Laws and Regulations in the Logistics Sector in ASEAN

Highlights

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 to achieve those same government objectives. Competition and better functioning markets are linked to increased productivity, growth and other benefits, including lower consumer prices, greater consumer choice, better quality of products and services, and more innovation.

The ASEAN Secretariat and the ASEAN Experts Group on Competition asked the OECD to carry out an independent competition assessment for each ASEAN member state to identify rules and regulations that may hinder the efficient functioning of markets in the logistics sector. The regional report brings together the 10 individual country assessments and provides an overview at the ASEAN level. The project was supported by the ASEAN Secretariat and ASEAN Economic Reform Programme under the UK Foreign, Commonwealth & Development Office (UK Government). The agreed scope of the project covered the following activities:

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

This flyer presents the key findings and highlights from this ASEAN regional report. The full results of the analysis are available at [oe.cd/comp-asean](http://oe.cd/comp-asean).

**Key facts**

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The OECD assessment was conducted in consultation with a number of different authorities and local stakeholders in each ASEAN member state, that helped to identify and prioritise the analysed legislation.

The assessment analyses approximately 500 pieces of legislation across the region and identifies 475 regulatory barriers where changes could be made to foster greater competition in the logistics sector. In total, the OECD has made about 470 country-level recommendations to mitigate harm to competition from regulatory barriers. The OECD recommendations are not binding on the ASEAN member states.
Key findings and main recommendations

The logistics sector constitutes a cornerstone for the development of an integrated internal market in ASEAN and to increase its prominence in the world economy. In 2019, the sector’s contribution to GDP averaged 5% across ASEAN Member States, employing around 5% of the working population.

ASEAN total freight and logistics market revenues were estimated at USD 357.78 billion in 2019; they are expected to have dropped by 12% in 2020 to USD 316.54 billion as a consequence of restrictions on mobility and activity caused by the COVID-19 pandemic. Across member states, the freight transport and warehousing segments are set to be most affected with an estimated drop of more than 10%. Cross-border freight transport operations were also more costly or time consuming.

However, freight transport within cities, such as courier, express and parcel-delivery services, is expected to have grown by about 20% in 2020 as a result of the changing consumer behaviours during the lockdown.

Total market revenues are projected to return to pre-crisis growth levels by the end of 2021, with a compound annual growth rate (CAGR) of 5.07% over the 2020-2025 period.

Freight transport and warehousing

In several ASEAN countries, road freight transport is the dominant mode of domestic transport. Significant improvements in land connectivity were observed across all member states, with a 55% increase in total road length in 2019 compared to 2010. The number of motor vehicles and registered trucks increased significantly across member states over the 2005-2019 period.

Key recommendations

1. Remove quotas on cross-border road transport and replace with a licence system. The licensing criteria should be clearly defined in the relevant international agreement or implementing laws or regulations.

2. Clearly set out market-access requirements in the law, including, for example, professional competency requirements or technical conditions for vehicles.

3. Review regulations that limit firms’ fleet size, either by restricting new-vehicle registrations or by imposing a minimum or maximum number of vehicles. Maintain provisions that pursue a legitimate policy objective, such as safety or environmental protection.

Water freight transport

Maritime and inland water transportation plays a key role in the movement of goods around ASEAN, promoting international trade and economic growth. There are 475 international ports and 1 355 domestic ports in ASEAN, most of which are located in the archipelagos of the Philippines and Indonesia, as well as in Viet Nam.
Key recommendations

1. Remove excessive licensing requirements for water freight transport. Examples include vessel ownership, economic-needs tests and the submission of business plans.

2. Use open tender processes in the selection of terminal operators and service providers. This includes clear and publicly accessible tender guidelines based on fair and non-discriminatory criteria.

3. Separate the regulatory and operational functions of port authorities to avoid real or perceived conflicts of interest.

Other logistics sectors

Historically most ASEAN member states have not focused on promoting and developing rail transport and many do not have a significant rail network. However, some regulatory changes could improve the use of existing infrastructure, as well as market efficiency, by allowing new entrants to compete with incumbent operators.

ASEAN has started to promote the integration of different modes of transport but further efforts at a national level are required.

Warehousing operators usually need to obtain a licence to provide services to third parties. In certain ASEAN member states, investment in warehousing is affected by issues related to land, like lengthy and cumbersome processes to register land.

Key recommendations

1. Legislate the requirement to grant third-party access to railway infrastructure. This will ensure access for new entrants on transparent and non-discriminatory terms. Ensure that the regulator or the relevant ministerial department has powers to intervene in the market, for example, by allowing it to set and enforce access charges and conditions.

2. All member states should ratify and implement the ASEAN Framework Agreement on Multimodal Transport into their national legal orders.

3. Remove general minimum surface requirements. This will lower barriers to entry and allow market participants to make their own business decisions.

Horizontal issues and regulatory quality

ASEAN’s increasing Foreign Direct Investment (FDI) attractiveness is a reflection of its high quality and fast improving business environment, as recorded in the World Bank’s Doing Business 2020 report and the World Economic Forum 2019 Global Competitiveness Index (GCI).

Some ASEAN member states still have FDI restrictions in place, as well as horizontal regulations that make it difficult to do business for both foreign and domestic firms.

The OECD has made some observations on the quality of regulations and regulatory practices in ASEAN member states. For instance, the World Bank’s regulatory quality scores—which capture perceptions of a government’s ability to formulate and implement sound policies and regulations that permit and promote private-sector development—show the Philippines, Cambodia,
Indonesia, Lao PDR, Myanmar, and Viet Nam have room for convergence with other ASEAN member states and OECD countries.

The OECD has therefore made some policy suggestions to improve regulatory quality, such as:

1. **Improve access to legislation** e.g. publish all primary and secondary legislation in a single database.
2. **Conduct competition assessment of laws and regulations** to identify unnecessary restraints on market activities and develop alternative, less restrictive measures.

### Key recommendations

1. **Foreign Direct Investment**: Enhance liberalisation efforts in the logistics sector to boost FDI.
2. **Minimum Capital Requirements**: Lift sector-specific minimum capital requirements and ensure that any horizontal minimum capital requirements are the same for all businesses, irrespective of whether they are domestic or foreign entities.
3. **Pricing guidelines for logistic services**: Remove guidelines setting out specific rates and any requirements for non-dominant firms to price above costs.

**Sources**: Mordor Intelligence 2020, ASEANstats 2018 and 2020, ASEAN Macro-economic Database 2020, ASEANstatsDataPortal, World Bank’s Worldwide Governance Indicators.

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### Fostering Competition in ASEAN

Funded by the ASEAN Economic Reform Programme under the UK Foreign, Commonwealth & Development Office (UK Government), **Fostering competition in ASEAN** is a project that aims at assessing regulatory constraints on competition in the logistics sector in all 10 ASEAN member states identifying regulations that hinder the efficient functioning of markets and creating a non-level 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 ASEAN” are contributions to the implementation of the ASEAN Competition Action Plan.

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