise diverse experiences in developing, applying and enforcing competition law and policies
- ✓ Drawing in **local (ASEAN) experts** with first-hand experience and insights and a practical focus has proven effective
- ✓ **Coordination and collaboration** with other development partners is crucial (avoid disruptive scheduling or ‘fusion confusion’)

## CLIP reflections: what have we learned?

- ✓ Must be mindful of **absorptive capacity**
- ✓ **In-person** activities are invaluable for developing mutual understanding and relationships
- ✓ **Remote assistance** (e.g. technical advice, mentoring, eLearning) **can complement and sustain** the outcomes of face-to-face activities
  - and are easier for ASEAN economies to access on-demand/without disruption to core duties
- ✓ **Monitoring and evaluation** and frameworks/processes must be a priority from the outset
- ✓ Encourage **engagement with senior management** in the program; signal for staff to cooperate/commit to activities

# CLIP: has cooperation delivered results?

## Observations:

- competition frameworks modified
- supported modifications to new and existing legislation
- supported development of and reforms to investigative and decision making practices
- contributed to institutional capacity, e.g. investigation skills, economics training
- informed induction training and staff development programs
- and far more

# Future of Cooperation on Competition

- **Investing in inter-agency relationships and legal mechanisms** will strengthen cross-border enforcement and cooperation over time. For example:
  - the ability to **share information and receive cross-border investigative assistance** will be increasingly important for the effective prosecution of international cartels
  - a number of important cases have turned on Australia's ability to cooperate internationally e.g. marine hose, fine paper, air cargo
- **New and dynamic issues** in competition enforcement means new challenges e.g. digitalisation



# FTAs and Competition: the challenges?

- The effective implementation of trade agreements requires leadership and good inter-governmental stakeholder consultation to manage reform processes
- The benefits to be gained from trade agreements do not happen automatically
  - governments need to be active with the implementation agenda
- New-generation FTAs address ‘behind the border’ issues; that means FTAs will be engaging more deeply with internal policy reform processes
  - many of these issues are cross-cutting across different levels of government and various government agencies/regulators

Questions or comments?

Thank you!