



**Asia-Pacific
Economic Cooperation**

Measures of Competition Development in APEC

Final Report

Moscow, Russia

**APEC Competition Policy and Law Group
APEC Economic Committee**

November 2012



APEC PROJECT

**CPLG 02 2011T – Measures of Competition Development in
APEC**

FINAL REPORT

**APEC Competition Policy and Law Group
APEC Economic Committee**

Moscow
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CONTENT

ABSTRACT	4
LIST OF ABBREVIATIONS.....	5
EXECUTIVE SUMMARY	7
INTRODUCTION.....	12
1. MAIN CHARACTERISTICS OF APEC ECONOMIES, DETECTING MEASURES OF COMPETITION DEVELOPMENT PRIORITIES.....	15
1.1. Australia	15
1.2. Brunei Darussalam	15
1.3. Canada	16
1.4. Chile	17
1.5. China	17
1.6. Hong Kong, China.....	18
1.7. Indonesia	19
1.8. Japan.....	19
1.9. Korea	20
1.10. Malaysia	21
1.11. Mexico.....	21
1.12. New Zealand.....	22
1.13. Papua New Guinea	23
1.14. Peru.....	23
1.15. Philippines	24
1.16. Russia	24
1.17. Singapore.....	25
1.18. Chinese Taipei.....	25
1.19. Thailand.....	26
1.20. United States of America	27
1.21. Viet Nam	27
2. MEASURES OF COMPETITION DEVELOPMENT USED IN APEC ECONOMIES.....	29
2.1. Institutional measures of competition development.....	29
2.2. Measures on competition advocacy	69
2.3. Measures on market participants' access to infrastructure.....	92
CONCLUSION AND COMMON RECOMMENDATIONS.....	107
ANNEXES.....	105
Annex I. List of Participants.....	105
Annex II. Workshop Agenda.....	113
Annex III. Workshop Conclusions.....	119
Annex IV. List of Economies Participating in the Project Activities.....	124
REFERENCES	118

ABSTRACT

Competition policy is one of the most essential factors to promote structural reforms in the APEC region as an effective means to raise economic efficiency, enhance consumer welfare and foster sustainable economic growth. However, competition policy is not fully effective without support from the government sector, business community and other interested parties. So this project is focused on sharing experience among APEC economies on key measures of competition development in 3 fields: institutions, advocacy, and market participants' access to infrastructure. The project provides a new level of understanding of competition policy in the APEC region and gives an opportunity for APEC member economies to get acquainted with the best practices of competition policies in the context of their domestic environment.

This report is an outcome of the APEC project number CPLG 02 2011T.

Keywords: competition, APEC, institutional measures, competition advocacy, market participants' access to infrastructure.

LIST OF ABBREVIATIONS

ACCC	The Australian Competition and Consumer Commission
APEC	Asia Pacific Economic Cooperation
CCA	Competition and Consumer Act 2010 (in Australia)
CCS	Competition Commission of Singapore
CDN	Canadian Dollar
CoAG	Council of Australian Governments
COFECO	The Federal Commission of Competition
CPIRC	Competition Policy Information and Research Center (in Chinese Taipei)
CPLG	Competition Policy and Law Group
CRTC	Canadian Radio-Television and Telecommunications Commission
DIT	The Department of Internal Trade (in Thailand)
EDAC	The Economic Development Advisory Conference (in Chinese Taipei)
EPB	Economic Planning Board
FAS	Federal Antimonopoly Service
FDI	Foreign Direct Investment
FNE	The National Economic Prosecutor's Office (in Chile)
GCI	Growth Competitiveness Index
GDP	Gross Domestic Product
GWh	gigawatt hour
HKC	Hong Kong, China
ICCC Act	The Independent Consumer and Competition Commission Act (in Papua New Guinea)
JFTC	Japan Fair Trade Commission
KFTC	The Korean Fair Trade Commission
KPPU	Commission for supervision of Business Competition (in Indonesia)
LPG	liquid petroleum gas

MOFCOM	Ministry of Commerce of the People's Republic of China
MOU	Memorandum of Understanding
MRFTA	The Monopoly Regulation and Fair Trade Act (in Korea)
MyCC	The Malaysia Competition Commission
NCP	National Competition Policy (Australia)
NCC	National Competition Council (in Australia)
NZ	New Zealand
OCRA	The Omnibus Cartel Repeal Act (in Korea)
OECD	Organization for Economic Cooperation and Development
OJSC	Open Joint Stock Company
PNG	Papua New Guinea
Q&A	Questions and Answers Column
R&D	Research and Development
RF	The Russian Federation
SAIC	The State Administration of Industry and Commerce (in China)
SNE NP	The National Partnership Agreement to Deliver a Seamless National Economy (Australia)
TDLC	Tribunal de Defensa de la Libre Competencia (Tribunal of Defense of Competition Freedom)
UFB	ultra-fast broadband
U.S.	The United States of America
USAID	US Agency for International Development
VCAD	Viet Nam Competition Administration Department

EXECUTIVE SUMMARY

Project Purpose:

The project objective is to analyze and share among APEC economies information on possible measures of competition development. It provides an opportunity for APEC member economies to get acquainted with effective and adaptable measures of competition development in the markets within such fields as institutions (development of competition (related) institutions), advocacy (development of advocacy by competition (related) authorities) and accessibility to essential infrastructure with natural monopoly characteristics. This scope is determined by previous activities and discussions held by CPLG and relevant international organizations (ASEAN, OECD, and UNCTAD) as well as by the needs of APEC member economies (both developed and developing ones). These measures are effective tools to create favorable conditions for competition development and to raise the culture of competition relations among public and private sector, all participants of economic life of the APEC region.

The main tasks of the project are:

- to gather (by questionnaire's data processing, collaboration with CPLG members and information exchange with relevant international organizations) the formalized information on the considered topics providing competition development in the markets;
- to identify and survey the most relevant and effective measures of competition development within the project scope, including framework, outcomes and outputs of considered measures' realizations;
- to hold the APEC Workshop to network CPLG experts and other stakeholders as well as to discuss and improve interim results. The purpose of the Workshop is to enrich the understanding of APEC economies, especially the developing ones and formulate high deliverables, benefiting from available interim results of the research as well as sharing experience with high-professional participants of the Workshop;

- to disseminate the project outcomes and deliverables, including the survey of measures of competition development.

Principal activities:

The project executors in cooperation with the Ministry of Economic Development of the Russian Federation and APEC economies' experts identified and scoped relevant measures of competition development.

One of the main tools was a questionnaire, developed specially for the project. The project team also worked with literature, information of web-sites, statistics, surveys from previous steps and other relevant data.

The cases were gathered in the context of legal and regulatory frameworks of each APEC economy.

To realize this project a group of international experts was formed including the following people:

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Mr. Pronin Yuriy	Deputy Chief Editor of "Baikal News", Ph. D. (History)
Mr. Garkavenko Nicolay	CEO of Insurance Joint-Stock Company "Geopolis", Doctor of Science (Econ.)

Mr. Shchadov Ivan	Head of Industrial Enterprise Management Chair, Doctor of Science (Tech.), Professor, Member of National Academy of Natural Sciences (RANS)
Mr. Spivak Valery	Deputy Head Industrial Development Department, Ph. D. (Econ.), Assistant Professor
Mr. Sokolov Aleksandr	Chief of Laboratory of Fuel & Energy Complex Development Problems in Siberia and Far East , Doctor of Science (Tech.)
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Mr. Hassan Qaqaya	Head of Competition Law and Consumer Policies

	Branch, UNCTAD
Mr. Jungwon Song	Competition Expert, Competition Division, Directorate for Financial Enterprise Affairs, OECD
Mr. Yang Yao	Deputy director of Peking University's China Center for Economic Research , Professor of Economics

The APEC Workshop “Measures of Competition Development in APEC” was held in Vladivostok, the Russian Federation, on 27 - 28 September, 2012.

37 participants from 13 APEC Member economies (Australia, Chile, China, Indonesia, Japan, Mexico, Peru, the Philippines, the Russian Federation, Chinese Taipei, Thailand, the USA and Viet Nam) attended the Workshop. The delegates represented governmental agencies, responsible for competition policy development and other competition and antimonopoly agencies, as well as private businesses and non-government organizations.

The Workshop gave an opportunity for APEC economies to network and exchange views on possible measures of competition development and the most effective measures of competition development in APEC economies. The Workshop participants discussed the issues of competition development in APEC and made the recommendations and comments to improve “Survey of the Most Effective Measures of Competition Development in the APEC Region”.

SURVEY OF THE MOST EFFECTIVE MEASURES OF COMPETITION DEVELOPMENT IN THE APEC REGION

INTRODUCTION

Competition policy is one of the most essential factors to promote structural reforms in the APEC region as an effective means to raise economic efficiency, enhance consumer welfare and foster sustainable economic growth. However, competition policy is not fully effective without support from the government sector, business community and other interested parties. So this project is focused on sharing experience among APEC economies on key measures of competition development in 3 fields: institutions, advocacy, and market participants' access to infrastructure. The project provides a new level of understanding of competition policy in the APEC region and gives an opportunity for APEC member economies to get acquainted with the best practices of competition policies in the context of their domestic environment.

The beneficiaries of this project are competition authorities of APEC member economies as well as policy makers in the sphere of competition policy and structural reforms in general. The output of the project can be used for appropriate government programs and reforms promotion, providing an opportunity for APEC member economies to get acquainted with institutional measures, measures on competition advocacy, and measures on market participants' access to infrastructure. The outputs of this project would also provide the competition authorities and policymakers with guidance on competition policy measures undertaken in the APEC region.

In the long term in case the next steps are undertaken and the outputs of the project are implemented in APEC economies, in the end the benefits consumers will be provided with from enhanced competition include more innovative and improved products and

services for lower prices, and the entry of new market participants.

The project directly responds to APEC's key priorities since competition policy is one of the key areas of structural reform and helps economies to raise economic efficiency, enhance consumer welfare and promote sustainable growth. Competition Policy and Law Group is in charge of progressing a substantial part of the Economic Committee's competition policy work stream and this project makes a significant component of that work program, and also the Competition Policy Friends of the Chair Group work program. The project contributes to the implementation of Osaka Action Agenda, APEC Principles to Enhance Competition and Regulatory Reform and Structural Reform, APEC Structural Reform Action Plan, Leader's Agenda to Implement Structural Reform (LAISR), APEC Growth Strategy and APEC New Strategy for Structural Reform. Therefore, this project would enhance the capability of competition authorities to safeguard a healthy competition environment that will lead businesses to innovate and improve their products and services, to the benefit of consumers.

To gather information as well as to study competition policy the conducting of this Project (Measures of Competition Development in APEC) is also stipulated in CPLG Collective Action Plan and in the list of Ideas on possible New Projects of the CPLG Work Plan, and also in the Work Plan for the Competition Policy Friends of the Chair Group. It will enhance competition policy dialogue between APEC economies and relevant international organizations.

The project methodology

The project team studied the appropriate previous and current activities of APEC fora and external organizations to get the information for the project.

The project executors in cooperation with the Ministry of Economic Development of the Russian Federation and APEC economies' experts identified and scoped measures of competition development in three fields: institutional reforms, advocacy and infrastructure.

One of the main tools was a questionnaire, specially developed for the project. The project team also worked with literature, information of web-sites, statistics, surveys from previous steps and other relevant data. The cases were gathered in the context of legal and regulatory frameworks of each APEC economy.

The Workshop was held in Vladivostok, Russia – one of the main logistics hub in Russian Pacific – to enrich analysis results, present and debate the findings of the investigation stage, collect and analyze amendments, comments and proposals to the best APEC competition practices collection.

1. MAIN CHARACTERISTICS OF APEC ECONOMIES, DETECTING MEASURES OF COMPETITION DEVELOPMENT PRIORITIES

1.1. Australia

By Global competitiveness index (of World Economic Forum) in 2012 – 2013 Australia retains its rank of 20th. Among the economy most notable advantages is its efficient and well-developed financial system (8th), supported by a banking sector that counts as among the most stable and sound in the world, ranked 5th. The economy earns very good marks in education, placing 16th in primary education and 11th in higher education and training.

The Australian economy has been growing faster than most advanced economies and the outlook for the aggregate economy remains favourable. Despite budget deficits in recent years, Australian Government net debt remains very low by international standards. While Australian Government net debt is expected to have peaked, as a percentage of GDP, at 10.0 per cent in 2011-12, the average net debt of the major advanced (G7) economies is expected to peak at 95 per cent of GDP in 2016, almost ten times higher than the expected peak in Australia's net debt.

Finally, Australia's public and private institutions are transparent and efficient, although business leaders continue to be concerned about the burden of regulation. In April 2012, the Council of Australian Governments (COAG) committed to exploring work on priority areas for reform to lower costs for business and improve competition and productivity.

1.2. Brunei Darussalam

Brunei Darussalam is a small, open and market oriented economy. In 2011, Brunei Darussalam registered a growth of 2.2%. Nevertheless, the economy recorded a favourable performance in terms of attaining a macro-economic stability with low levels of inflation and a strong fiscal balance. Trade balance also continued to be high while the unemployment rate remained low. By Global Competitiveness Index in 2012 – 2013 Brunei

Darussalam was ranked 28th.

The people of Brunei Darussalam enjoy a high quality of life with an estimated US\$31,000 per capita income – the second highest in the ASEAN region.

The oil and gas sector is the largest contributor to GDP. Today, Brunei is the fourth largest oil producer in South East Asia and the ninth largest exporter of liquefied natural gas in the world. The main contributors to growth in non-oil and gas private sector are construction, finance, wholesale, retail and transportation.

Efforts towards enhancing the economy through the non-oil and gas sector will thus continue to be the economic development strategy during the 10th National Development Plan (RKN10) period. Emphasis will also be placed on ensuring that economic growth will be generated by enhancing productivity, particularly through research and innovation. A culture of competition is also recognized as one of the factors that can improve productivity.

With globalization and open trade, Brunei is susceptible to more competition not only locally but also from international players especially with the government trying to attract more foreign direct investment into the economy. To ensure that the consequent economic growth especially in the private sector is able to serve the interest of the public (consumer welfare and efficiency is the ultimate goal), the government is considering the adoption of competition policy and law.

1.3. Canada

Canada has one of the most effective models of state regulation. The basic principle of this system is a very high level of transparency (information resources are opened through Internet sites). Canada has one of the highest levels of economic freedom in the world. Today Canada closely resembles the U.S. in its market-oriented economic system, and pattern of production. According to the Forbes Global 2000 list of the world's largest companies in 2008, Canada had 69 companies in the list, ranking 5th.

By Global Competitiveness Index in 2012 – 2013 Canada was ranked 14th. Canada continues to benefit from highly efficient markets, well-functioning and transparent institutions, and excellent infrastructure. In addition, the economy has been successful in nurturing its human resources.

Improving the sophistication and innovative potential of the private sector, with greater R&D spending and producing goods and services higher on the value chain, would enhance Canada's competitiveness and productive potential going into the future.

1.4. Chile

It is a medium-sized economy among its Latin America neighbors. Chile has become a very open economy, entering a number of free trade agreements. Early measures to open and liberalize its markets by introducing high levels of domestic and foreign competition, a relatively flexible labor market, and one of the most sophisticated and efficient financial markets have helped the economy to maintain its long-term growth prospects in the past decades. GDP in Chile had growth at 6.0% in 2011. GDP growth forecast for 2012 is between 4.3% and 4.9% by different estimates. This source of growth should provide the government with enough financial muscle to continue the reconstruction needed after the earthquake in 2010 without jeopardizing public finances, and to invest in those areas where the economy depicts a weaker performance.

