

UNCTAD-ESCAP Regional Dialogue held in cooperation with the ASEAN Secretariat

The role of competition policy in supporting the MSMEs economic recovery in the post COVID-19 crisis

2nd March 9:00-12:00 CET

149 participants

Report of the event

Opening remarks

Ms. Teresa Moreira (Head of Competition and Consumer Policies Branch, UNCTAD)

- Ms. Teresa Moreira thanked all guest for attending, and noted that this meeting was the first in a series of regional meetings to be held across the globe. Ms. Moreira was pleased to be partnering with ESCAP and the ASEAN Secretariat to be delivering this event. The meeting is part of a UN-wide COVID-19 response, an umbrella project to allow all UN organisations to join efforts in their support to Member States during the pandemic. One general objective of the project is to understand how the crisis has affected MSMEs in developing countries.
- Ms. Moreira remarked that MSMEs generate approximately 30% of direct exports at the regional level. MSMEs typically contribute between 40% to 60% to GDP or value added in those economies. As a part of this project, UNCTAD will be helping to facilitate MSME access to markets which have been damaged due to disruptions in demand and supply chains.
- Ms. Moreira stated that this meeting would outline global, regional, and also national studies concerning the state of MSMEs after the COVID-19 crisis. The national studies look at the most effective economic sectors of the countries concerned and elaborate on how to apply the lessons of UNCTAD's global report to improve these sectors. A key focus is on how competition policy can contribute to maintaining and expanding market access for MSMEs.
- Lastly, Ms. Moreira informed the meeting that a goal of the discussion was to consider further ideas that Member States may like to see in expanding and continuing the project into the latter half of the year.

Mr. Mark Proksch (Chief of Investment and Enterprise Development Section, ESCAP)

- Mr. Marc Proksch noted that MSMEs are crucial to economies, but as the years go by many of the same issues are discussed: access to technologies, markets, information, and finance. The idea of looking at competition policy and law is somewhat newer. Mr. Proksch commented that competitiveness is encouraged by a healthy competition environment. UNCTAD has paid commendable attention to this stream of work.
- Mr. Proksch briefly remarked on ESCAP's current work, where the organization is looking at MSME issues related to Foreign Direct Investment, and in the preparing a 2nd Edition Guidebook for MSME Policymakers. Regarding competition, there are many interesting

examples of the struggles policymakers face. For example, in Thailand, Japanese automakers encouraged Japanese parts and components companies to locate in Thailand – but the Thai government was concerned that this would stifle the local supply chain. Nevertheless, without strong competition the local Thai manufacturers were not always able to innovate and attain the kind of quality necessary to become viable suppliers and exporters. These trade-offs between encouraging local industry and also bringing about competitive advancements are difficult to manage.

Mr. Trinh Anh Tuan (Deputy Director General, Vietnam Competition and Consumer Authority, AEGC Chair)

- Mr. Trinh Anh Tuan stated that this dialogue was timely, given the challenges of COVID-19. On ASEAN's side, the comprehensive recovery framework prioritizes MSMEs as the backbone of the ASEAN economy. Mr. Tuan noted that the AEGC is committed to fair competition in the ASEAN markets and the proper application of competition law across the value chain.
- He further commented that advocacy at the national level is a key component of ensuring the contribution of competition policy and law to the recovery, and something that the ASEAN organization can contribute to.

Mr. Bountheung Douangsavanh (Director-General, Department of SME Promotion, Ministry of Industry and Commerce, Lao PDR, ACCMSME Chair)

