

Laws and Regulations in the Logistics Sector in Indonesia

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 that still achieve government objectives. More intense competition is linked to increased 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 tasked by the ASEAN Secretariat and the ten ASEAN Member States 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 project was supported by the ASEAN Economic Reform Programme under the UK Foreign, Commonwealth & Development Office (UK Government). The assessment covered the following activities:

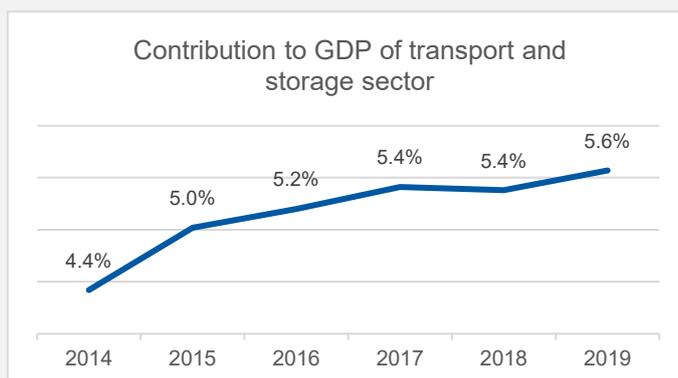
- Freight transport (by road, railway and water)
- Freight forwarding
- Warehousing
- Small package delivery services
- Value-added services

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

The assessment took place in stages. In **Stage 1**, the OECD undertook a fact-finding mission in Indonesia and prioritised 57 pieces of sector-relevant legislation. **Stage 2** screened this legislation using the OECD's Competition Assessment Toolkit and identified 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 43 recommendations for provisions found to restrict competition unnecessarily, taking into account the Indonesian context, international experience and relevant economic literature, and consulted the relevant authorities on these recommendations. **Stage 5** finalised the recommendations. The final report including all findings and recommendations was released and uploaded on the OECD website.

Sector	Legislation analysed	Restrictions found	Recommendations
Road freight transport	9	6	2
Maritime freight transport and ports	22	21	15
Rail freight transport	3	3	3
Freight forwarding and multimodal transport	2	6	6
Warehouses	1	2	1
Small package delivery services	4	6	5
Horizontal/Others	16	12	11
Total	57	56	43

Key findings and main recommendations

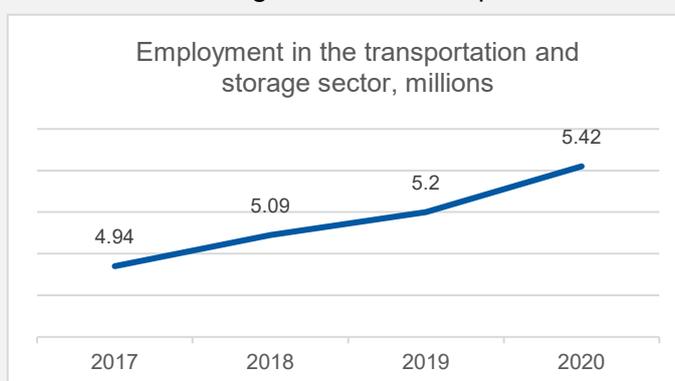


In 2019, the transportation and storage sector accounted for over 5% of Indonesia's GDP, contributing approximately USD 63 billion. The sector's contribution to GDP has increased from 4.4% in 2014. There have been over 5 million people employed in the transportation and storage sector since 2018.

Over the last few years, Indonesia has improved its overall logistics performance and in 2018 it ranked 46 out of 160 countries in the World Bank's Logistics Performance

Index (LPI). This performance improvement has been accompanied by a fall in the country's logistics costs as a percentage of GDP. The logistics market is concentrated in the two most populated island groups, Java and Sumatra. Several government initiatives have sought to address disparities between island groups, including a public-service obligation for the transport of essential goods.

Similar to other ASEAN Member States, Indonesia is suffering 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 investment. Logistics companies have been impacted by operational constraints (delivery delays, congestion and higher freight rates) and a lower demand in certain sectors.



Land freight transport

In 2019, land transportation (road and rail) accounted for over 45% of the transportation and storage market. Road transportation dominates the domestic freight transportation market, accounting for around 70-80% of the freight volume handled domestically. In 2018, 7 778 554 freight vehicles were registered in Indonesia, a figure that has risen by over 1.5 million vehicles since 2014.

Key recommendations

- 1. Replace bi-annual inspections of commercial vehicles with annual inspections**, to reduce operators' costs. In order to ensure road safety, these annual inspections could be supplemented with random on-road spot checks or criteria based upon vehicle age.
- 2. Implement railway sector reforms and introduce some form of separation** between the management of railway infrastructure and the transportation business. **Ensure third party access.**

Maritime freight transport

In 2019, maritime transportation accounted for around 7% of the transportation and storage market. In Indonesia, 93% of vessels are registered under the national flag. The number of merchant vessels registered under the Indonesian flag has been increasing since 2011, when Indonesia recorded 5960 vessels, reaching 9879 vessels in 2019.