By Global Competitiveness Index in 2012 – 2013 Chile, at 33rd place, shows a rather stable performance and remains the most competitive economy in Latin America. A very solid macroeconomic framework (14th) with very low levels of public debt (10th) and a government budget in surplus (21st), coupled with well-functioning and transparent public institutions (28th) and fairly well developed transport infrastructures (40th), provide Chile with a solid foundation on which to build and maintain its competitiveness leadership in the region.

1.5. China

As of 2012, China has the world's second-largest economy in terms of nominal GDP. This economy is characterized as having a market economy based on private property ownership.

Under the market reforms, a wide variety of small-scale private enterprises were encouraged, while the government relaxed price controls and promoted foreign investment. Foreign trade was focused upon as a major vehicle of growth, leading to the creation

of Special Economic Zones (SEZs), first in Shenzhen and then in other Chinese cities. Inefficient state-owned enterprises (SOEs) were restructured by introducing western-style management systems, with unprofitable ones being closed outright, resulting in massive job losses. By the latter part of 2010, China was reversing some of its economic liberalization initiatives, with state-owned companies buying up independent businesses in the steel, auto and energy industries.

China's macroeconomic situation is very favorable, despite a prolonged episode of high inflation. It is one of the world's least indebted countries, boasts a savings rate of some 53% of GDP, and runs only moderate budget deficits. These factors, combined with good economic prospects, contribute to an improvement of the quality of its sovereign debt. By Global Competitiveness Index in 2012 – 2013 China was ranked 29th.

1.6. Hong Kong, China

Under the principle of "one country, two systems", HKC practices different systems from Mainland China. The Basic Law of the Hong Kong Special Administrative Region (HKSAR), its constitutional document, stipulates that the HKSAR shall have a "high degree of autonomy", while the Central People's Government shall be responsible for the foreign affairs relating to the HKSAR as well as its defense.

As one of the world's leading international financial centers, HKC has a major capitalist service economy characterized by low taxation and free trade, and the currency, Hong Kong dollar, is the eighth most traded currency in the world. HKC has one of the highest per capita income in the world. HKC has numerous high international rankings in various aspects. For instance, its economic freedom, financial and economic competitiveness, corruption perception, Human Development Index, etc., are all ranked highly.

HKC rises to the 9th position in the Global Competitiveness Index 2012-2013, as the second-placed Asian economy behind Singapore. In HKC, the dynamism and efficiency of its goods market, labor market, and financial market contribute to the economy's very good overall positioning. HKC enjoys the outstanding quality of its facilities across all modes of transportation and its telephony infrastructure. The dense space led to a highly

developed transportation network with public transport travelling rate exceeding 90% the highest in the world.

1.7. Indonesia

By Global Competitiveness Index in 2012 – 2013 Indonesia remains in the top 50. The economy remains one of the best-performing countries within the developing Asia region behind Malaysia and China yet ahead of Viet Nam and the Philippines. The macroeconomic environment continues to improve despite rising fears of inflation. Sound fiscal management has brought the budget deficit and public debt down to very low.

The macroeconomic stability is buoyed by its solid performance on fundamental indicators: the budget deficit is kept well below 2% of GDP, the public debt-to-GDP ratio amounts to only 25%, and the savings rate remains high. Inflation was reduced to around 5% in recent years after frequent episodes of double-digit inflation in the past decade. These positive developments are reflected in the improving credit rating of Indonesia.

Despite efforts to tackle the issue, corruption and bribery remain pervasive and are singled out by business executives as the most problematic factor for doing business in the economy.

The situation is improving, under the current program, introduced by Government of Indonesia, the Master Plan for the Acceleration and Expansion of Economic Development in Indonesia (MP3EI) will stimulate the development of required infrastructures for national economy. Further, Government of Indonesia support the competition policy creating of fair competition to both the long-term Government Plan and Middle-term Government Plan (RPJP/RPJMN), including MP3EI. For example: Government Regulation No. 52/2010 regarding to Merger and Acquisition to Support Law No. 5/1999 concerning the Ban on Monopolistic Practices and Unfair Business Competition.

1.8. Japan

By Global Competitiveness Index in 2012 – 2013, Japan ranked 10th. The economy continues to enjoy a major competitive edge in business sophistication and innovation, ranking 1st and 5th, respectively, in these two pillars. Company spending on R&D remains

high (2nd) and Japan benefits from the availability of many scientists and engineers buttressing a strong capacity for innovation. Indeed, in terms of innovation output, this pays off with the second-highest number of patents per capita. Further, companies operate at the highest end of the value chain, producing high-value-added goods and services. The economy's overall competitive performance, however, might be challenged by severe macroeconomic weaknesses, with high budget deficits over several years, which have led to the highest public debt levels in the entire sample by far.

Electricity generation in Japan covers 5.2% (2010) of the world generation. Japan occupies the 3rd place in the world, after USA and China. There is constant growth of the electricity generation, interrupting only during the economic crisis periods (1998 and 2008-2009).

1.9. Korea

Korea has a market economy which ranks 15th in the world by nominal GDP. It is a high-income developed economy, with a developed market, and is a member of OECD. In recent years, Korea's economy moved away from the centrally planned, government-directed investment model toward a more market-oriented one. Korea bounced back from the 1997-98 Asian financial crisis with assistance from the International Monetary Fund (IMF), but its recovery was based largely on extensive financial reforms that restored stability to markets. These economic reforms helped Korea maintain one of Asia's few expanding economies. Restructuring of Korean conglomerates (chaebols), bank privatization, and creating a more liberalized economy with a mechanism for bankrupt firms to exit the market remain Korea's most important unfinished reform tasks.

Despite the global financial crisis, the Korean economy, helped by timely stimulus measures and strong domestic consumption of products that compensated for a drop in exports, was able to avoid a recession unlike most industrialized economies, posting positive economic growth for two consecutive years of the crisis. In 2010 Korea made a strong economic rebound with a growth rate of 6.1%, signaling a return of the economy to pre-crisis levels.

By Global Competitiveness Index in 2012 – 2013 Korea ranked 19th. The economy's

outstanding infrastructure and stable macroeconomic environment are among its key competitive strengths.

On the other hand, considerable room for improvement remains with respect to the quality of its institutions and its rigid labor market, as well as its largely inefficient financial market. Improvements across these dimensions would help the economy to raise its competitiveness and ranking in the GCI after three years of decline or static performance.

1.10. Malaysia

Malaysia is a relatively open state-oriented and newly industrialized market economy. The state plays a significant but declining role in guiding economic activity. Although the federal government promotes private enterprise and ownership in the economy, the economic direction of the economy is planned through five years development plans since independence by the Economic Planning Unit, an agency under the Prime Minister's Department.

By Global Competitiveness Index in 2012 – 2013 Malaysia ranked 25th. The economy's progress is particularly noteworthy in the institutions and macroeconomic environment pillars, as well as in several measures of market efficiency. Among the prominent advantages of this strong and consistent performance are its efficient and sound financial sector - which places among the world's most developed, just behind Singapore and Hong Kong, China - and its highly efficient goods market. In addition, its macroeconomic situation has improved markedly over the past years, even though the economy continues to run a budget deficit of about 5% of GDP.

1.11. Mexico

By Global Competitiveness Index in 2012 – 2013 Mexico, at 53rd place, moves up five positions and consolidates last year's positive trend. The economy's efforts to boost competition and its regulatory improvements that facilitate entrepreneurial dynamism by reducing the number of procedures and the time required to start a business seem to be paying off, contributing to an improvement of the overall business environment. This development, coupled with the economy's traditional competitive strengths such as its large

internal market size, fairly good transport infrastructure, sound macroeconomic policies, and strong levels of technological adoption have led Mexico to improve its competitive edge.

However, the economy still faces important challenges. Not much progress has been made in addressing the flaws in the public institutional framework.

Adopting and implementing policies to boost domestic competition, especially in strategic sectors such as ICT, energy, and retailing, along with additional reforms to render the labor market more efficient are still needed to increase the efficiency of the Mexican economy. Moreover, as the economy continues to grow and move toward a higher stage of development and production costs rise, sustainable growth and higher wage will increasingly call for further reforms and investment to improve the educational and innovation systems. The current overall poor quality of the educational system, insufficient company spending in R&D, and limited innovation capacity can jeopardize the future ability of the economy to compete internationally in higher-value-added sectors.

1.12. New Zealand

Over the past 20 years the government has transformed New Zealand from an agrarian economy dependent on concessionary British market access to a more industrialized, free market economy that can compete globally. This dynamic growth has boosted real incomes. Per capita income rose for ten consecutive years until 2007 in purchasing power parity terms, but fell in 2008 - 2009.

The economy fell into recession before the start of the global financial crisis and contracted for five consecutive quarters in 2008 - 2009. The economy posted a 2% decline in 2009, but pulled out of recession late in the year, and achieved 1.7% growth in 2010 and 2% in 2011. Nevertheless, key trade sectors remain vulnerable to weak external demand. The government plans to raise productivity growth and develop infrastructure, while reining in government spending.

With Government support, the infrastructure industry has seen an increase in transport funding, the unbundling of local loop telecommunications, improved broadband infrastructure, and a review of New Zealand's energy sector - among other areas of focus.

A growing pipeline of infrastructure opportunities in New Zealand exists in the

strategic areas of social infrastructure, geothermal energy, health and wellness tourism, technology and the screen industry. By Global Competitiveness Index in 2012 – 2013 New Zealand ranked at 23rd place.

1.13. Papua New Guinea

Papua New Guinea (PNG) is richly endowed with natural resources, but exploitation has been hampered by rugged terrain, land tenure issues, and the high cost of developing infrastructure. Mineral deposits, including copper, gold, and oil, account for nearly two-thirds of export earnings.

Numerous challenges still face the government of Peter O'NEILL, including providing physical security for foreign investors, regaining investor confidence, restoring integrity to state institutions, promoting economic efficiency by privatizing moribund state institutions, and maintaining good relations with Australia, its former colonial ruler. Other socio-cultural challenges could upend the economy including chronic law and order and land tenure issues. The global financial crisis had little impact because of continued foreign demand for PNG's commodities.

In recent years, the government has opened up markets in telecommunications and air transport, making both more affordable to the people.

1.14. Peru

Peru ranks as the seventh economic power in Latin America. The Peruvian economy is characterized by a wide disparity among regions as regards the degree of economic development. With respect to the business sector, microenterprises account for 90% of formal establishments. Economic growth prospects are good. In some recent years GDP growth was above 6%.

Continuing its rise of the past several years, Peru climbs six positions in the rankings to reach 61st place by Global Competitiveness Index in 2012 – 2013. Further improvements to the already-good macroeconomic situation of the economy (where it ranks 21st) – despite a rise in inflation – have buttressed this upward trend. Overall Peru continues to enjoy the benefits of its liberalization policies that have supported the high levels of efficiency in the

goods (53rd), labor (45th), and financial markets (45th). However, the economy still faces important challenges for strengthening the functioning of its public institutions.

1.15. Philippines

The Philippine GDP grew 7.3% in 2010 before cooling to 4% in 2011 and up 5.9% in the second quarter of 2012 spurred by consumer demand, a rebound in exports and investments, and election-related spending. Low government spending, especially on infrastructure, slowed GDP growth in the second half of 2011, leading the government to announce a stimulus effort and increased public spending on infrastructure in 2012.

The economy weathered the 2008 - 2009 global recessions better than its regional peers due to minimal exposure to troubled international securities, lower dependence on exports, relatively resilient domestic consumption, large remittances from four- to five-million overseas Filipino workers, and a growing business process outsourcing industry.

The state of its infrastructure is improving marginally, but not nearly fast enough to meet the needs of the business sector. The economy ranks a mediocre 113th for the overall state of its infrastructure, with particularly low marks for the quality of its seaport (123rd) and airport infrastructure. However, these challenges did not hamper the economy's overall competitiveness measured by Global Competitiveness Index (GCI). Based on the World Economic Forum's Competitiveness Report 2012-2013, the Philippines ranks 65th out of 144 economies. This is 10 notches up from its 75th rank in 2011-2012 and 20 points up from 85th in 2010-2011.

1.16. Russia

By Global Competitiveness Index in 2012 – 2013 Russia ranked at 67th place. An improvement in macroeconomic stability was out-weighted by deterioration in other areas, notably the quality of institutions, labor market efficiency, business sophistication, and innovation. The lack of progress with respect to the institutional framework is of particular concern, as this area is likely to be among the most significant constraints to Russia's competitiveness. Strengthening the rule of law and the protection of property rights, improving the functioning of the judiciary, and raising security levels across the economy

would greatly benefit the economy and would provide for spillover effects into other areas. In addition to its weak institutional framework, Russia's competitiveness remains negatively affected by the low efficiency of its goods market.

Competition, both domestic as well as foreign, is stifled by market structures dominated by a few large firms, inefficient anti-monopoly policies, and restrictions on trade and foreign ownership. And despite many efforts, its financial markets remain unstable, with banks assessed very poorly.

1.17. Singapore

Singapore ranked 2nd in the Global Competitiveness Index 2012 – 2013, maintaining the lead among APEC economies. The economy's institutions continue to be assessed as the best in the world, ranked 1st for both their lack of corruption and government efficiency. Singapore places 1st and 2nd, respectively, for the efficiency of its goods and labor markets and leads the world in terms of financial market development, ensuring the proper allocation of these factors to their best use.

Singapore has world-class infrastructure (2nd), with excellent roads, ports, and air transport facilities. Singapore is an important business and telecommunications services hub in the Asia-Pacific region. The island republic has one of the most modern telecoms infrastructures in the world: its nationwide broadband services connect schools, offices and homes. Liberalization of the telecoms sector in 2000 has allowed the telecom industry in Singapore to become one of the most competitive in the world.

1.18. Chinese Taipei

Chinese Taipei has a dynamic capitalist economy with gradually decreasing government guidance of investment and foreign trade.

Heavy dependence on exports exposes the economy to fluctuations in world demand.

The pre-1990 economy in Chinese Taipei was characterized by export promotion and domestic protection. Some industries were dominated by government enterprises and firms owned by business groups, which had produced one of the largest state-owned sectors in a market economy. Liberalization was a product of the 1980s, and competition law was part

of that project. The president's policy address in 1984 announced a new economic policy approach, of internationalization, liberalization and institutionalization. Accordingly, Chinese Taipei was liberalizing trade in goods by the 1980s, and in services by the 1990s.

Free trade agreements have proliferated in East Asia over the past several years, but so far Chinese Taipei has been excluded from this greater economic integration largely because of its diplomatic status.

Room for improvement exists in public and private institutions, although consistent advances have been achieved in this area since 2008.

By Global Competitiveness Index Chinese Taipei maintains its 13th position during 3 last years in a row. Its competitiveness profile is essentially unchanged and consistently strong. Notable strengths include its highly efficient markets for goods, where the economy ranks 8th; its solid educational performance (9th) and its sophisticated business sector (13th), which is inclined to innovate (14th).

1.19. Thailand

By Global Competitiveness Index in 2012 – 2013 Thailand ranked on the 38th position. The improved macroeconomic environment represents the most positive aspect of Thailand's accomplishment in this year's assessment.

Its public deficit has been reined in and brought to a more manageable level, and the efficiency of its labor market also stands out positively. Moreover, labor markets are flexible and allow for an efficient allocation of talent.