- Mr. Bountheung Douangsavanh congratulated AEGC, ASEAN Secretariat, UNCTAD and ESCAP for providing a platform for experts in the MSME and competition areas to exchange views on how competition policy can support MSMEs in the COVID-19 crisis.
- Mr. Douangsavanh observed that MSMEs are the most vulnerable sector of the economy and truly sensitive to demand and supply shocks through the pandemic. More than 80% of MSMEs have suffered from reduced profits during this time and 30% have been forced to shut down permanently. Mr. Douangsavanh remarked that costs to conduct business online are too high for some MSMEs to accommodate. Even with the extant government support measures, 2021 is going to be very hard for some businesses to survive. MSMEs need to change the way they do business, either through digital technologies, automation, or otherwise. Given that up to 99.9% of businesses in ASEAN countries may be MSMEs they are a critical area for governments to support.
- Mr. Douangsavanh noted that ASEAN, with the support of the OECD, has published a catalogue of the measures that ASEAN governments have undertaken to support MSMEs through this crisis. Mr. Douangsavanh finally noted his hope that this policy dialogue will be one of many collaborations between the participating parties to increase the resilience of MSMEs throughout the region.

Professor Michael Driscoll (Vice Chancellor and President of Taylor's University Malaysia)

- Professor Michael Driscoll said that the situation faced by MSMEs varies from challenging to catastrophic, particularly in hospitality, tourism, and travel. There are some sectors where MSMEs have benefitted, for example, in medical supplies and delivery services. Sadly, a lot of

businesses have been left behind and may not recover. The main reason is that they do not have the knowledge and skills to adapt quickly enough.

- Professor Driscoll commented that the solution is getting a vaccine for COVID-19: this will enable people to re-engage with face-to-face commerce. In the short term, though, businesses need to maintain cash flow. Professor Driscoll encouraged the banking system to provide loans, private equity to get involved, and governments to provide loans and grants. Competition policy can contribute in the medium to long term. Taylor's University focuses on providing the skills and knowledge necessary for the people participating in the MSME sector to better endure crises such as these. Taylor's University has set up a Centre for Industrial Revolution and Innovation focused on providing training and research. The university is increasing its engagement with business, finding out what they need and feeding this back into its curriculum.

Presentations

Dr. Pierre Horna (UNCTAD)

- Dr. Pierre Horna stated that this report is a snapshot of MSMEs around the world facing competition and market access challenges during COVID-19. It focuses on the competition-related challenges caused by the pandemic, the ability to access markets, and regulatory responses. It concludes with 10 recommendations. The report firstly discusses the nature of MSMEs, from definitions, characteristics, and market access, to their interaction with public institutions.
- Dr. Horna pointed out that there is a distinct link between competition law and market access. Significant questions for policymakers are: How should competition law be applied to MSMEs? What are the challenges of enforcing competition law for MSMEs? How should competition authorities deal with MSMEs? How does informality affect this topic?
- UNCTAD's global report thoroughly assesses how COVID-19 has affected market access for MSMEs through global supply chains and digital markets. It touches on competition authority responses. It further discusses the following trends, which are evident: support for incumbent firms, approval of coordinated economic activity, lockdowns constraining market access, MSMEs going online, competition authorities working with MSME agencies and associations, and the importance of informal sector MSMEs.
- Dr. Horna noted the key recommendations of the report: identifying whether competition policy objectives and law allow for broader economic objectives; that COVID-19 exceptions to law enforcement should be gradually lifted; minimum thresholds/safe harbor guidelines or exemptions should be provided; MSMEs should be allowed to engage in collective bargaining; and clear guidance notes on MSME matters should be issued by competition authorities.

Dr. Rachel Burgess (Consultant, ESCAP)