Key recommendations

- 1. Remove excessive licensing requirements** such as vessel ownership and submission of business plans.
- 2. Replace set prices for port services with maximum prices** to allow negotiations between service providers and customers and so introduce price competition.

Freight forwarding

Freight forwarders organise transportation of items on behalf of their customers, for instance by combining different modes of transport in order to better respond to customers' needs. Their activities also include tracking inland transportation, preparation of shipping and export documents, booking cargo space, negotiating freight charges, freight consolidation, cargo insurance, and the filing of insurance claims. They can also provide additional ancillary activities, such as customs clearance or warehousing. In 2019, the Ministry of Transportation recorded 3 162 freight forwarding and supporter companies active in Indonesia.

Key recommendations

1. **Level the playing field** by removing the obligation on freight-forwarding businesses with foreign participation, such as companies with joint venture and investment status, to have extra capital. The regimes for international and domestic investors should be aligned in order to attract more foreign investment and encourage market entry.
2. **Remove the compulsory association requirement**, which can facilitate anti-competitive co-ordination and collusion between market players.

Small package delivery services

The Indonesian courier, express, and parcel market was worth USD 1.4 billion in 2016. In 2019, it reached USD 2.3 billion, and it is expected to be valued at USD 5.5 billion by 2025. This growth is largely driven by e-commerce. The Indonesian e-commerce market grew by 88% annually from 2015 to 2019. E-commerce was valued at USD 1.7 billion in 2014 and USD 21 billion in 2019. It is expected to reach USD 82 billion by 2025.

USD 5.5 billion

By 2025

Key recommendations

1. **Remove specific minimum capital requirements for courier service providers.** Alternatively, allow the fulfilment of this requirement by means of bank guarantees or insurance policies.
2. **Remove the geographical restrictions on joint ventures** to allow them to operate outside international airports and seaports. This may improve efficiency, lower costs and increase service quality.
3. **Remove the ban on below-cost pricing in price-setting guidelines** and remove any penalty provision so that providers are free to set their own prices.

Horizontal and regional issues

Indonesia adopted the Omnibus Law on Job Creation in October 2020 and it was enacted in November 2020. It sets out a far-reaching economic reform package, revising over 75 laws and covering various sectors. Among other policy objectives, the Omnibus Law seeks to reform and simplify licensing processes across sectors and is intended to promote digitalisation. Indonesia has already implemented several reforms that have made it easier to start a business, including the establishment of the Online Single Submission (OSS) licensing system, regional one-stop shop centres and digitalising application procedures.

The number of investment projects in the logistics sector have increased significantly in recent years thanks to the growth in the e-commerce and transportation sectors. Although the logistics and e-commerce sectors were partially opened in 2016, several sub-sectors including freight transportation, warehousing and port services continue to be subject to substantial foreign ownership limitations under Indonesia's Negative Investment list.

Indonesia has recently created a public service obligation (PSO) initiative for road and maritime transportation to transport basic and essential goods to underdeveloped, remote, outermost and border areas of Indonesia. The regulation states that the implementation of this PSO is held by the government and assigns responsibility for it to named SOEs, active in freight transportation.

Key recommendations

1. **Progressively relax foreign-equity limits with the long-term goal of allowing up to 100% foreign ownership in logistics sub-sectors.** As an alternative, foreign equity limits could be relaxed on a reciprocal basis. In addition, **remove different technical requirements** currently imposed on firms with foreign equity.
2. **Consider implementing an alternative model for the transportation of basic and essential goods to remote areas.** Instead of awarding PSO contracts directly to SOEs, the authorities could assess the costs and benefits of their competitive tendering, to provide incentives for lowering costs and better improving quality. If SOEs are directly awarded PSO contracts, safeguards should be put in place, such as the submission to the authorities of separate accounts for PSO business.
3. **Clarify that price-setting guidelines for freight transport services are not mandatory and remove any penalty** for non-compliance, so that service providers are free to set their own prices.

Sources: Badan Pusat Statistik (Statistics Indonesia); Ministry of Communication and Information Technology; Ministry of Transportation; Mordor Intelligence; Google, Temasek, Bain & Company; OECD Investment Policy Reviews: Indonesia 2020.

Note: The formulation of this report and the field interviews to gather relevant data/information related to this study, were conducted in 2019, prior to the issuance of Law Number 11 Year 2020 (the Omnibus Law on Job Creation). The Omnibus Law 2020 has significantly changed the regulatory landscape in Indonesia with the objective to attract more investment and increase the ease of doing business. These changes have not been reflected in the report.

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 Indonesia” are contributions to the implementation of the ASEAN Competition Action Plan.