However, many challenges will need to be addressed to make Thailand more competitive. One of the biggest areas of concern is the efficiency of its public institutions, which has been deteriorating over the past three years. Property rights for intellectual as well as physical and financial goods remain under protected. The government has attached a particular concern to the protection of property rights amidst such challenges as effectiveness of law enforcement and raising public awareness.

It remains to be seen what impact the new political landscape will have on the economy and whether the new government will succeed in restoring the trust and confidence of the business community.

However, forging towards ASEAN Community in 2015, Thailand is in a positive transition not only to be more competitive in the ASEAN region but also the global arena. The economy has performed well especially in terms of creating business environment. According to Ease of Doing Business 2013 surveyed by the World Bank, Thailand is ranked 18 out of 185 economies around the world in overall and 13rd for protecting investors.

1.20. United States of America

The United States has a market-based economy. Private individuals and firms make most of the decisions, and the federal and state governments buy necessary goods and services from the private market place.

U.S. companies are highly sophisticated and innovative, supported by an excellent university system that collaborates admirably with the business sector in R&D. Combined with flexible labor markets and the scale opportunities afforded by the sheer size of its domestic economy - the largest in the world by far - these qualities continue to make the United States very competitive. The United States continues its macroeconomic recovery from the 2007-2009 recession. Real GDP, numbers of jobs, and the level of exports continue to grow, and the rate of unemployment continues to fall, though in all three cases at slower than ideal rates. Long-term problems include rising medical and pension costs of an aging population and sizable current account and budget deficits.

The United States ranked 7th in the Global Competitiveness Index in 2012 – 2013.

1.21. Viet Nam

The economy of Viet Nam is a developing planned economy and market economy. Nowadays, Viet Nam is in the period of integrating into the world's economy, as a part of globalization.

Viet Nam has been rising as a leading agricultural exporter and an attractive foreign investment destination in Southeast Asia.

By Global Competitiveness Index in 2012 – 2013 Viet Nam ranked on the 75th position. Viet Nam will have to build on its strengths while addressing the economy's numerous challenges. Among its competitive strengths are its fairly efficient labor market

and its innovation potential given its stage of development, including its relatively large market size, which benefits from a particularly large export market.

Infrastructure, strained by rapid economic growth, remains a major challenge for the economy despite some improvement in recent years, with particular concerns about the quality of roads and ports.

2. MEASURES OF COMPETITION DEVELOPMENT USED IN APEC ECONOMIES

2.1. Institutional measures of competition development

Institutional measures are aimed at developing the economy's competition policy and enhancing compliance with it. Such measures are undertaken by relevant competition and related agencies (e.g. transparency, type of penalties and remedies, choice of cases, advocacy, etc.) or through non-governmental channels that the economy's legal system allows for (e.g. private antitrust litigation, compliance programs, etc.).

The measures are aimed at bringing national legislation into line with the direction of competition policy, as well as providing conditions for improvement and development of a competitive environment by improving legislation (for example, in terms of ensuring contractual rights), to improve the quality of functioning of antitrust (competition) agencies and some authorities as well as improve the efficiency of the judiciary.

Such measures are carried out by competition authorities, as well as by some of the other public authorities. Sometimes implementation of such measures can be carried out by non-state organizations. The object of these measures includes competitive environment and norms that regulate relations of economic entities, activities of competition authorities and judiciary.

Among institutional measures there are measures of competition development in public procurement which are applied in case of necessity of specific legislation development, including regulations that cannot be developed without government involvement. It can be defined as a measure of regulatory impact assessment of different standards adoption for development and the competitive situation, as well as the use and selection of such a management tool, which would inflict minimum damage to competition.

The conducted research of institutional measures showed 2 main groups of APEC economies by the level of measures of competition development.

- 1) Most of APEC economies have already developed comprehensive legislative

measures and have experience with its usage.

- 2) In several APEC economies institutional measures development is still in progress.

We will provide specific examples of the most effective institutional measures used in different APEC economies.

In **Australia** National Competition Policy (NCP) reforms included:

- the extension of anti-competitive conduct legislation to all sectors of the economy;
- the introduction of a national access regime to provide access to essential infrastructure services with natural monopoly characteristics;
- a legislative review program to assess whether legislative restrictions to competition were in the public interest;
- reforms to public monopolies and other government businesses; to ensure competitive neutrality between private sector and significant government businesses; and structural reforms including separating regulatory from commercial functions and reviewing the merits of separating any natural monopoly elements from any potentially competitive elements; and
- sector specific reforms to the electricity, gas, road transport and water sectors.

Australia's current competition reforms are being progressed primarily through the *National Partnership Agreement to Deliver a Seamless National Economy* (SNE NP), which was signed by the Australian Government and State and Territory governments in 2008 - 2009. The purpose of the SNE NP reforms is to encourage competition reform in key sectors to expand Australia's productive capacity, reduce regulatory costs for business, and improve regulation-making and review processes.

Further, the Council of Australian Governments (COAG) committed in April 2012 to exploring additional work on priority areas for reform to lower costs for business and improve competition and productivity.

In terms of the outcomes of competition reform, the NCP reforms are widely recognized to have led to an increase in Australia's productivity and to have increased the

Australian economy's resilience in the face of economic disturbances. This is because the reforms increased the pressures on both private and government businesses to be more productive, through increased competition, while simultaneously enhancing their capacity to respond through more flexible work arrangements and the removal of unnecessary regulation.

A Productivity Commission review of the reforms in 2005 found that the NCP has delivered substantial benefits to the Australian community which greatly outweighed the costs. The Productivity Commission found that the NCP had:

- contributed to the productivity surge that underpinned 13 years of continuous economic growth, and associated strong growth in household incomes;
- directly reduced the prices of goods and services such as electricity and milk;
- stimulated business innovation, customer responsiveness and choice; and
- helped meet some environmental goals, including the more efficient use of water.

In terms of the regulatory framework, the *Competition and Consumer Act 2010* (CCA) is Australia's principal competition and consumer law. The objective of the CCA is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection. Part IV of the CCA contains the key prohibitions against anti-competitive conduct, which are comparable to competition laws internationally.

The Australian Competition and Consumer Commission (ACCC) is the independent statutory authority. Its primary responsibility is to enforce the provisions of the CCA.

In **Brunei Darussalam** there is no specific legislation pertaining to all aspects of competition, there is an act entitled: The Monopolies Act, Cap. 73 of the Laws of Brunei. This Act has been in existence since 1932 and was amended in 1988. It was created to regulate the establishment of monopolies.

At present, competition issues in Brunei have only been addressed on a sector-by-sector basis, but only the telecommunication sector has specific provisions in their law with competition elements. Thus stocktaking of existing laws and regulations is important to determine the links and possible effects a competition policy will have on other sector

regulators.

At current stage Brunei Darussalam is considering how to implement the regulation of competition from the grassroots level upwards properly.

Brunei Darussalam is currently stocktaking and planning to undertake sector studies of its market towards identifying priorities for developing a national competition policy and law.

In **Canada** the Competition Act is a federal law of general application governing most business conduct. Its purpose is to maintain and encourage competition in Canada and provide consumers with competitive prices and product choices.

On March 12, 2009 and March 12, 2010 important amendments to the Competition Act came into force. The amendments modernized the Competition Act and brought it more closely in line with the competition laws of Canada's major trading partners. The amendments were designed to increase the predictability, efficiency and effectiveness of the enforcement and administration of the Competition Act for both business and the Competition Bureau, and better protect Canadians from the harm caused by anti-competitive conduct. With the exception of the reform to the conspiracy provisions, which came into force on March 12, 2010 to allow the business community sufficient time to adapt to the new law, the other amendments came into force on March 12, 2009.

Some of the key amendments included:

- **Merger Review Process.** Introduction of a two-stage merger review mechanism to provide a more effective and timely merger review process.
- **Competitor Collaborations.** Introduction of a new "per se" criminal offence for three types of "hard core" cartel agreements between actual or potential competitors (price fixing, market allocation and output restriction agreements). Introduction of a civil provision for the review of other forms of potentially anti-competitive agreements between competitors to determine if they prevent or lessen competition substantially. Penalties under the criminal conspiracy provision were increased. The maximum fine was increased to CDN \$25 million (from CND \$10 million) and the maximum term of imprisonment was

increased to 14 years (from 5 years).

- Bid-rigging. The definition of bid-rigging in the Competition Act was expanded to prohibit the withdrawal of bids by agreement. The maximum term of imprisonment was increased to 14 years (from 5 years).
- Misleading Advertising. Administrative monetary penalties have been increased for civil misleading advertising. For individuals: maximum of CDN \$750,000 for a first offence and maximum of CND \$1 million for subsequent offences (formerly CND \$50,000 and CND \$100,000 respectively). For corporations: Maximum of CDN \$10 million for a first offence and maximum of CND \$15 million for subsequent offences (formerly CND \$100,000 and CND \$200,000 respectively). For criminal offences, the maximum term of imprisonment has been increased to 14 years (from 5 years). Introduction of restitution as a remedy in certain cases of civil misleading advertising.
- Criminal Pricing Provisions. The former criminal pricing provisions of the Act have been repealed (predatory pricing, price discrimination, geographic price discrimination and promotional allowances). Such activities will be addressed under the abuse of dominance provisions.
- Price Maintenance. The former per se criminal price maintenance offence has been replaced with a civil price maintenance provision with a new competitive effects test (requiring that an “adverse effect on competition” be shown in addition to the other required elements). A right of access for private litigants to bring price maintenance cases to the Competition Tribunal has also been introduced.
- Abuse of Dominance. Administrative monetary penalties have been introduced for contravention of the abuse of dominance (i.e., monopoly) provisions of the Act (maximum of CDN \$10 million for a first offence; maximum of \$15 million for subsequent offences).
- Obstruction and Non-Compliance. Certain penalties were increased to promote compliance with the Competition Act and deter conduct that would compromise the effective enforcement of the Competition Act.

Further information on the 2009 amendments can be found at: http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_03036.html

Changes to the conspiracy provision of the Competition Act allow the Competition Bureau to enforce Canada's anti-cartel law more effectively against serious offenders: those that agree to fix prices, allocate markets or restrict output. Other forms of agreements that may raise competition concerns will be reviewed under a new non-criminal provision. These changes remove the threat of criminal sanctions for legitimate collaborations to avoid discouraging firms from engaging in potentially beneficial alliances.

The changes to the conspiracy provision will eliminate the requirement that the proscribed conduct – the limits of which are unclear – have an adverse economic impact before it will constitute a criminal offence.

This is likely to result in increased enforcement activity, and may trigger a wave of litigation as defendants, faced with criminal fines of up to \$25 million and jail terms of up to 14 years, test the boundaries of the new legislation. The new civil provision will significantly broaden the types of agreements and arrangements between competitors that will be subject to review and challenge by the Competition Bureau.

Monetary penalties for abuse of dominance have been widely debated in Canada, with no consensus as to their desirability. The concern is that it is often difficult to distinguish between vigorous but legitimate competition and abusive behavior. In many cases, it is not possible to determine with certainty whether a firm has a dominant market position. Although monetary penalties for abuse are common in Europe, there has been concern in Canada that the prospect of heavy fines may chill legitimate competitive behavior to the detriment of Canadian consumers.

Finally, by including the proposed Competition Act amendments in a budget implementation bill, which is expected to receive cross-party support, the government has effectively ensured that these changes will become law with limited, if any, meaningful debate.

In **Chile** the legal reform of the Competition Act, in 2003, established the Competition Tribunal (Tribunal de Defensa de la Libre Competencia or TDLC in Spanish),

which is a specialized and independent jurisdictional entity, under the directional and correctional supervision of the Supreme Court of Justice, and which main purpose is to rule on competition cases in order to prevent, correct and impose sanctions with respect to infringements to free competition.

Under the current structure, the Competition Tribunal is one of the two institutions responsible for safeguarding competition in the Chilean markets. The other is the National Economic Prosecutor's Office or FNE, an independent competition agency with assets of its own, subject to the surveillance of the President of the Republic, through the Ministry of the Economy, Development and Tourism. The FNE is a specialized public body, acting on behalf of the public interest, safeguarding consumer welfare by preventing that agents with significant market power, either individually or jointly, limit economic freedom. The National Economic Prosecutor, a senior government official, heads the FNE and can only be removed from office with the previous approval of the Supreme Court of Justice.

Further amendments to the Competition Act in 2009 significantly modified the effectiveness of cartel prosecution by increasing the investigative powers of the FNE – powers to conduct dawn raids and wiretaps with previous judicial authorization, implementing a leniency program, changing the statute of limitation for cartel prosecution and increasing fines.

Both amendments to the Competition Act were complemented by implementation mechanisms. In the case of the 2003 amendments, the FNE's website offered continuity by publishing all the former commission's decisions. Furthermore, it enhanced transparency by making all enforcement actions filed before the TDLC available to the public. Finally, to increase transparency, since 2004 the FNE issues an annual report of its main activities.

On the other hand, the establishment of the Competition Tribunal implied significant efforts in the setting up of this new entity, including new premises, a new web site, amongst others.

As to the cartel amendments in 2009, the FNE issued a guideline regarding the leniency provision that had been enacted. The leniency guideline introduces a “marker system” that protects the first applicant's place in the line-up, for a given period of time and allows them to gather necessary information to qualify for immunity. Even if further

applicants emerge and have additional information, the system will ensure the first position to the first applicant.

In 2009 the National Economic Prosecutor, head of the FNE, acquired more independence from government and is now elected through a technical hiring proceeding led by an independent body in charge of selecting senior administrative government officials (Sistema de Alta Dirección Pública) from the public or private sector. This system aims to ensure that senior positions in public services are served by qualified people, selected by a public and transparent process. Hired for a 4 years term, the removal of the National Economic Prosecutor is not exclusively based on the government's decision but requires a favorable motion by the Supreme Court to proceed.

The creation of the Competition Tribunal that is independent and autonomous from the executive power inspires confidence to both society and the markets. This is due to the fact that the current legal framework of the TDLC guarantees that its members and staff do not fall prey to political pressures and are deemed to refrain from acting in cases where they may have direct interest, assuring that their decisions are independent from any links to the business world as well.

Increased confidence and transparency is also the result of the respect of the due process of law followed by the Tribunal in its procedures and the use of extensive economic and legal grounds for its decisions.

As to the 2009 amendments to the Competition Act that deal with Cartel investigations performed by the FNE, the number of ongoing formal proceedings have increased from 8 in 2010 to 11 in 2011. In the same year 2011, following its proceedings, the FNE has filed 5 complaints for collusive agreements before the TDLC.

The leniency program was used twice in cases brought before the TDLC since 2009. In addition, the increased powers provided to the FNE, such as searches and wiretapping were used in some of the cases brought before the TDLC.

Fines actually imposed to cartel members have increased over time. While the maximum fine imposed until 2008 had been USD 8 million, after 2009 the highest fine imposed by TDLC was USD 39 million.

In **China** the measures included several mechanisms.

1. A new draft Rules on Monopoly Agreements, Abuse of Dominance, and Administrative Monopolies for public consultations was published on May 25, 2010 by the State Administration of Industry and Commerce ("SAIC"), China. It came into effect on February 1, 2011. The first two sets of rules are revised versions of earlier drafts published for comments in April 2009.

The purpose is to crack down on companies which price-fix, abuse their status as market-dominators and seek to exclude competition.