- Dr. Rachel Burgess commented on the importance of MSMEs to the economy, and noted that the statistics, being based mostly on formal registrations, probably understate their importance. Impacts from the COVID-19 pandemic include huge business continuity risks from lockdowns. The number of businesses relying on government support has risen, and many firms are failing as support is wound back. Dr. Burgess observed that acquisitions are increasing and the number of players in the market is reducing. Restricted movement prohibits consumers from exercising their purchasing power, and transportation links are severed, disrupting supply chains. The digital marketplace has been critical, which can open new markets, but capitalizing on this requires business adaptations, and exposes businesses to the new competition risks posed by massive digital platforms.
- Dr. Burgess added that specific risks from COVID-19 related to competition are price gouging and the emergence of crisis cartels. These can ensure continuity of supply but would need an exception from competition authorities and careful observation and assessment of the medium- and long-term consequences. Government supports provided to firms needs to be carefully considered, as it can potentially bias competition in favor of some firms over others.
- Dr. Burgess mentioned that competition agencies have a mandate to provide policy advice to governments. They should be a part of the economic recovery policy discussion. Meanwhile, continuing to enforce competition standards should be a priority. Furthermore, considering that foreign firms do encourage competition and building competitiveness, calls for protectionism should be carefully handled. Dr. Burgess observed that MSMEs can often react quickly to a changing marketplace with the right knowledge and information, and this is their competitive advantage. Competition authorities should advocate the benefits of competition law and policy to MSMEs throughout the crisis.
- The recommendations arising from Dr. Burgess's report included, for competition agencies: continue to raise awareness of competition law and policy; establish consultative bodies for MSMEs and appoint commissioners with MSME experience. For development agencies, Dr. Burgess recommended that they standardize, collect, and publish data on MSMEs to inform policymaking. For multiple stakeholders, Dr. Burgess suggested collaborations such as joining advocacy attempts and information-sharing with consumer regulators, and holding joint forums to discuss issues.

Dr. Teerawat Charoenrat and Dr. Charles Harvey (Consultants, UNCTAD)

- Drs. Charoenrat and Harvey commented on the many difficulties facing MSMEs in Thailand. Many MSMEs have very low technical efficiency, even pre-COVID-19. As research for this project, Drs. Charoenrat and Harvey conducted a survey of firms exporting from Thailand. This survey found severe problems with reductions in demand for products in Thailand, and much concern among MSMEs about the availability of financing from banks.
- Firms face liquidity problems and will require credit assistance. Many MSMEs want the government to restrict the entry of foreign firms into Thailand. Drs. Charoenrat and Harvey

noted that MSMEs use online platforms but struggle with the implications of the power of the dominant platforms such as Lazada and Shopee.

- Drs. Charoenrat and Harvey remarked on the short-term and also the medium- to long-term problems being faced by Thailand. The country is in a middle-income trap, and MSMEs, constituting the bulk of the economy, are clearly a significant part of the solution to getting out of it. Since many MSMEs do not export, the reality is that expansion of these firms relies on the local market. The assessment of the MSMEs in Thailand shows that there is a missing middle: there are very few mid-sized firms. The question, then, is how to encourage the growth of small firms to become bigger and more successful?
- Drs. Charoenrat and Harvey noted that while businesses are very keen to encourage competition between their suppliers and between banks, but not supportive of competition policies that would increase the level of competition they themselves face. The low technical efficiency of Thai firms observed by the study could be a contributor to their relatively low global competitiveness.
- Drs. Charoenrat and Harvey noted that there was evidence of market failure from banks, that is, there is credit rationing in Thailand. As a result, competition between banks may need to be enhanced. Further policy ideas to consider for the support of MSMEs include tax deferrals and employment subsidies. Employment subsidies, in particular, could see a reduced need for migrant labor, which is a contributing factor to the ongoing COVID-19 outbreak.

Question and answers on presentations

- During the question and answer session, some observations were made that furlough schemes and employment subsidies had met with success worldwide in mitigating the damage to MSMEs from the COVID-19 pandemic. A question was addressed to Professor Driscoll on how successful such measures have been successful in the context of Malaysia.
- A question regarding why MSMEs should be considered for helping Thailand proceed beyond the middle-income trap was met by the answer that since MSMEs are the majority of firms in Thailand, they are a logical place to look for further economic growth and progress. Mr Charles Harvey noted that in the case of Thailand, there is a clear need to improve productivity as well as access to finance and entrepreneurial capacity.
- Representatives of the Thai competition authority noted that the rules around supplying credit to MSMEs should be diligently enforced throughout the pandemic. Furthermore, the Thai competition authority noted that it was in discussions with large firms regarding how they might increase the participation of MSMEs within their more traditionally established value chains.

