Highlights from the competition assessment of laws and regulations in the logistics sector in Thailand

Laws and regulations are key instruments to achieve public-policy objectives, such as consumer protection and public health. When they restrict market forces more than necessary or impose unnecessary costs, a comprehensive competition review can help identify restraints and develop alternative, less restrictive policies that still achieve the desired government objectives. More intense competition is linked to faster productivity growth and other benefits, including lower consumer prices, greater consumer choice, better quality of products and services, and faster adoption of innovation.

The OECD was asked by the ASEAN Secretariat and the ASEAN Expert Group on Competition, with funding from the UK Prosperity Fund (UK Government), to carry out an independent competition assessment to identify rules and regulations that may hinder the efficient functioning of markets in the logistics sector. The assessment covered the following activities:

- Freight transport (by road, railway and water)
- Freight forwarding
- Warehousing
- Small package delivery services
- Value-added services

This booklet presents the key findings and highlights from this analysis and the full results of the analysis are available at oe.cd/ca-asean.

The assessment took place in stages. In Stage 1 the OECD held a fact-finding mission to Thailand and prioritised 45 out of a list of 69 pieces of sector-relevant legislation. Stage 2, screened this legislation using the OECD’s Competition Assessment Toolkit and identified 77 potential barriers. Stage 3 involved an in-depth analysis of the potential barriers, including assessing the possible competitive harm resulting from these barriers and taking the objectives of policy makers into account. Stage 4 developed 54 draft recommendations for provisions found to restrict competition unnecessarily, taking into account Thailand’s context, international experience and relevant economic literature, and consulted the relevant authorities on these recommendations. The OECD team conducted a capacity-building workshop on the Competition Assessment Toolkit for the relevant Ministries and the Office of Trade Competition Commission (OTCC) as part of the assessment.

Summary of the laws and regulations analysed

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KEY FINDINGS AND MAIN RECOMMENDATIONS

Due to its central geographic location and its well-developed infrastructure, Thailand is currently emerging as a key logistics hub in the region, with transport accounting for about 4% of formal employment and almost 6% of the country's Gross Domestic Product in 2018. The logistics market is forecast to reach a total value of more than USD 80 billion by 2022.

Similarly to other ASEAN member States, Thailand will suffer from the socio-economic impact of the Covid-19 outbreak. The pandemic has resulted in the disruption of supply chains and limited the flows of trade and investments. Logistics companies have been affected by operational constraints (delivery delays, congestion and higher freight rates) and a lower demand in certain sectors.

FREIGHT TRANSPORT

Thailand ranks high compared to other countries in the region for the quality of its roads and port infrastructure, while railway infrastructure remains a challenge. Road transport dominates the freight market and accounts for almost 60% of freight transport revenues, followed by maritime transport that contributes as much as 20%. The merchant fleet under Thai flag has been growing in the last few years, as has international connectivity between Thailand and other countries through liner shipping connections.

KEY RECOMMENDATIONS

1. Clarify in the legislation, in line with current practice, that the government does not set a maximum number of freight transport operators and vehicles. Similarly, clarify that the road freight transport licensees are free to set their service rates.

2. Separate the operational and regulatory functions for port services, ensuring that an independent body has the power to adopt regulations regarding ports and port operations.

3. Remove minimum prices for services within the Port Authority of Thailand’s ports. In cases where port competition is limited, maximum prices may continue to be regulated as can quality and safety parameters.

4. Evaluate whether there is a private interest in providing port pilotage services and, if so, create an appropriate legal framework so that piloting services can be tendered out based on fair and non-discriminatory terms to promote competition for the market.

5. Review current cabotage policy. In co-operation with other ASEAN countries, introduce an ASEAN-wide cabotage policy, in which ASEAN operators are treated as national operators and can provide services in other ASEAN countries. Alternatively, regularly assess demand for shipping services on different routes and consider granting exemptions and temporary licences to allow foreign vessels to provide cabotage services when supply is insufficient.

6. Consider separating the management of infrastructure from the provision of rail freight transport service operations. Alternatives include ownership and accounting separation between the infrastructure manager and the rail freight transport service operator.
FREIGHT FORWARDING AND WAREHOUSES

The warehousing market makes up a significant proportion of overall logistics revenues. It accounts for about 37% of total logistics revenues with a 2.5% annual growth in the last few years. Driven by the significant growth in e-commerce, the market is expected to expand further.

KEY RECOMMENDATIONS

1. Remove the public authority’s power to set the number of freight forwarders;
2. Remove the requirement for a multimodal transport operator to hold an authorisation for each branch it operates;
3. Leave to freight forwarders the decisions regarding their business location and service rates;
4. Increase the maximum duration of storage in bonded warehouses without having to seek a specific permission. In the alternative, introduce a licensing scheme in which a whole or part of a storage facility is licensed by the customs authority to store goods tax-free for an indefinite time.

SMALL PACKAGE DELIVERY SERVICES

The rapid growth of e-commerce has led to a significant growth in demand for postal and courier services. In 2019, the size of Southeast Asian e-commerce market was estimated at approximately USD 38 billion and e-commerce revenues in Thailand amounted to about USD 5 billion. Therefore, Thailand has placed a significant importance on e-commerce as one of the key areas that would benefit from the development of trade and investment, as noted in its Twelfth National Economic and Social Development Plan (2017-2021).

KEY RECOMMENDATIONS

1. Clarify the boundaries of ThaiPost’s monopoly to exclude express mail and parcels/small-package delivery services. In the alternative, lift ThaiPost’s monopoly on letters and parcels and introduce a mechanism to compensate it for the additional costs stemming from the universal service obligation.
2. Clearly define the exclusions from the scope of competition law, based on an independent assessment by the competition authority.
Over the last few years, Thailand has implemented significant reforms to become an attractive country for domestic and foreign investments. These reforms span from business registration to electronic applications for cargo control as well as a single window acting as a one-stop-shop for establishing a business. As a result, Thailand scores very high in international rankings on ease of doing business and competition in services.

**KEY RECOMMENDATIONS**

1. Create a **legal database** including all laws and regulations. As a first step, authorities should publish on their website all relevant legislation within their purview.

2. Consider **lifting minimum capital requirements** for logistics providers. In the alternative, ensure that minimum capital requirements are the same for all businesses, irrespective of whether they are Thai or foreign entities. In order to comply with these capital requirements, bank guarantees or insurance contracts rather than bank deposits should be accepted.

3. Progressively **relax foreign equity limits** with the long-term goal of allowing up to 100% foreign ownership without any specific licence being required. A first step may be to implement the agreed changes towards the target of 70% ASEAN foreign-ownership in entities providing logistics services.

Note: Data cited come from Thailand National Statistical Office, Ken Research, Google & Temasek / Bain, e-Conomy SEA 2019 and Statista.

**FOSTERING COMPETITION IN ASEAN**

Funded by the UK Prosperity Fund (UK Government), **Fostering competition in ASEAN** is a project that aims to implement part of the ASEAN Competition Action Plan and to assess regulatory constraints on competition in the logistics sector in all 10 ASEAN countries identifying regulations that hinder the efficient functioning of markets and create an unlevel playing field for business.

The project runs two parallel components: **competition assessment reviews** of specific logistics sub-sectors and **competitive neutrality reviews** of small-package delivery services.

This report and the accompanying “OECD Competitive Neutrality Reviews: Small-Package Delivery Services in Thailand” are contributions to this project.

Access all reviews and more information on this project at [oe.cd/comp-asean](http://oe.cd/comp-asean).