New draft Rules included:

- prohibition details of certain “fixing or changing of commodity prices” and other non-price related monopoly agreements (e.g. fixing or changing the price level, price range, fees, discounts or other expenses of a commodity; using an agreed price as the basis of a transaction with a third party, etc.);
- prohibition of certain horizontal monopolistic agreements (e.g. splitting the sales or procurement market into territories, categories or specified suppliers; restricting the purchase or development of new technologies or new equipment by limiting the purchase, use, rental, investment, development and rejection of such new technologies, processes or equipment, etc.);
- more clarification as to the interpretation of the prohibited acts of abuse (e.g. when reviewing whether a dominant operator is selling below costs, “justifiable reasons” for sales below costs include new product promotions, sale of a seasonal commodity or lapse of product validity term);
- temporary immunity from antitrust penalties provided by an administrative agency.

These rules contain many welcome improvements and guide SAIC's enforcement priorities under China's Anti-Monopoly Law.

It is said that much of the antitrust law mirrors legislation found in advanced competition regimes such as the United States and Europe.

To date, there have already been a limited number of enforcement actions directed at price-fixing or cartel behavior in China. Despite fears in the international community that

China may use the AML more aggressively against foreign firms, price-fixing enforcement actions to date have focused on the activities of local Chinese companies (e.g., rice noodle and other food suppliers).

2. Enforcement Agencies for Anti-Monopoly Law of China.

In accordance with the Anti-Monopoly Law of China and decision of State Council, China has three enforcement agencies, namely, the Ministry of Commerce (MOFCOM), the National Developing and Reform Commission (NDRC) and the State Administration for Industry and Commerce (SAIC). They are the agencies jointly enforcing the same China's Anti-monopoly Law according to their responsibilities as defined by the law and required by the State Council. MOFCOM is responsible for conducting antitrust review of the concentration of undertakings, in other words, mergers and acquisitions, while NDRC and SAIC are responsible for enforcing the other parts of the same law, including anti-competitive agreements, abuse of dominant market positions and abuse of administrative powers to eliminate or restrict competition.

Furthermore, the Anti-Monopoly Commission under the State Council was established, whose members include the three enforcement agencies and other relevant ministries. The Anti-Monopoly Commission is a coordinative body in nature. Its powers and responsibilities pretty much lie in organizing, coordinating and guiding the three enforcement agencies, particularly for the issues of common interest, for instance, the uniform and consistent enforcement of China's competition policy, the assessment of overall competitive situation of Chinese market and the publication of the anti-monopoly guidelines for relevant issues. MOFCOM set up the Anti-Monopoly Commission Office as the working body to carry out specific missions as entrusted and deal with the daily affairs of the Anti-Monopoly Commission.

3. Complementary Legislation for the Merger Control Law

To satisfy the practical demands deriving from the enforcement of the merger control law, MOFCOM has developed a legislative plan to establish the legal system for antitrust review of the concentration of the undertakings. For the time being, what have been completed and implemented are as follows:

The Provision on the Notification Threshold of the Concentration of Undertakings

issued by the State Council in August 2008 (the “Notification Provision”). It came into effect on 3rd August 2008. The purpose of the Notification Provision is to provide the threshold which is calculated based upon the turnover of the parties participating in a particular transaction satisfying the requirements for the concentration of undertakings as defined by the Anti-Monopoly Law. According to this Provision, each of the turnovers in the last financial year within Chinese territory of the participants in a particular concentration shall be no less than 400 million RMB while at the same time, the accumulation of the turnovers in the last financial year within Chinese territory of all the participants in the same concentration shall be no less than 2 billion RMB, the requirement of 2 billion nationwide turnover could be substituted by the 10 billion RMB worldwide turnover in the last financial year. Any concentration satisfying the turnover threshold is required to fulfill its obligation of notification to MOFCOM. Less than one year later, another piece of legislation on notification threshold, especially for the financial sectors, was issued in July 2009. The Measures for the Calculation of Business Turnovers for the Notification of Concentration of Undertakings in the Financial Sector (the “Notification Measures”) was published by MOFCOM, together with the relevant regulators in the financial sectors including the People’s Bank of China, China Banking Regulatory Commission, China Securities Regulatory Commission and China Insurance Regulatory Commission.

The Guidelines on the Definition of Relevant Market (the “Guidelines”). In May 2009, entrusted by the Anti-Monopoly Commission, MOFCOM drafted the Guidelines which was later published by the Commission. The Guidelines provide for the legal basis, specific methods and economic theory for the definition of relevant market, all of which are the common issues for the three enforcement agencies.

The Measures on Merger Review and Measures on Notification of Concentration of Undertakings. In January 2010, MOFCOM published the two sets of measures. They are the legislative documents drafted by MOFCOM itself. The purpose of them is to specify the relevant provisions and mechanism provided in the Chapter Four of the Anti-Monopoly Law in order to make the law more workable. The Measures on Notification provides for the definition of the concentration of undertakings, the calculation of the turnovers, the

notification documents, voluntary notification and confidentiality requirements. The Measures on Merger Review provides for the right of defense by the notifying party, the hearing procedure, the opinion of objection, remedies and confidentiality.

The Interim Provision on the Implementation of Assets or Business Divestment (Divestment Provision). In July 2010, MOFCOM published the Divestment Provision. The purpose of this Provision is to regulate the enforcement of the restrictive conditions, i.e., remedies, imposed in the Merger Review Decision.

The Interim Provision on Evaluating the Competitive Effects of Concentrations of Undertakings (Evaluation Provision). In August 2011, MOFCOM published this Evaluation Provision. The purpose of this Provision is to regulate the antitrust review of the concentration of undertakings, evaluate the competitive impact of business concentration and guide the notification of concentration of undertakings by the notifying party.

The Interim Provision on Investigation of the Concentrations Satisfying the Notification Thresholds but Failing to Notify. In December 2011, MOFCOM published this Interim Provision. The purpose of this Provision is to regulate the punishment measures on business operators who fail to notify of its business concentration.

Furthermore, in order to convenient and guide the notification of business concentration, Anti-Monopoly Bureau of MOFCOM published The Guidelines on the Notification of Business Concentration and The Guidelines on the Submitted Materials for Notification of Business Concentration.

Currently, MOFCOM is drafting The Interim Provision on Simplified Procedure for Merger Review and The Rules on Imposing Restrictive Conditions on Concentrations of Undertakings. The Rules on the Identification of the Undertakings for the purpose of Notification is also under consideration.

4. Enforcement of Merger Review

MOFCOM has been fulfilling its statutory responsibilities to conduct competitive review on the merger notification since China's Anti-Monopoly Law came into effect. From August 2008 to June 30 of 2012, MOFCOM received 518 notifications, 475 concentrations were put on record for review, 464 concentrations were reviewed and got an outcomee, 449 concentrations were cleared without any restrictive conditions, 14 concentrations were

approved with restrictive conditions imposed and 1 concentration had been blocked.

In the first half of 2012, MOFCOM received 83 notifications, among which, 78 concentrations were put on record for review, 82 concentrations were reviewed and got an outcome, 78 concentrations were cleared without any restrictive conditions and 4 concentrations were approved with restrictive conditions imposed.

In **Hong Kong, China**, backed by broad public support in the public consultation exercises conducted in 2006 and 2008, the draft Competition law was introduced into the local legislature in July 2010 to provide a legal framework for the effective implementation of competition policy of HKC. The draft law was passed by the local legislature in June 2012 to become the Competition Ordinance.

The Ordinance aims to deter undertakings in all sectors from engaging in anti-competitive conduct and impose sanctions on the contravening undertakings, thereby providing a level-playing field in the market, enhancing economic efficiency, thus bringing benefits to the consumers and the community.

The Ordinance is comprised of the following three major prohibitions:

- the first conduct rule which prohibits agreements, concerted practices as well as decisions of an association of undertakings that have the object or effect to prevent, restrict or distort competition in HKC;
- the second conduct rule which prohibits an undertaking with a substantial degree of market power to abuse that power by engaging in conduct that has as its object or effect the prevention, restriction or distortion of competition in HKC;
- the merger rule which prohibits mergers or acquisitions that have, or are likely to have, the effect of substantially lessening competition in HKC. The merger rule applies only to the telecommunications sector where there is similar merger control under existing law.

The Ordinance, though enacted, has yet to come into operation. In order for the public and the business sector to familiarize themselves with the new legal requirements and make necessary adjustments, the Ordinance will be implemented in phases so as to allow for a

transitional period. A Competition Commission, which is an independent body responsible for investigation and enforcement actions, as well as a Competition Tribunal, which is a specialist court responsible for adjudication on competition cases, will be set up under the Ordinance. Once established, the Commission will conduct publicity campaigns and public education activities, and prepare guidelines regarding the competition rules, handling of complaints and investigations. Upon completion of all the preparatory work, the Ordinance will be brought into full operation. It is expected that the whole process will take at least one to two years.

In **Indonesia** the Law of the Republic of Indonesia No. 5 of 1999 concerning the Ban on Monopolistic Practices and Unfair Business Competition was developed. The law became effective on 5 March 2000. The purpose is to regulate business competition.

This Law prohibits monopolistic practices and/or unfair business competition, including activities or contracts which amount to monopoly, monopsony, conspiracy, and/or other abuses of market position.

Article 50, Chapter IX, exempts from this Law contracts related to intellectual property rights, technical standardization of products which do not restrict competition, research cooperation for the purposes of promoting general living standards, etc. Further, a manual of competition policy is a need and it will support for the success of KPPU's mission that is for social welfare improvement.

In **Japan** the Revised Antimonopoly Act was enacted by the Japanese Diet in 2009 and became fully effective in January 2010. The new amendments focus primarily on cartels and business combinations, and move both toward international standards.

One of the most effective aspects of amendments is to increase the availability of leniency in cartel situations and introduce stricter rules for surcharges (administrative fines) and criminal sanctions.

1. One of the significant changes is the revision of the leniency program.

It includes the followings:

- Two or more violators within the same company group have become permitted

to jointly file an application for surcharge reduction or immunity.

- The number of the leniency applicants has increased from 3 to 5.

2. One of the other significant revisions to the Antimonopoly Act is the expansion of types of conduct subject to surcharges to exclusionary type of private monopolization and certain types of unfair trade practices. The revisions also include the extension of the statute of limitations applicable to cease-and-desist order and surcharge payment order from three to five years after the illicit conduct has ended.

3. Japan has also strengthened the criminal penalties for cartel and bid-rigging cases. The maximum jail term for cartels and bid-rigging has been extended from three years to five, and the statute of limitations for criminal prosecution has also been extended from three years to five.

4. Revision of the regulations on business combination is also significant. The change is that share acquisitions meeting the following thresholds now require prior notification and not simply post-report as under the previous law:

- The ultimate parent company of the acquirer and the subsidiaries of such parent company (corporate group) have the total of domestic turnover in excess of ¥20 billion;
- The acquired company and its subsidiaries have the total of domestic turnover in excess of ¥5 billion;
- As a result of the acquisition, voting rights of the corporate group will exceed 20% or 50%.

Changes put the JFTC on more even footing with competition authorities in the United States and the European Union, and should allow the JFTC to better collaborate with its peers on international cartel investigations in the future.

In **Korea** in 1980 Korea's Constitution was amended for the eighth time and the new amendment included an article stipulating the proper regulation and control of harm from monopolies. There was also a strong public desire to regulate the monopolistic market. With support from both the Constitution and the public, the Korean government finally enacted the Monopoly Regulation and Fair Trade Act (MRFTA) in 1980 and established the KFTC

under the Economic Planning Board (EPB).

The Korean Fair Trade Commission (KFTC) reviewed its overall fair trade regime in 2006 and proposed a total of 34 items to amend in the Monopoly Regulation and Fair Trade Act (Fair Trade Act) and its Enforcement Decree. Out of the proposed 34 items, nine items were adopted first, and the Fair Trade Act was amended in April 2007 with effect from July 14, 2007. The Enforcement Decree was accordingly amended on July 3 and put into effect from July 14. The remaining 25 items were included in an amendment to the Fair Trade Act in August 2007 with effect from November 4, 2007.

In **Malaysia**, the Competition Act was approved by the Parliament in 2010. There are two main prohibitions, i.e. anti-competitive agreements and the abuse of dominant position in the market. The Act has been in force since January 1, 2012.

The first is in respect of agreements or concerted practices between enterprises or association of enterprises, which have the effect of significantly preventing, restricting or distorting competition in Malaysia.

The second is the prohibition of the abuse by an enterprise or enterprises of a dominant position in Malaysia.

The Competition Commission Act 2010 was also approved by the Parliament in 2010. It empowers the Malaysia Competition Commission (MyCC) to carry out functions such as to implement and enforce the provisions of the Competition Act 2010, issue guidelines in relation to the implementation and enforcement of the competition laws, act as advocate for competition matters; carry out general studies in relation to issues connected with competition in the Malaysian economy or particular sectors of the Malaysian economy; inform and educate the public regarding the ways in which competition may benefit consumers in, and the economy of, Malaysia.

The other example is **Mexico**. The Federal Law of Economic Competition (LFCE, for its acronym in Spanish) was enacted on December 18, 1992 and became effective as of July 1993. It prohibits monopolies and all practices that may reduce, harm or prevent competition and free participation in the production, processing, distribution and

commercialization of goods and services.

The LFCE regulates the so-called "concentrations", broadly defined as mergers, acquisitions, associations, joint ventures, trusts or any other transaction in general, among competitors, suppliers, clients or other economic agents, resulting in a concentration of shares, partnership interests or assets of any kind.

The LFCE was subject to a prior comprehensive amendment in July 2006. The amendment provided new transparency obligations for the Federal Competition Commission of Mexico (Commission or CFC, for its acronym in Spanish) such as issuing technical criteria and guidelines regarding enforcement of the law and rendering periodic reports on its achievements.

Between late April 2011 and early May 2011, the Mexican Congress and President Felipe Calderon completed a legislative process initiated in April 2010 to pass a bill of amendments to the LFCE (the Reform).

Among the most relevant highlights, the Reform provides for:

- Dawn Raids. The Reform facilitates unannounced Dawn Raids for the Commission to review any relevant information.
- Individual Amnesty. The Reform makes it clear that individuals as well as companies can obtain amnesty by reporting practices.
- Corporate Fines. The Commission is allowed to impose higher fines including, among others, fines of up to 10% of a company's taxable income for engaging in absolute monopolistic practices.
- Criminal Offenses. Ordering, executing or engaging absolute monopolistic practices is characterized as a criminal offense. The Commission is now allowed to press charges against individuals representing and/or acting on behalf of the offenders. Such individuals could be subject to imprisonment for a term of up to 10 years.
- Injunctive Authority. During the course of an investigation, prior to issuing a final ruling, the Commission is allowed to order the suspension of activities or actions that, in its opinion, could constitute the relevant investigated monopolistic practices or prohibited concentrations.

- **Class Actions.** Class actions will now be admissible in respect of competition matters if related to prohibited concentrations or monopolistic practices declared as such by the Commission through an unappealable resolution.

It is too soon to assess the impact of the recent reforms to the competition law, given the strengthening of the CFC's powers, it could be said that its achievements over the past years to enforce the law will continue.

To implement its new granted powers the Commission will have to benchmark the best international practice. The availability of the competition agencies from other jurisdiction and international experts might have an influence on the scheduled for implementing the CFC's new powers.

In **New Zealand** there is the Commerce Act 1986 contains New Zealand's competition laws, which are enforced by the Commerce Commission.

The Commerce Act was amended in 2001 in order to update the legislation. A key change was the lowering of the merger threshold from one of "dominance" to that of "substantially lessening competition".