Guided questions

Question 1. What measures focusing on MSMEs have been implemented by governments to increase the contribution of trade in rebuilding stronger and more resilient post-COVID-19 economies? Have there been any competition driven efforts?

- Mr. Layhy Chhea Director of SME Department; Ministry of Industry, Science, Technology and Innovation, Cambodia: A new definition of MSMEs has been established to support social and economic research. An MSME bank has been established to help small firms weather the crisis. All line ministries, e.g., Ministry of Industry, Ministry of Commerce, Ministry of Forests, Agriculture are working together to cooperate on instruments to support MSMEs.
- Mr. Han Lin Zaw, Director, Myanmar Competition Commission: Many businesses in Myanmar have had to suspend their operations, and MSMEs in Myanmar heavily depend on their COVID-19 loans for their survival. Numerous measures have been rolled out such as fiscal and monetary stimuli through financial institutions such as the Central Bank and financial trade agreements, including the introduction of delays for tax payments and tax exemptions. The government has also accelerated reforms aimed at changing the economic structure of the country, such as privatizing state-owned enterprises, streamlining various kinds of licensing, and increasing transparency. Trade finance facilities are also being introduced through financial institutions.

Question 2. How has COVID 19 impacted digital trade positively or negatively? What kind of measures are in place to prevent large platforms from taking advantage of the current situation to further expand market shares? Are MSMEs prepared to combat this type of practice?

- Hilman Firdaus, Deputy of Production and Marketing, Ministry of Cooperatives and SME, Republic of Indonesia: Indonesia has the most MSMEs in the region, 64 million. More than 98 per cent of them are only micro or small enterprises, and about half of them are informal. Many of them are still informal businesses, but they contribute approximately 60 per cent of GDP. The top 3 challenges are: decreases in market demand, increases in price of raw materials, and difficulties in distribution. MSMEs must shift to the online market, but also diversify their products. The shift to an online marketplace will accelerate the region's digital transformation, and the increase in digital trade possibilities will improve MSME opportunities. A law on job creation is also dictating that central and local government direct 40 per cent of its spending towards MSMEs.
- Deswin Nur Head of PR and Cooperation Bureau, Indonesia Competition Commission Indonesia: the competition safeguards smaller businesses from abusive practices by larger businesses. There is a growing awareness of the competition regulator as a protector and advocate of MSMEs. The message for the pandemic is: continue to enforce the law. Competition will continue throughout the pandemic. The growth of MSMEs is not only related to market and skills access, but also related to the degree of protection from larger businesses.
- Mr. Krisda Piampongsant, Trade Competition Commission of Thailand: Small foreign enterprises are also covered by competition law and may also be categorized as MSMEs. Franchisees and franchisors are also a topic of interest to the Commission. We are also turning our attention to

new online marketplaces and identifying what problems Thai MSMEs are facing online. MSMEs tend to be self-funded, and banks are not always willing to finance them. We will process this information and try to issue new rules and regulations for these situations.

Question 3. What strategies could MSMEs in conjunction with Competition authorities put in place to ensure a level playing field post crisis? Has regional, bilateral, or international cooperation been successful among competition authorities and between competition authorities and relevant governmental bodies/ministries (i.e., MSMEs) during the crisis?

- Atty. Krystal T. Uy, Director, Mergers and Acquisitions Office, Philippine Competition Commission: The closure of many businesses due to low demand and cashflow is not ideal. This will lead to market concentration and could lead to abuse of market power. The rise of dominant players can exacerbate other economic problems. To ensure a level playing field post-crisis the PCC advised against imposing price controls without regard for how these will affect small businesses. Governments should instead look to resolve supply limitations. Price controls could actually lead to market consolidation.
- The PCC works with consumer groups and the legislature to push for freer access to telecoms, where there are two dominant firms. Lighter regulation in this market might promote competition and enable easier entry for new firms, which flows on to cheaper connections for rural businesses, where price and coverage is particularly problematic.
- The PCC has also advocated for more flexibility in getting finance provision for MSMEs that may not be able to post collateral. A new competition policy has been passed in July. The new competition policy will help to steer regulation from government agencies to level the playing field for MSMEs. The policy will require that government administrative practices observe competitive neutrality, should reduce barriers to entry in markets, and will avoid promoting collusive outcomes.

Question 4. What have been the lessons learnt from competition authorities and MSME agencies in dealing with the crisis (start and middle, and future forecast)? How do competition authorities and MSME agencies envision their policies and strategies will respond to the post crisis circumstances by taking into account of bankrupted sectors (i.e., tourism); new trends (i.e., sustainability) and new challenges (i.e., digitalization)?

- Dr. Syahira Hamidon, Undersecretary; Policy and International Relation Division, Ministry of Entrepreneur Development and Cooperatives, Malaysia: Movement restrictions and the pandemic have significantly affected MSMEs. MSMEs play a crucial role for economic growth and account for 97 per cent of business establishment and 39 per cent of GDP. There are numerous government measures such as grants but also automation and digitalization programmes.

- The Ministry initiated an online survey with 10,000 responding entrepreneurs to evaluate the impact of COVID-19 and evaluate their needs for assistance. This survey shows growth and shift towards ecommerce. Businesses have also needed to cut back on their cost bases, including by retrenching workers. MSMEs face barriers to digitalization: not enough capital, goods or services not being suitable for digitalization, lack of hiring skilled workers, mismatches between government assistance and support needed. The Ministry's plan of work will focus on digitalization (75% MSMEs were not ready to go online pre-pandemic) of MSMEs; youth advocacy work to foster entrepreneurship; formalization of informal businesses; increasing inclusivity: supporting all segments of society in entrepreneurship; and assisting businesses to shift to new activities.
- Eugene Chen, Senior Assistant Director, International Communications and Planning, Competition and Consumer Commission of Singapore: Singapore issued a guidance note to businesses detailing its approach to collaboration between competitors in supply of essential goods and services during the pandemic. Agreements on sustaining or improving supply of essential goods and services between competitors, if time-limited and without resorting to certain anti-competitive behaviors, are likely to result in net economic benefits. Singapore has been selectively investigating certain kinds of collaborations during the pandemic based on whether it is likely to cause economic damage, and also dependent on the circumstances of particular sectors such as retail or airline travel.
- The Singapore Competition and Consumer Commission has refreshed its strategic framework to better guide its work over the next five years, taking into account the new environment. It accounts for greater political and economic tensions, the impacts of technology, and increasing business consolidation. The digital economy became prevalent even pre-COVID and will continue to grow so we are planning to continue monitoring its impact. We plan to update competition guidelines so that businesses can better operate in the digital space (for example, abuse of dominance, mergers and acquisitions).

Responses from panelists

- Dr Horna commented on the need for more coordination among competition agencies, and raised the question of what can be done to support MSMEs in the face of the growing power and capabilities of multinational corporations?
- Dr. Syahira Hamidon, Undersecretary; Policy and International Relation Division, Ministry of Entrepreneur Development And Cooperatives, Malaysia: To ensure level playing field, we rely on governmental interventions through policy with a priority on business establishments such as MSMEs, given that they form the majority of businesses. Cooperation is necessary between agencies responsible for competition policy and entrepreneurial development (for instance we would cooperate with MyCC).
- Eugene Chen, Senior Assistant Director, International Communications and Planning, Competition and Consumer Commission of Singapore: We do not distinguish between large and small firms unless it leads to a contravention of competition law. For abuse of dominance and lessening of competition in mergers and acquisitions, we generally let the market organize itself and only step in for the case of adverse effects on competition.