1. The Commerce Act promotes competition by prohibiting "anti-competitive" conduct, including:

- contracts, arrangements or understandings ("agreements") that have the purpose, effect or likely effect of "substantially lessening competition" in a New Zealand market;
- price fixing agreements – these are agreements between competitors that interfere with the competitive determination of price, discounts, credit, etc of goods and services they supply in a New Zealand market;
- resale price maintenance – which occurs where a supplier encourages (whether by threats or incentives) a reseller to sell goods at or above a certain price;
- prohibiting a person with "substantial market power" from taking advantage of that substantial market power for an anti-competitive purpose.

In New Zealand a breach of the Commerce Act can result in harsh penalties for business, including fines that can exceed \$10 million.

2. The transparency of decision-making processes of the New Zealand Commerce Commission (the Commission), New Zealand's primary competition regulatory agency.

The purpose is to promote accountability of decision making by the New Zealand Commerce Commission.

The Commission's written reasons are publicly accessible through the public register. The public register can be found on the Commission's website at www.comcom.govt.nz/business-competition/. The public register lists all applications for clearance and authorization and the Commission's written reasons for each decision.

Members of the public have full access to the Commission's decisions. Competition specialists such as legal advisors and academics frequently review and comment on the Commission's decisions. This helps to ensure that the Commission is accountable. Overall, the transparency of the Commission's decisions leads to high-quality and consistent outcomes for those affected by a decision-making process. This has been recognised internationally, with New Zealand receiving the highest ranking for merger review in the Global Merger Control Index 2012.

In **Papua New Guinea** the Independent Consumer and Competition Commission Act was approved in 2002. It establishes the Independent Consumer and Competition Commission. The Act aims at promoting competition and fair trading, and also controlling and regulating prices of certain goods and services and the overall protection of consumers' interest.

In all, the Act consists of 10 Parts and it is the primary legislation on consumer protection and competition in Papua New Guinea. The Act deals with the establishment and the role of the Independent Consumer and Competition Commission, competitive market conduct, entities, goods, services, contracts, codes, rules and consumer protection.

The first, and perhaps the broadest, rule of the ICCC Act 2002 is the prohibition of contracts, arrangements or understandings, which have the purpose or effect, or likely effect, of substantially lessening competition in a market.

The ICCC Act 2002 also provides for competitive market conduct rules, which apply to all individuals, businesses, and even the Government and its agencies, where they are

involved in business, which include:

- Anticompetitive arrangements;
- Anticompetitive covenants;
- Exclusionary provisions;
- Price fixing;
- Taking advantage of market power;
- Resale price maintenance;
- Business M&As.

The ICCC Act also prohibits contracts, arrangements or understandings, which contain exclusionary provisions (or primary boycotts). Whilst such exclusionary provisions are prohibited, they can be defended if it can be established that a refusal to deal agreement does not have the purpose or effect, or likely effect, of substantially lessening competition in a market.

In **Peru** the Free Competition Act was approved by Legislative Decree 1034 and issued on June 24, 2008 in order to improve economic competitiveness and ensure a positive impact of the Trade Promotion Agreement between Peru and the United States of America, enhance social welfare and improve the regulatory framework of competition law in Peru.

The new Act clearly defined its aim, clarified the scope of application (subjective, objective and territorial), recognizes the substance-over-form principle, largely redefined and improved the administrative procedure, provided a better treatment of injunctions, a clearer differentiation between the resolution role of the Competition Commission and the prosecution role of the Technical Secretariat, and improve the sanctions scheme for better deterrence of anticompetitive behavior, among its most important aspects. In total, the new Act compared to the previous one, sets forth clear concepts and analysis criteria that provide greater predictability in its application to economic agents.

In the **Philippines**, basic competition laws include the Constitution (Article XII, Article 19 regulating or prohibiting monopolies when the public interest so requires), Act No. 3247 entitled An Act to Prohibit Monopolies and Combinations in Restraint of Trade

(1925) and Act No. 3815 otherwise known as The Revised Penal Code, as amended (1932), among others. Additionally, Republic Act No. 4152 approved in 1964 mandates the Secretary of Justice to “study all laws relating to trusts, monopolies and combinations, to draft such legislation as may be necessary to update or revise existing laws to enable the Government to deal more effectively with monopolistic practices and all forms of trusts and combination in restraint of trade or free competition and/or tending to bring about non-competitive prices of articles of prime necessity, to investigate all cases involving violations of such laws, and to initiate and take such preventive or remedial measures, including judicial proceedings to prevent or restrain monopolization and allied practices or activities of trust, monopolies and combinations.”

With over 30 competition and competition-related laws and 60 sector regulators that make up the sectorial regulation landscape, the President, on 9 June 2011, issued Executive Order No. 45 designating for the first time in the Philippines a Competition Authority for the economy and creating an Office for Competition (OFC) to implement the provisions of the Constitution and laws.

The functions of OFC under E. O. No. 45 include the following:

- Investigate all cases involving violations of competition laws and prosecute violators to prevent, restrain and punish monopolization, cartels and combinations in restraint of trade;
- Enforce competition policies and laws to protect consumers from abusive, fraudulent, or harmful corrupt business practices;
- Supervise competition in markets by ensuring that prohibitions and requirements of competition laws are adhered to, and to this end, call on other government agencies and/or entities for submission of reports and provision of assistance;
- Monitor and implement measures to promote transparency and accountability in markets;
- Prepare, publish and disseminate studies and reports on competition to inform and guide the industry and consumers;
- Promote international cooperation and strengthen Philippine trade relations

with other countries, economies, and institutions in trade agreements.

Additionally, most laws on mergers and regulations do not clearly stipulate the amount of a fine or compensation in cases where competitors are injured. There are no criteria to justify the behavior of firms, which might be regarded as being involved in unfair competition, and there is no measure to assess how the public interest would be affected. Also there is no clear procedure provided in the Philippines law for dealing with firms involved in unfair competition.

Russia has created a complex system of competition legislation, which is constantly being improved.

1. Federal Law of the Russian Federation №135-FZ of July 16, 2006 "On Protection of Competition" (as amended in 2011). The Federal Law determines organizational and legal basis for protection of competition including prevention and restriction of:

- monopolistic activity and unfair competition;
- prevention, restriction, elimination of competition by federal executive authorities, public authorities of the subjects of the Russian Federation, bodies of local self-government, other bodies or organizations exercising the functions of the above-mentioned bodies, as well as public extra-budgetary funds, the Central Bank of the Russian Federation.

Objectives of this Federal Law are to ensure common economic area, free movement of goods, protection of competition, and freedom of economic activity in the Russian Federation and to create conditions for effective functioning of the goods markets.

The main chapters of the Law are:

- Monopolistic activities. Unfair competition.
- Prohibition of acts, actions (inaction), agreements and concerted action of the federal bodies of executive power, bodies of state power of subjects of the Russian Federation, local authorities and other bodies performing functions of these agencies or organizations, the organizations involved in the provision of public or municipal services and state funds, the Central Bank of the Russian Federation.

- Antimonopoly requirements for tender, request price quotes for goods, particularly contracts with financial institutions and the procedures for concluding contracts with respect to state and municipal property.
- Provision of state or municipal preferences.
- The functions and powers of the competition authority.
- The state control over economic concentration.
- Responsibility for violation of antitrust laws.
- Review of cases involving violations of antitrust laws.

Under Article 5 of the Federal Law dominant position shall be deemed the position of an economic unit (a group of persons) or of several economic units (groups of persons) in the market of a certain commodity making it possible for such economic unit (group of persons) or such economic units (groups of persons) to exert a critical influence upon the general conditions of a commodity's circulation in the appropriate commodity market and (or) to remove other economic units from this commodity market and (or) to impede access to this commodity market of other economic units. As dominant shall be deemed the position of economic units (except for a financial organization):

- whose share in the market of a certain commodity exceeds fifty per cent, if only it is not established while considering a case on violating the antimonopoly legislation or while exercising state control over economic concentration that, despite the excess of the said value, the position of an economic unit in a commodity market is not dominant;
- whose share in the market of a certain commodity is less than fifty per cent, if the dominant position of such economic unit is detected by the antimonopoly body on the basis of an invariable or slightly variable share of the economic unit in the commodity market, relative rate of shares in this commodity market belonging to competitors, probability of access to this commodity market of new competitors or on the basis of other criteria characteristic of this commodity market.

The position of an economic unit (except for a financial organization) whose share in the market of a certain market does not exceed thirty five per cent may not be deemed

dominant, except for some instances specified in the law.

As dominant shall be deemed the position of each economic unit from among several economic units (except for a financial organization) as applied to which the combination of the following conditions can be observed:

- the aggregate share of a maximum of three economic units with the share of each of them being more than shares of other economic units in the appropriate commodity market exceeds fifty per cent, or the aggregate share of at most five economic units with the share of each of them being more than shares of other economic units in the appropriate commodity market exceeds seventy five per cent (this provision shall not apply, if the share of at least one of the said economic units is less than eight per cent);
- within a long time period (within at least one year or, if such time period is less than one year, within the time period of functioning of the appropriate commodity market) relative values of shares of economic units are invariable or slightly variable, and it is difficult for new competitors to get access to the appropriate commodity market;
- the commodity sold or purchased by economic units may not be replaced by some other commodity when consumed (in particular when consumed for production purposes), the rise in the commodity's price does not cause the reduction of demand for such commodity corresponding to such rise, information about the price, terms of sale or purchase of this commodity in the appropriate commodity market is accessible to an indefinite group of persons.

On the basis of the results of analysis the state of competition made by the antimonopoly agency as dominant shall be deemed the economic agent's position whose share in the market of a definite commodity is below thirty five per cent and exceeds shares of another economic agent in the appropriate commodity market but which can exert a decisive influence on the general conditions of the commodity's circulation in the commodity market, if, in so doing, the following conditions are met in the aggregate:

- the economic agent can unilaterally fix the price level of a commodity and exert a decisive influence on the general conditions of the commodity's sale in

the appropriate commodity market;

- admittance to an appropriate commodity market of new competitors is impeded, in particular as a result of economic, technological, administrative or other restrictions;
- the commodity sold or acquired by an economic agent cannot be replaced by another commodity in consumption (in particular when consumed for industrial purposes);
- alteration of a commodity's price do not cause a reduction of demand for the commodity corresponding to such alteration.

Under Article 10 of the Law the bans imposed by this Federal Law in respect of actions (omission to act) of an economic unit or economic units shall extend to actions (omission to act) of a group of persons.

FAS Russia keeps the register of economic units (except for financial organizations) whose share in the market of a certain commodity exceeds thirty five per cent or which hold the dominant position in the market of a certain commodity. This register is available on the official Internet-site of FAS Russia (<http://reestr.fas.gov.ru>).

The abuse of a dominant market position occurs when the actions (or failure to act) of a dominant company or group of companies result (or might result) in the non-admission, restriction or elimination of competition, and/or the infringement of competing businesses' interests. Under Article 10 of the Law actions (inaction) of an economic entity occupying a dominant position, which result or can result in prevention, restriction or elimination of competition and (or) infringement of the interests of other persons are prohibited, including the following actions (inaction):

- establishment and maintaining of monopolistically high or monopolistically low price for a commodity;
- withdrawal of a commodity from circulation, if the result of such withdrawal is increase of price of the commodity;
- imposing on a counterparty of contractual terms which are unprofitable for the latter or not connected with the subject of agreement (economically or technologically unjustified and (or) not provided for directly by the federal

laws, statutory legal acts of the President of the Russian Federation, statutory legal acts of the Government of the Russian Federation, statutory legal acts of the authorized federal bodies of executive authority or judicial acts, requirements on transfer of financial assets, other property, including property rights, as well as consent to conclude a contract on conditions of including in it of provisions, concerning the commodity in which the counterparty is not interested and other requirements);

- economically or technologically unjustified reduction or cutting off the production of a commodity if there is demand for the commodity or the orders for its delivery are placed and there is possibility of its profitable production, as well as if such reduction or cutting off the production of the commodity is not provided for directly by the federal laws, statutory legal acts of the President of the Russian Federation, statutory legal acts of the Government of the Russian Federation, statutory legal acts of the authorized federal bodies of executive authority or judicial acts;
- economically or technologically unjustified refusal or evasion from concluding a contract with individual purchasers (customers) in the case when there are possibilities for production or delivery of the relevant commodity as well as in the case if such refusal or evasion is not provided for directly by the federal laws, statutory legal acts of the President of the Russian Federation, the Government of the Russian Federation, authorized federal bodies of executive authority or judicial acts;
- economically, technologically or in any other way unjustified establishment of different prices (tariffs) for one and the same commodity if another is not established by the law;
- establishment of unjustifiably high or unjustifiably low price of a financial service by a financial organization;
- creation of discriminatory conditions;
- creation of barriers to entry into the commodity market or leaving from the commodity market for the other economic entities;

- violation of the procedure of pricing established by statutory legal acts.

Chapter 7 of the Law indicates state control measures over economic concentration. Transactions of more than one billion rubles in the year preceding the date of the transaction are subject to state control.

2. Amendments in antimonopoly legislation (Three antimonopoly packages).

There are three main stages of amendments in antimonopoly legislation in Russia:

- «First antimonopoly package» of 2006.
- «Second antimonopoly package» of 2009.
- «Third antimonopoly package» of 2011.

1) «First antimonopoly package». Includes the Federal Law «On Protection of Competition» and amendments to the Code of the Russian Federation on Administrative Violations (hereinafter – Code on Administrative Violations).

2) «Second antimonopoly package» of 2009 includes amendments to the Federal Law «On Protection of Competition», the Code of the Russian Federation on Administrative Violations and to the Criminal Code of the Russian Federation.

The amendments were developed in close discussion with business and legal communities and reflect recent FAS Russia practices and concerns. Common practice shows that governmental and municipal officials and monopolies commit most of the violations. Therefore, the amendments are aimed at clarifying and tightening regulation of their activities.

The most considerable amendments to the Law are as follows:

- The dominance threshold was reduced regardless of the market share of an economic entity. According to the amendments, FAS Russia may, under certain conditions, recognise a company as dominant, even if its share in the relevant goods market is less than 35% but it exceeds the shares of other entities on the market, provided that that company can exercise a dominant influence on the general conditions of the goods circulation in the relevant goods market. This is an attempt by FAS Russia to address issues surrounding retailers and pharmaceutical companies, as whilst such entities do not hold 35% of the market share, they have a real market power and are able to influence prices.

- Use of the «cost plus» method (estimating the necessary cost for producing goods plus profit) as well as the «comparable market method» (comparing prices established under competitive conditions on a comparable market) to determine monopolistically high prices of goods. Monopolistically high prices can also be determined using the «retrospective method», which analyses the changes in the cost of producing goods and distribution within a particular period. Monopolistically high prices of goods cannot be recognised if it is achieved through innovative activities: activities resulting in developing a new product that does not have an existing market substitute, or developing a new substitute product and reducing its production costs and /or improving its quality.
- Vertical agreements (agreements between non competing parties) are excluded from “per se” prohibitions of Article 11 p.1 of the Law. The previous version of Article 11 in its part 1 prohibited all agreements and concerted actions that lead or may lead to restriction of competition in the form of specified consequences. The provision was restrictive and potentially encompassed nearly all agreements. The amendment now generally permits vertical agreements with two exemptions: if they lead or may lead to establishment of resale price; and/or if they contain provisions that prohibit the customer to sell other competitor’s commodities.
- The amendments provide FAS Russia the possibility of conducting unscheduled inspections without prior notification of any such inspection. This amendment was introduced to increase the likelihood of discovering competition-restricting agreements.
- All of the concentration thresholds for acquisition or merger of companies were increased.
- Introducing notification procedures for transactions within a group of persons, formed under the «structural» basis (a person owns more than 50% of the total voting shares in the authorised (share) capital of an economic entity or a partnership).

- Establishing the right of the FAS Russia to issue conditions for selling a particular amount of goods through a commodity exchange, and a preliminary agreement with the FAS prescribing the reserved price for goods when goods are sold through a commodities exchange in accordance with the procedures established by the Government of the Russian Federation.
- Establishing a three-year preclusive term for violations of the antimonopoly legislation.

The amendments to the Code on Administrative Violations have created several new administrative violations in state and municipal procurement, which will increase efficiency of tenders and reinforce protection of market agents taking part in competitive bidding. The government seeks to facilitate the participation of small and medium businesses in tenders.

Amendments to Article 178 of the Criminal Code of the Russian Federation tighten criminal liability for violations of the antimonopoly legislation. The Article itself existed before, but it didn't contain provisions that would have allowed the FAS to enforce it and thus it was never used. The amendments have introduced real enforcement possibilities in respect of criminal liability for antitrust rules violators.

3) «Third antimonopoly package» includes amendments to the Federal Law «On Protection of Competition», Code on Administrative Violations and to the Criminal Code.

Amendments involve: more clear definition of groups of persons; specification of conditions for admissibility of vertical agreements and baseless precluding of market participants' operation; extension of state regulation sphere for enforcement of antitrust legislation by executive authorities of different levels (including in the sphere of land, subsurface, and water resources use); elaboration and expansion of powers of antitrust authority during auditing.

Also these are amendments as to: establishing more clear and transparent rules for recognizing prices to be high, in particular, inadmissibility of monopolistically high price admission formed in the course of exchange auctions; reduction of the checklist of prohibitions on agreements and concerted actions of market participants and, consequently, reasons for declaration of such agreements as cartels; specification of procedures of instituting and hearing of cases concerning antitrust offenses, and others.

The Criminal Code of the Russian Federation was amended (criminal liability for concerted actions and vertical agreements of market participants has been eliminated. Prosecution will be conducted only for acts, most dangerous to competition, - cartels.

Moreover, nimble differentiation of market participants' administrative responsibility for antitrust offenses is provided (e.g. the checklist of mitigating and aggravating circumstances has been set).

Besides, the following measures were realized:

- the list of licensed activities was reduced;
- the procedure for licensing was standardized and simplified;
- The list of acts and actions (inaction) of state and local governments that violate the antitrust laws was expanded;
- standards of information disclosure by natural monopolies were approved etc.

3. Federal Law of the Russian Federation "On State and Municipal Procurement of Goods, Works and Services". It was adopted by the State Duma on July 8, 2005 and approved by the Federation Council on July 13, 2005.

The law of the Russian Federation on state procurement is based on the provisions of the Civil Code of the Russian Federation, the Budget Code of the Russian Federation and consists of the given Federal Law and other federal laws regulating relations associated with state procurement. Legal standards established by other federal laws and related to state procurement should comply with this Federal Law.

The Law establishes the uniform state procurement procedures to maintain the unity of the economic space of the Russian Federation in course of state procurement, efficiently use budgetary funds and extra-budgetary sources of financing, extend possibilities for physical and legal persons to participate in procurement and stimulate such participation, develop fair competition, improve the work of the authorities and local self-government bodies in the field of state procurement, ensure publicity and transparency of state procurement, and prevent corruption and other abuses in state procurement.

New web-site www.zakupki.gov.ru was launched in the Russian Federation as an official web-site for placing the information on public procurements in order to ensure level-playing field for entrepreneurs during tenders (Order of the FAS Russia of 14.07.2010 №

400).

In order to improve the state and municipal orders system a draft law on the establishment of the Federal Contract System was developed. This system regulates not only the procurement process, but also the planning of procurement, contract administration and control. It is also planned to establish mechanisms for public debate the feasibility and validity of state and municipal procurement, as well as their audit, monitoring and analysis of the provisions of the procurement organizations in the public sector, natural monopolies and organizations carrying out regulated activities.

4. State programs of the competition development.

Federal program “Competition development in the Russian Federation” and plan of its realization for 2009-2015 was adopted by Decree of the Government of the Russian Federation N 691-r dating 19.05.2009.

Measures for creation of the favorable competitive environment include:

- Legislative amendments;
- Development of the road maps, including detailed measures, indicators and dating.

Realization of the main measure «Creation of the favorable competitive environment» includes:

- Creation of single assessment system and monitoring of competitive environment at federal and regional levels.
- Realization of the system measures, focused on favorable conditions of doing business creation, providing of the access to market entry and exit, removal of administrative barriers.
- Competition development measures on particular markets and sectors of economy.

Regional programs of competition development in all the subjects of the Russian Federation were also adopted as the measure of the Program.

Program realization practice dictated the amendments for its improving. In 2012 Program will be changed by road map “Competition development and antimonopoly policy improvement”. The draft of the road map is already posted by the government for public

comment. Specific of this road map is that it was developed with the participation of not only the federal executives, but also of business associations. On the 22nd of November, 2012 road map was adopted by «Strategic initiatives agency » Supervisory council, headed by the President of the Russian Federation Vladimir Putin.

Road map includes:

1) System measures for antimonopoly police improvement:

- Identification of the competition development as the priority of the executive authorities.
- Implementation of the competition development best practices in all the Russian regions.
- Share of public sector in the economy reduction.
- Competition development in infrastructure sectors, including the areas of natural monopolies.
- Competition development in procurement system.
- Simplification of business activity under the antitrust regulation.
- Improvement of consumer protection system.

2) Competition development measures in key sectors of economy.

Includes the priority measures of competition development in key markets (pharmaceuticals, medical services, airlines, telecommunications, preschool education services, petroleum manufacturing), which implementation would achieve the quality of life of the citizens of Russia improvement in short term.

3) Key Performance Indicators system.

Key results and timetables for it achievement were developed for all the measures of Action Plan. For complex assessment of the "road map" realization efficiency integral indices will be used: index of competition environment in the goods and services markets (based on the methodology of PMR OECD), number of new enterprises per 1000 of population (New business density), assessment, based on the surveys of business.

4) The "revolving principle" of action plan development.

Road map will be realized on the base of dynamic, step approach. List of priority sectors and system events will be corrected on a regular basis. Measures realization

assessment and Action Plan updating by the results of its execution and due to the current social economic situation will be provided.

The main tool of “Implementation of the competition development best practices in all the Russian regions” is the standard of competition policy measures of the regional authorities development and implementation in all 83 Russian regions (subjects of the Russian Federation). This standard includes the main activities, that necessary for effective competition policy on the regional level. Implementation of this standard will be coordinated by the federal authorities in cooperation with the regional governments. Road map also includes monitoring and standard implementation estimation system as well as the stimulating mechanism of the subjects of the Russian Federation for effective realization of the standards.

5. Competition development due to providing of the equal access for all the agents to the objects of state and municipal property and limited resources.

On January 1, 2011 Mandate was enacted (established in Article 17.1 of Federal Law of the Russian Federation №135-FZ of July 16, 2006 “On Protection of Competition”) of transfer of possession and usage in respect of state and municipal real estate on the Russian Federation official site www.torgi.gov.ru.

The universal portal www.torgi.gov.ru substituted numerous regional and municipal sources of bidding information in the Internet as well as print media. Creation of the internet portal allows easing baseless administrative barriers for those who wish to purchase state or municipal property makes bidding procedures more transparent, simplifies possibility to collect statistical information on bidding.

On the base of this informational resource was created internet-portal, giving the access to the information about the objects of state and municipal property selling tenders and limited resources.

In **Singapore** in February 2003, the Economic Review Committee noted that while there are rules against anti-competitive activities in specific sectors like energy and telecommunications, there is no national competition law that covers the other sectors. The Committee thus recommended that a national competition law be enacted to create a level

playing field for businesses big and small to compete on an equal footing. This will make for a more conducive business environment.

The Government accepted the Committee's recommendation, as a national competition law will help to reinforce pro-enterprise and pro-competition policies, enhance the efficiency of markets, and strengthen Singapore's economic competitiveness.

The objective of the competition law is to promote the efficient functioning of markets and hence enhance the competitiveness of the economy. Singapore adopted a competition law in 2004. The Competition Act (Chapter 50b) prohibits anti-competitive activities that unduly prevent, restrict or distort competition.

There are three main prohibited activities under the Competition Act:

- The section 34 prohibition: This section prohibits agreements, decisions and practices which prevent restrict or distort competition in Singapore. These include agreements between competing firms to fix prices, bid rigging in tenders, or share markets.
- However, section 36 of the Competition Act empowers the Minister to make an order, following the recommendation of the Competition Commission, to exempt certain categories of agreements from the section 34 prohibition. This is provided that they improve production or distribution, or promote technical or economic progress, without imposing undue restrictions or substantially eliminating competition.
- The section 47 prohibition: This section prohibits firms from abusing market power in ways that are anti-competitive and which work against longer-term economic efficiency, for example, predatory behavior towards competitors.
- The section 54 prohibition: This section prohibits mergers and acquisitions which substantially lessen competition and have no offsetting efficiencies.

This law is strongly economic-focused, and in which considerable care has been taken to ensure that the policy goals and enforcement approach clearly improve economic efficiency in the economy. The Competition Commission of Singapore (CCS) was established on 1 January 2005 to administer and enforce the Competition Act. CCS' function is to maintain and enhance efficient market conduct and promote overall

productivity, innovation and competitiveness of markets in Singapore, and to eliminate or control practices having adverse effect on competition in Singapore. CCS is also responsible for promoting and sustaining competition in markets in Singapore as well as to promote a strong competitive culture and environment in Singapore. CCS has been staffed with highly qualified economic and legal professionals improving the overall competition law culture in Singapore. It is too early to tell the extent to which competition law will actually improve economic welfare in Singapore, but it seems any positive impact is likely to be greater there than in many other countries that have recently introduced competition law.

In **Chinese Taipei** competition law was an important element of the program of economic reforms that moved the economy from centrally directed emphasis on manufacturing and exports to a market-driven emphasis on services and high technology. The competition legislation, the Fair Trade Act, was enacted in February 1991.

The Organic Statute providing for the organization of the Fair Trade Commission to administer the law was passed January 13, 1992, and the Fair Trade Act became effective a month later, February 4, 1992. The Fair Trade Act is designed to address various anti-competitive conducts and unfair practices and to empower the Fair Trade Commission to impose administrative penalties for violations of the FTA.

Fair Trade Commission (FTC) is a central competent authority in charge of competition policy and the Fair Trade Act (FTA). The FTC is charged with formulation of fair trade policies and regulations, investigation of business activities and economic developments, investigation and disposition of cases in violation of the FTA, indoctrination of fair trade policies and regulations, and other matters in relation to fair trade.

The FTC's principal tool to investigate and obtain further information is requiring submission of documents and information by the parties, third parties and other individuals and agencies. The FTC also has powers to perform on-site inspections of respondent enterprises and to obtain statements from respondents and related third parties. Remedies for substantive infringement include fines and orders to cease and correct conduct. The basic administrative fine ranges from a minimum of TWD 50 000 (around \$1 700) up to TWD 25 million (around \$830 000). The fine can be doubled against repeat offences. The same

remedies and fines could apply to all kinds of substantive violations.

FTA has been amended 5 times since enacted in 1991. The last amendment was enacted in November 2011 to introduce leniency program. The revised Article 41 also raises the maximum fine to 10% of previous fiscal year's sales revenue of a company for serious violation-cartel and abuse of dominance.

The main results are as follows. Chinese Taipei has processed over 36,406 cases over the past 20 years, including almost 27,042 complaints, 165 concerted action applications, 6,558 pre-merger applications and notifications, and 2,641 interpretations. Almost all cases have been resolved. In addition to investigations arising from complaints, the FTC initiates ex officio investigations into cases that impact the public interest or those that are high profile in nature. At the end of 2011, this had yielded more than 1,851 ex officio investigations as well as imposed fines of up to NT\$2.96 billion.

Moreover, according to the World Economic Forum's (WEF) 2010 and 2011 Global Competitiveness Report, Chinese Taipei ranked first out of 142 countries in the index of intensity of local competition for two consecutive years. This honor is the highest recognition for the FTC's efforts against unlawful conduct and contributions to building a pro-competition environment.

With economy globalization and trade liberalization, increasing competition cases are falling within the jurisdiction of two or more competition authorities simultaneously. It would be a challenge for the FTC to detect and investigate these cross-border cases. In this context, it is crucial to introduce more effective investigation tools, such as search and seizure power. The proposed amendment is reviewed by the Executive Yuan now. Besides this, it seems that there is an increasing number of cases annulled by the Administrative High Court in recent years. But rigid judicial review will also be a chance for the FTC to improve its accountability function and enforcement.

In **Thailand** it was the enactment of Thai Trade Competition Act B.E. 2542. It is the main piece of legislation governing competitive interactions among business operators in Thailand. The Trade Competition Act took effect on 1 May 1999. It applies to all business sectors, unless a particular sector is specifically exempted.

The Trade Competition Act contains provisions that are similar in many ways to those found in the U.S. anti-trust laws or in competition laws of certain European countries. The Trade Competition Act generally regulates all restrictive trade practices in all areas of business that create or might create a monopoly or reduce competition. It also established the Trade Competition Commission, a government office operating under the Department of Internal Trade, a department within the Ministry of Commerce, which is authorized to grant exemptions to prohibitions for certain types of businesses.

The number of complaint received indicates that the awareness of competition rules of the stakeholders is increasing. However, the challenges are merger control and multiple roles of competition authority.

In the **United States of America** the measures included several acts and mechanisms.

1. Creation of the Antitrust Modernization Commission.

The commission was created pursuant to the Antitrust Modernization Act of 2002. Congress charged the commission to:

- examine whether the U.S. antitrust laws need to be modernized and to identify and study related issues;
- solicit views of all parties concerned with the operation of the antitrust laws;
- evaluate the advisability of any proposals and current arrangements with respect to any identified issues;
- prepare and submit a report to Congress and the president.

In pursuit of these objectives, the commission sought input from interested members of the public who provided comments and witness testimony at the committee's hearings.

After three years of research and deliberation, the Antitrust Modernization Commission issued its report on April 2, 2007. This report recognized that, for the most part, the antitrust laws were working well, and proposed no changes to the substantive statutory provisions of Sections 1 and 2 of the Sherman Act, Section 7 of the Clayton Act, and Section 5 of the FTC Act. However, significant recommendations were made, including the repeal of the Robinson-Patman Act, reform of the law involving suits by direct and indirect purchasers, legislation permitting claim reduction and contribution by alleged joint

tortfeasors, the reform of merger clearance and the process for issuing "second requests" under the Hart-Scott-Rodino Act. The report also reiterated that statutory immunities from the antitrust laws should be disfavored and recommended criteria to be applied in analyzing the need for new or existing immunities.

2. Transparency. Transparency promotes compliance because it informs stakeholders of the laws and the boundaries between legitimate conduct and conduct that runs afoul of the antitrust laws.

This is carried out through, among other activities:

- provision of detailed guidance from the antitrust agencies about the antitrust laws and agency enforcement actions on their public websites;
- advocacy, workshops, business review letters, and advisory opinions.