- Regarding the question from the chat on the guidance note issued by the commission, it allows certain collaborations to improve supply of essential goods and services, but it should be time- and scope-limited. It also must not engage in certain serious practices like price-fixing, bid-rigging, market-sharing, or output limitation. The idea is to guide businesses on what the commission will consider as allowable behavior to secure stable provision of essential products while the pandemic is ongoing.
- Mr. Krisda Piamongsant, Trade Competition Commission of Thailand: We need to advocate the competition law to multinational corporations to ensure that everyone knows that the law applies to them and does not discriminate. During COVID-19, multinational corporations could be offered potential safe harbors.
- The Commission is currently creating a composite index of competition, looking at the value and supply chains for specific locations for rice exports and fruit collection. We are currently looking to connect up the networks we have with MSME organizations and include a high-level representative on the subcommittees we are having.

Closing remarks

Ms. Elizabeth Gachuri (UNCTAD)

- In the summary of the discussion, Ms. Gachuri highlighted the importance of international cooperation to address COVID-19 challenges, including on competition law and policy. UNCTAD noted with interest the implementation of a specific SME bank (Cambodia), employment integration programme to deal with informality and formalization (Indonesia), the call for the private sector to step in to advocate for and support MSMEs (Thailand).
- Ms. Gachuri revisited the challenges cited by the participating speakers such as the need to improve access to MSMEs to support shift to innovation (Myanmar), to address unfair trade especially in digital sector (Thailand) and to reform the competition law in respect to the digital sphere (Singapore).
- The UNCTAD global report on competition law and policy makes a number of recommendations for the current situation, including considering the broader economic context for competition law; the phasing in and out of COVID-19 exemptions in competition law; clear guidance from competition authorities; understanding the digital market structures that affect MSMEs; and the reassessment of financial support schemes for MSMEs.
- Finally, UNCTAD emphasized calls to raise awareness so that MSMEs know competition law acts as a protector (Indonesia), to exercise caution in relying on price controls/caps which can have a negative effect on MSMEs survival (Philippines) and that reinforcing education on automation and digital awareness is crucial for MSMEs (Malaysia) to ensure level playing field.

Mr. Marc Proksch (Chief of Investment and Enterprise Development Section, ESCAP)

- Very briefly, Mr. Proksch commented that the takeaway message of the meeting is that competition policy matters for MSMEs, even as it has been overlooked. Another issue that came up in the first Asia-Pacific MSME Policymakers Network meeting is that coordination is key among different governmental ministries and bodies, of which there are generally many with activities that affect MSMEs.
- Mr. Proksch informed the meeting that on 30th of March 2021 there will be a high-level meeting with ASEAN on investment facilitation.

Mr. Looi Teck Kheong (Head of Competition, Consumer Protection, and IPR Division, ASEAN Secretariat)

- Mr. Looi Teck Kheong noted that each of the sessions, the presentations of the reports, and discussion addressed to competition and MSME officials were comprehensive and insightful. The ASEAN Experts Group on Competition (AEGC) recognizes the significant negative impacts of the COVID-19 pandemic on most sectors of ASEAN and the global economy.
- Emphasized that in the AEGC Joint Statement in Response to the Coronavirus Disease (Covid-19) Pandemic, the AEGC reiterated that they will not hesitate to act against any business taking advantage of the current pandemic crisis.
- Mr. Kheong highlighted that AEGC will continue to strengthen cooperation among ASEAN competition authorities, ensure timely exchange of information, and facilitate sharing of best practices among member states to address anti-competitive activity amidst the pandemic.
- Highlighted that the discussion served as a good foundation to move forward in thinking on how competition policy and law could contribute towards MSMEs related initiatives under the ASEAN Comprehensive Recovery Framework, especially in the field of strengthening supply chain connectivity and resilience, enabling trade facilitation in the new normal, and inclusive digital transformation for MSMEs.
- Mr. Kheong finally outlined five strategies in ASEAN's comprehensive recovery framework: enhancing health systems; strengthening human security; maximizing the potential of intra-ASEAN markets and integration; accelerating inclusive digital transformation; and advancing to a more sustainable and resilient future.