The agencies hold workshops and public hearings on important or novel competition issues, and issue Advisory Opinions and Business Review Letters on proposed antitrust conduct, as requested. The agencies periodically issue formal guidelines, also conduct competition advocacy, with frequent filings before regulatory and legislative bodies, at both the federal and sub-federal levels.

3. Broad scope of enforcement activity and prison sentences for hard-core cartel participants.

The focus of U.S. antitrust enforcement is not restricted to the largest companies that impact a substantial volume of commerce. Small firms make up a substantial percentage of the total U.S. economy, so while an individual small firm may not have a great economic impact, the impact of ignoring all smaller firms would be substantial. In addition, small companies can be engines of innovation and, in some markets, innovation competition is at least as important as price competition.

Anticompetitive conduct by smaller firms or in smaller markets can cause serious harm to a substantial number of consumers, and the agencies will not ignore situations where clear violations result in consumer harm. Finally, cases involving small firms can be used to establish key principles of law and enforcement policy.

Further, the agencies want to create and maintain an expectation throughout all sectors of the U.S. economy that the antitrust laws will be uniformly enforced. No firm

should think its exposure to the antitrust laws is lessened because of the industry in which it operates.

Finally, the Division has also long advocated that the most effective deterrent for hard-core cartel activity, such as price-fixing, bid rigging and market allocation agreements, is significant prison sentences.

The aforementioned transparency and educational efforts as well as the agencies' enforcement agenda have the valuable effect of improving the competitive environment. In addition, U.S. private antitrust litigation creates incentives that enhance compliance with the U. S. antitrust laws.

One of the ways the agencies generate new cases, beyond the premerger reporting laws, is through complaints by customers, suppliers, and competitors. As the agencies increase the general awareness of how antitrust laws apply in the U.S. economy, the business community becomes more educated in the basics of competition law and is aware of the opportunity to bring competition problems to the agencies. The more the business community knows about what the agencies do, the more effective their enforcement program will be, and the greater its deterrent effect on illegal anticompetitive conduct.

In **Viet Nam** Competition Law came into force on July 1, 2005.

Two broad categories of competitive practices are regulated under the Competition Law:

1. Practices in restraint of competition:

- Agreements in restraint of competition;
- Abuse of dominant market position or monopoly position;
- Economic concentration.

2. Unfair competitive practices.

The Competition Law enshrines the right of businesses to compete with each other. However, competitive practices must be within the framework of the law and must be undertaken on the principles of honesty and not infringing the national interest, the public interest, or the lawful rights and interests of other businesses and consumers.

The objective of the Law's regulation of unfair competitive practices is largely

protection of consumers so they can make free and informed choices from amongst the goods and services in the market.

After nearly 7 years of implementation, current law has a number of loopholes but at the drafting time, much was learnt from international experiences in competition legislation construction. Basically, Viet Nam Competition Law was assessed to be updated and well cover competition issues in the context of Viet Nam socio-economic development. It has been also a useful instrument for the Government in the strategy of opening the market and ensuring a level playing field for all businesses across the economy.

2.2. Measures on competition advocacy

Competition advocacy is a set of activities of competition authorities, aimed at strengthening competitive environment through the use of mechanisms that do not belong to a system of coercion to comply with established rules and focused mainly on awareness of the benefits of competition, including through its impact on other state organizations¹.

So in addition to regulative acts that are aimed at regulating relations between economic entities in the market, there is a great importance of public awareness of competition policy aims and objectives, involving a broad range of citizens, market actors and public authorities. However, not only all citizens and market participants are not fully aware of the problem and role of competition policy and competition in general, but some government employees as well.

An important advantage of measures of competition advocacy is the increase of the number of objects of competition policy. In this case, the object of these measures can serve not only to business entities, but to executive power and local self-government. On the one hand competition advocacy makes it possible to put on the list of objects of the competition policy such objectives that are not regulated by antitrust laws, and on the other hand - have a major impact on the competitive environment.

Generally measures of competition advocacy are aimed at informing market participants, including the content of the antitrust rules, which may increase their willingness to use competition law to protect their rights. In particular, it improves the awareness of potential violators, not only about what their actions are legal and which are illegal, but also what efforts will make competition authority for the detection of violations, and that may reduce the probability of an actual violation. Measures on competition advocacy aimed at reducing the possibility of creating and applying rules by state authorities that contradict competition policy.

Below specific examples of competition advocacy measures, developed in different APEC economies are provided.

¹ Advocacy and Competition Policy. International Competition Network, ICN's Conference, Naples, Italy, 2002, p. I, 25

Competition advocacy in **Australia** is supported by the Australian Competition and Consumer Commission (ACCC).

The ACCC's primary responsibility is to ensure that individuals and businesses comply with the competition, fair trading and consumer protection laws. The ACCC also regulates national infrastructure industries, such as the telecommunications market.

As well as enforcing the law, the ACCC fulfills an advocacy role by providing information and education to assist businesses and consumers to understand their rights and obligations under the CCA. This includes actively promoting ACCC activities and enforcement outcomes through media releases and ongoing engagement with the media.

A key facility of the ACCC for competition advocacy is the ACCC Infocentre, which is a telephone, email and written information complaints and inquiries service for consumers and businesses.

The ACCC Infocentre receives over 200,000 inquiries and complaints each year on competition, consumer issues and fair trading in Australia. It is accessible to anyone and is a key source of information on market behavior and practices.

The outcome of the ACCC's activities is lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.

In **Brunei Darussalam** one of the fundamental problems that economy is currently facing is an absence of required expertise in terms of competition and the processes that affect competition.

The Government is thinking on the terms to devise methods by which knowledge on competition issues can be instilled in the public, private and academic sectors.

To enhance competition, Brunei Darussalam will have to:

- Continually review the regulatory frameworks governing individual industrial sectors, with a view to boosting overall economic competitiveness;
- Devise certain tools to impart knowledge on competition policy issues;

- Participate in competition policy dialogues and training, seminars/workshops, conducted by international economic fora;
- Facilitate the establishment of a national consumer protection law and agency.

The purpose is to garner better awareness and understanding.

Currently, in advocating competition Brunei actively conducts stakeholder consultations. Brunei also takes initiatives to collaborate with other regional fora in conducting seminars and workshops, as well as in engaging international experts on competition policy and law.

In Canada, the Competition Bureau assumes an advocacy role by promoting competition in the marketplace. This can include the following activities:

1. Making interventions and representations before federal and provincial boards, commissions and tribunals.

The Bureau can appear before federal and provincial boards, commissions and tribunals to promote competition in the market place and discuss related issues.

2. Publishing Competition Bureau Guidance Publications.

As part of its commitment to provide as much transparency and predictability with respect to the enforcement of the Competition Act, the Bureau regularly publishes and updates guidance publications. These guidance documents are based on the Bureau's past experience, jurisprudence and accepted economic theory. Recently released and/or updated guidance publications include:

- Enforcement Guidelines on the Abuse of Dominance Provisions (Sections 78 and 79 of the Competition Act) (September 20, 2012);
- Merger Review Process Guidelines (January 11, 2012)
- Merger Enforcement Guidelines (October 6, 2011)
- Guidelines on “Product of Canada” and “Made in Canada” Claims (released on December 22, 2009, came into effect on July 1, 2010);
- Competitor Collaboration Guidelines (released on December 23, 2009, came into force on March 12, 2010).

3. Market studies

In a view to promote competition in the marketplace, the Bureau has released market studies analyzing the state of competition in certain markets and providing recommendations to how improve competition in these specific markets. Recent market studies and assessments include:

- Self-Regulated Professions – Post Study Assessment (December 6, 2011)
- Benefiting from Generic Drug Competition in Canada: The Way Forward (November 25, 2008)
- Self-Regulated Professions – Balancing Competition and Regulation (December 11, 2007)
- Generic Drug Sector Study (October 29, 2007).

In **Chile** the FNE has incorporated in its competition advocacy strategy the production of advocacy material or guidelines aiming to inform the business community and the general public on specific issues around the competition law and prevent infringements.

Further advocacy activities include the signing of cooperation agreements between the FNE and other public agencies such as the Ministry of Agriculture, the Patents' & Trademarks Office, the Chilean General Comptroller and the agency in charge of E-Public Procurement. The aim of these Agency-to-Agency agreements is to address specific issues such as bid rigging in public sector tenders, mutual capacity building on technical issues, etc.

The Trade Associations guidelines produced during 2011 is a good example of the implementation mechanism used. The FNE presented a preliminary version of the guide for comments. During this period, the FNE received comments and observations from approximately 30 Trade Associations, including business and professional associations, and simultaneously held meetings with the most important Trade Associations in the economy. The drafting of this document was preceded by a study conducted by a university research center, which reviewed the rulings on competition cases which involved trade associations in Chile over a 35 year period.

The experience was similar in the case of the Leniency guideline, which final version

was also preceded by a preliminary draft which was a subject to a public consultation period during which important observations were received. The document also contained technical comments from distinguished representatives of the U.S. Department of Justice, the Competition Bureau of Canada and the European Commission.

While it is difficult to evaluate the impact of such measures, there is some evidence of its effectiveness.

Regarding the first measure, it is very important to consider increased participation of stakeholders in competition matters. Participation by way of publishing guidelines and receiving suggestions and comments, contributes to building an informed opinion and creating awareness among stakeholders and the general public. In this regard, the guidelines preliminary versions received valuable comments and suggestions from important firms, lawyers and scholars but also from the general public. In its Trade Associations guideline the FNE classified these comments and suggestions in 129 different categories.

It is worth mentioning the increased number of press publications on competition issues by the media after these guidelines were issued. This reflects not only a greater interest on competition matters, but also a better understanding of them.

The Agency-to-Agency agreements, meanwhile, combine a wealth of experience and expertise that remained previously separated. Sharing knowledge among different public entities leads to a better understanding of the economic phenomena, improving their decision-making ability. These agreements have resulted, for example, in competition complaints filed before the FNE by other government bodies or entities.

In **Indonesia** was realized the publishing guidelines regarding competition law, conducting socialization to many stakeholders, establishing supporting information system for competition advocacy, and developing massive understanding of competition through mass media. In addition, the KPPU have integral competition policy advocacy bureau to foster the internalization of healthy competition principles on public policy.

The assessment for those varieties of program is defined by numbers of activities which are taken by the KPPU. At the moment KPPU is still in the process to advance the assessment method by considering qualitative indicator of the effectiveness of those

respective advocacy programs.

In **Japan** the measures included several mechanisms.

1. Promoting and enhancing various guidelines realized by the JFTC.

In FY2011's policy evaluation, the JFTC opined that publishing Guidelines Concerning Unjust Low Price Sales under the Antimonopoly Act in December 2009 and promoting these guidelines could serve as a reason for a decrease in the number of complaints and warnings of the unjust low price sales cases in the retailing industry since FY 2009. One of the possible explanations is that publication and promotion of the Guidelines improved predictability of enterprises and resulted in the decrease of the acts that are likely to lead to unjust low price sales.

2. Surveys and Recommendations on Corporate Compliance Systems

Since the enterprises or business associations are subjects to the AMA, the outreach activities for the enterprises are to prevent them from potential conducts against the AMA. For that purpose, one of the main tools of the JFTC is survey and recommendation on corporate compliance systems.

The JFTC surveys enterprises' present situation of corporate compliance systems with the AMA and recommends appropriate measures to enhance their system regularly. As a good recent example, the JFTC published a report in June 2010 that includes findings of the questionnaires targeted at the enterprises listed on the first section of the Tokyo Stock Exchange. The JFTC recommended several primary measures, such as a creation of a special group to deal with AMA compliance, to promote compliance effectiveness of the AMA in the report.

Those surveys and recommendations enhance establishment of compliance systems of companies.

3. Joint Guidelines

It is one of the most effective channels of the JFTC's relationships with other governmental entities.

The purpose is to illustrate possible unlawful conduct by incumbents such as exclusive contract and contractual tying with sector regulating authorities mainly for the

purpose of the encouragement of new entity into these sectors.

The JFTC has joint guidelines in the sector of electricity (with Ministry of Economy, Trade and Industry), gas (with Ministry of Economy, Trade and Industry) and telecommunications (with Ministry of Internal Affairs and Communications) and has revised each guideline several times. These activities have promoted the competition in these sectors.

4. Public Relations Activities:

- holding meetings to exchange opinions with local experts (82 times in FY 2011);
- hosting seminars for general consumers to explain the AMA and the activities of the JFTC (39 times in FY 2011);
- lecturing the competition policy and the role of competition in the economic activities in junior high schools, high schools and universities (32 times in junior high schools, 9 times in high schools, and 55 times in universities, in FY2011);
- enriching the contents of the JFTC website (<http://www.jftc.go.jp/en/index.html>).

In an effort to promote a competitive environment, a competition authority needs to explain the importance of the competition to the public and to deepen their understanding since it often happens that the importance is very hard to understand.

It is one of the most effective channels for increasing public awareness of competition benefits.

In **Malaysia** a Strategy Plan for Competition Advocacy 2012 – 2014 has been developed and contains a framework for various strategies, measures and approaches that will be adopted to implement the Competition Law 2010. To advance its competition advocacy work, the two approaches that will be adopted by the Working Committee on Advocacy (WCA) are:

1. Advocating for competition matters:

- producing information and education materials tailored for different

stakeholder groups and priority sectors;

- organizing talks, workshops, seminars, and road shows aimed at all the different stakeholder groups and priority sectors.

2. Studies on competition issues.

The WCA shall recommend to the MyCC what specific market surveys and studies relating to priority sectors should be carried out so that a body of evidence on anti-competitive and pro-competitive practices can be developed and used as case studies for advocacy activities. These case studies will be used by the MyCC's Working Committee on External Guidelines to develop Guidelines for Best Practices for priority sectors.

The WCA will actively engage with international organizations such as ASEAN, OECD, European Competition Network, etc. for their assistance in implementing the strategy plan and work program. So stakeholder groups are expected to be better informed by the indicated measures that had the most impact with the least cost.

3. Information collection for MyCC would involve the following:

- establishing a Resource Centre at the MyCC to collect information and retain knowledge on competition issues;
- organizing conferences including an annual international conference to discuss, share and exchange information on best practices and case studies;
- using international linkages to network, benchmark and update on best practices of other competition agencies and develop a contact list of competition agencies with expertise in particular areas.

In **Mexico** to promote competition more effectively, the CFC has developed different mechanisms and tools to advocate competition to other government bodies. Depending on different types of government intervention, the CFC has implemented specific activities to create and promote competition culture among government bodies and institutions. For instance, the publication of the CFC's opinions has allowed the Commission to make progress with sectoral regulators that would be less inclined to follow competition recommendations in a less transparent environment.

The Commission is legally empowered to issue opinions in competition matters,

regarding legislative bills, regulation, administrative acts and public policies when they can have adverse effects to competition. These opinions and general recommendations have been helpful in influencing the design of public policies and ensuring that these incorporate competition principles.

In this regard, the Commission has adopted a permanent monitoring of Congress bills and Executive's secondary regulation drafts, in order to analyze and identify projects that may introduce barriers to competition or jeopardize economic efficiency in markets.

The CFC has put special emphasis in communicating its opinions to create awareness and debate among the general public. This has contributed to put pressure on other authorities to adopt CFC's opinions. The Commission has conducted important efforts to build awareness among market participants and consumers on the benefits of competition.

In addition to the actions aforementioned, the CFC has established coordinating mechanisms with other horizontal and vertical regulators, such as collaboration agreements and working groups.

Now, the CFC is perceived as a very active lobbyist within the executive and legislative branches for increasing awareness about the benefits of competition among public decision makers

In addition, other factor that has contributed to success of its opinions is that the Commission is now recognized as an independent, technical and professional institution, the opinions and general recommendations of which are aimed at promoting public interest and consumer welfare. Furthermore, CFC's opinions have been based on solid legal and economic arguments which facilitate their defense against opposing views, and are consistent with the best international practices in competition.

Since 2004, the Commission has issued more than 150 opinions that have become a main guidance for legislators and public officials for the development and implementation of pro-competitive reforms.

The financial sector is perhaps the clearest example of adopted pro-competitive reforms based on the CFC's recommendations.

In November 2006, the CFC issued an opinion on the private pension's system. Among other issues, the CFC proposed to strengthen prudential regulation, increase the

investment portfolio of fund investors and to eliminate the flux commission. Derived from this opinion, a legislative bill to reform the Retirement Saving System Law was submitted to Congress early in 2007. Later in June, reforms to the law became effective and included most of the Commission recommendations.

In April 2007, the Commission issued another opinion which showed that the banking services markets were highly concentrated along with several factors that eliminated banks incentives to compete via prices. Under these conditions, banks obtained higher profits that were not fully transferred into consumer benefits. Another problem that was identified is that users found difficult to compare among banking institutions due to the differentiation and complexity of their products. This situation narrowed user mobility between banks, aggravated by higher costs associated to the transfer of accounts among banks.

The CFC proposed to Congress a series of pro-competitive reforms that were approved in 2010 to increase transparency and facilitate comparison between banking products, facilitate inter-account transfers and mobility, reduce the minimum capital required to establish new banks, guarantee nondiscriminatory access to the retail payment systems and to foster pro-competitive banking fees.

In **New Zealand**, the Commerce Commission has a proactive approach to encouraging greater awareness of the benefits of competition and compliance with the Commerce Act 1986. In 2007-2008, the Commission's public information and education activities accounted for 2.7% of the total amount allocated for enforcement of the Commerce Act, Fair Trading Act, and Credit Contracts and Consumer Finance Act.

In early 2010 the Commission undertook research to better understand the levels of awareness of competition law in the non-residential construction sector. The research focused on medium-sized (with an annual turnover of between \$NZ 5-50m) non-residential construction firms. Research New Zealand was commissioned to conduct a small number of qualitative interviews with 12 commercial building contractors, in order to guide the development of communications strategies aiming to increase compliance with the Commerce Act in this sector.

The outcome of the research is that the Commission has been able to carry out a more

targeted advocacy program than would have been possible without this research.

A survey of a random sample of medium-sized non-residential construction firms in 2011 showed that around 30% of firms were aware of the Commission's recent advocacy program and key messages. A follow-up survey in the same market in 2012 showed an increase of this percentage to just under 50%. Overall, these results show that the research and consultation has led to a greater understanding of competition law in the construction sector.

In **Peru** the Competition Agency has taken measures, according to its attribution of Competition Advocacy, to promote competition in Peru. Advocacy has taken place with greater emphasis as a result of the decisions of the Free Competition Commission.

As a recent example, in May and July, 2011, a pharmaceutical drugs seller (Bagó) filed a complaint against a competitor (Cardio), the Directorate of Drugs, the Procurement Agency and the Social Security Department for allegedly having agreed to grant Cardio a dominant position in the market of radiological contrast agents for public procurement, by including only "iobitridol" (a specific contrast substance) in a list of goods exempted from procurement proceedings –and therefore excluding other radiocontrast agents like iopamidol, iohexol and ioversol–, thus preventing Bagó from participating in public tenders.

The Free Competition Commission suggested the Procurement Agency that several public institutions have possibly broke the procurement law in 317 procurement proceedings by requesting a specific contrast substance (iobitridol, iopamidol, iohexol or ioversol) instead of requesting contrast substances in general, and therefore excluding potential competitors from public tendering.

On that regard, the Free Competition Commission recommended to the President of the Competition Agency to urge the Procurement Agency to take measures to ensure that public institutions promote participation of bidders in their procurement proceedings for the acquisition of radiological contrast substances, thus promoting efficiency and social welfare.

In the **Philippines** the Office for Competition (OFC) implemented advocacy initiatives including the review of competition policy framework followed by a mapping of

stakeholders (sector regulators, lawmakers, judges, law enforcers, development partners, research institutions, business groups, consumer associations, media, academe, general public). Based on such assessment, the OFC conducted six national trainings on basic competition policy and law (CPL), cartel detection/ investigation and competition assessment for sector regulators, media, business groups, consumer associations and other partners. Continuing dialogues / consultations with development partners are being undertaken to further strengthen partnerships. Moreover, the OFC shepherded the drafting of the first consolidated competition bill.

To step up competition advocacy in the economy, the President upon the OFC's initiative, issued a proclamation declaring December 5 as "National Competition Day." In line with this, an advocacy plan indicating concrete programs and activities was prepared in collaboration with OFC's various partners. The advocacy plan includes the regular conduct of various fora and seminars for sector regulators, business and consumer groups. Training modules for judges and Mandatory Continuing Legal Education (MCLE) for lawyers were likewise developed to enhance awareness on the benefits of competition.

At the international level, the OFC is an active advocacy partner of ASEAN Experts Group on Competition (PH as current Vice-chair, and Chair next year), OECD Global Competition Forum, UNCTAD Intergovernmental Group of Experts, East Asia events, among others.

Among the major outcomes of OFC's advocacy programs include the institutionalization of the Working Groups co-chaired by various sector regulators, development of OFC issuances (such as the Implementing Rules and Regulations, Guidelines for OFC – Sector Regulators Cooperation, Procedures for Complaints Intake and Case Handling, Terms of Reference for Working Groups and Legal Defence Guidelines), and cooperation with international/development partners for capacity building assistance. These modest gains are outlined in the OFC Year 1 Report and Strategic Plan of Action and OFC Brochure published and disseminated to national and international partners.

The Bureau of Trade Regulation & Consumer Protection (BTRCP) of the Department of Trade and Industry is also undertaking a regular information and advocacy program

through lectures on Price Act e.g. cartel, price monitoring of basic necessities and prime commodities, regular meetings with industry sector, conferences, dialogues, and seminars that provide venues for an open discussion to clarify and advocate policies.

To enhance its advocacy role, BTRCP is now conducting legal research on competition policy to come up with more strategic training and advocacy programs for possible implementation with support from partners.

In **Russia** were realized several measures on competition advocacy.

1. Official Internet-resources.

In 2010, to make activity of the Federal Antimonopoly Service (FAS Russia) more transparent and informative to the public a new official website of the Service was launched (www.fas.gov.ru, www.en.fas.gov.ru). The updated resource is designed with feedback mechanisms where any user of the site can ask questions and get answers. The site displays solutions, documents, analyses, and other materials of the FAS Russia.

Cartels are particularly dangerous to consumers and the economy in whole, the FAS Russia has decided to create a special web project on the theme of the fight against cartels: www.anticartel.ru. Website in an accessible form tells what cartels are, why they are dangerous and what can people do to identify the cartel. Big importance within the website will be given to a promotion program of exemption from liability for the cartel, including the opportunity to inform on an illegal concerted action and to use exemption from liability directly through the site. The website provides a platform for discussions in real time for registered users. In addition, it is possible to report about cartel directly on the FAS Russia website. Messages are received in the FAS Russia Cartel Department.

2. The FAS Russia in the social media.

The FAS Russia was the first of the government authorities that began systematic work with social media, aimed at the competition advocacy and effective communication with people over the internet:

- micro-blog on Twitter.com ([rus_fas](https://twitter.com/rus_fas)), read by about 35,872 people (as of September 2012);
- page on Facebook, which is lively and informal communication with the

citizens.

All Russian social media are continuously monitored, comments on issues related to the FAS Russia are provided.

3. Social advertising.

The FAS Russia and its regional offices use social advertising as non-traditional way for competition advocacy. It is aimed to promoting healthy competition, prevention of violations, informing about criminal liability for violation of antimonopoly law, the fight against cartels and other. Advertisements are placed on the billboards, TV, radio.

4. Publication of printed materials.

1) Pamphlets and brochures for citizens and businesses with clarifications of the legislation, explaining the functions and powers of the competition authority, the answers to frequently asked questions.

2) Electronic scientific journal "Russian competition law and economics".

3) Release and dissemination of the bulletin "Competition policy" (hereafter, the Bulletin). The publication is targeted at representatives of federal and regional public authorities, business associations, and experts.

The main task of the Bulletin is to inform on the implemented policy on improvement of competitive environment in the Russian Federation. Each issue provides exclusive interviews about competition development with the heads of federal and regional public authorities.

The Bulletin is circulated in State Duma of the Federal Assembly of the Russian Federation, executive state government bodies of the constituent entities, business associations, among the members of expert community.

5. Seminars, conferences, «round tables».

Often the violations of employers or officials are committed because of the ignorance of the law, inability to use it. The FAS Russia and its regional offices regularly hold:

- Seminars, conferences, "round tables" with interested parties;
- Annual conference "Antimonopoly Regulation in Russia";
- Seminars for judges.

As the example an international interactive seminar "Competition Development and

Economic Growth: the lessons of international practices” in affiliation with World Bank Group, that was held in Moscow. The seminar was held in a videoconference regime with participation of the executive branch representatives of the constituent entities who are in charge of competition policy realization, international experts, and scientific community representatives. The given videoconference appeared as a “pilot” project on experience and knowledge sharing, as well as practical suggestion in the field of organizing favourable environment for business and competition development in Russian regions. It is planned to hold similar on-line meetings on a regular basis.

In **Singapore** the measures included several mechanisms.

1. Publication of CCS Guidelines. The CCS Guidelines outline how CCS will administer and enforce the provisions under the Competition Act. They are published to provide greater transparency and clarity to interested parties. The Guidelines were finalized after seeking input and feedback from the public. Till date, CCS has published 13 Guidelines.

2. Public Consultation. CCS conducts public consultation exercises, where appropriate, to gather feedback from interested parties on new legislation and policies and on amendments to existing legislation and policies. For example, public consultation has been sought in the following instances:

- Introduction of Competition Bill;
- Amendments to Competition Act in 2007;
- Block Exemption Order;
- The CCS’ Guidelines;
- Merger cases.

Public consultation is a tool for CCS to receive various stakeholders’ concerns, as well as for stakeholders to get CCS’ competition official position.

Over the past five years, CCS has gained experience in the application of the provisions of the Act to mergers in Singapore, issuing decisions for around 30 mergers, sending inquiry letters in relation to non-notified mergers, obtaining feedback from stakeholders and generally keeping merger activities in Singapore under review.

3. Guidance to Governmental Agencies.

Guidance to Governmental Agencies is used to encourage active consideration of competition issues, and to help them take into account the competition impact in the policy-formulation process.

In 2008, CCS issued a set of guidelines on competition assessment to assist government agencies in identifying and assessing the potential impact on competition of their proposed policies so that they would in turn develop pro-competition public policies.

Additionally, CCS conducts a Competition Impact Assessment Course with the Singapore Civil Service course to provide government officers with an understanding of how they can identify potential restrictions on competition in their policies, and consider less restrictive ways to achieve the same policy objectives.

4. Market Studies (e.g. Inquiry into Retail Petrol Market in Singapore).

Market studies aim at enhancing and strengthening competition within certain sectors.

It can be useful in laying the groundwork for enforcement action. Market studies serve as a useful mean to raise points of discussion and to generate feedback from industry regarding certain practices. It enables CCS to identify areas of inefficiencies within a sector and work with relevant stakeholders to remove these inefficiencies.

5. Economic Research on Competition Policy.

Research is conducted in possible areas of current policy interest, e.g. economics of two-sided market, etc. The research results tend to be available to the public wherever possible.

Economic research is a tool to address some complex issues of competition policy facing Singapore and also help to raise level of academic interest in the field.

6. Advocacy Initiatives and Innovative Communication

CCS is mindful of the need to make the Competition Act more accessible and easily understood. CCS has developed a segmented approach to serve the needs of our stakeholders (for e.g. the business community, government agencies, legal fraternity, consumers, media and the general public) and developed advocacy initiatives to reach out to different segments.

Some advocacy initiatives include:

- Corporate trailer video on cartels which has utilized a creative “reversible script” that turns the businesses’ typical arguments (when defending themselves on why they participate in cartels) against them, illustrating the harms and ills of cartels in the process;
- Series of educational handbooks such as the “Dos and Don’ts” Guides which give businesses simple and clear directions on what they can and cannot do under the Competition Act;
- Series of Manga Comics to supplement our educational handbooks. The three titles to date are FIXED-illustrating the harm of price-fixing, FOILED!-illustrating the abuse of dominance. And FREED!-describing the Leniency Programme;
- Digital animation film contest which challenges contestants to create stories about issues related to competition law through digital animation films; and
- Revamped corporate website designed with end-users in mind.

Many of Singapore’s advocacy initiatives are very well-received and many companies have approached CCS for copies of our educational booklets for their own in-house use and purposes. Similarly, CCS has received requests for copies of the corporate trailer and since then they have been put up on CCS’ website. This trailer was also recognized by the International Competition Network as one of the Best Antitrust Films.

In **Chinese Taipei** advocacy has been among the Fair Trade Commission (FTC)’s most important functions, particularly during its two decades of operation. The statutory foundation for the FTC to advise about the impact of other policies is a provision that calls on the FTC to cooperate with other government bodies. Article 9 of the Fair Trade Act (FTA) states, for any matter provided for in this Law that concerns the authorities of any other ministries or commissions, the FTC may consult with such other ministries or commissions to deal therewith. Furthermore, where the FTA conflicts with another law, the FTC claims a strong presumption in favor of the competition law. The competition law will apply where other laws “conflict with the legislative purposes” of the FTA (Article 46). This phrase was added in 1999, and was thought to confer a strong priority to the FTA.

Considering that prevention is more effective than cure, it followed an appropriate sequence in introducing competition policy to Chinese Taipei, emphasizing transparency and guidance to encourage compliance before undertaking stronger enforcement measures. Chinese Taipei's competition advocacy is aimed at developing a "competition culture" to draw the attention of government offices and the general public to the advantages of competition and thereby influence public policies and regulations and build an environment for free competition. Up to now, the TFTC has organized more than 2,300 advocacy activities over the past 20 years.

The FTC has committed a great deal of resources to pursue work related to competition advocacy, and in so doing, it has been undertaking numerous activities.

1. Establishing a Competition Policy Information and Research Center (the CPIRC).

The CPIRC was established on January 27, 1997, opening to the public on that day. The purpose is to provide professional information services upon enquiry to all sectors of the economy.

The resources collected in this way are accessible to both businesses and academia. The CPIRC assists the business sector in formulating business strategies consistent with the spirit of the competition law and encourages the academic sector to conduct in-depth research.

It is hoped that the public's free access to the information resources will yield the greatest benefits from resource sharing.

2. Promoting Public Education and Legal Counseling.

The FTC offers many courses about the Fair Trade Law for the business community and the general public as a whole. The purpose of offering such courses is to build up a competition culture within the enterprises and to eventually prevent violations from happening.

Starting from 1994, the FTC conducted the "Fair Trade Law Education Program" to train and educate experts on the FTL for enterprises. Commissioners and director generals of the FTC lead this special training, which lasts a total of 72 hour (6 hours per week) of lecture programs for managerial-level employees of firms. A total of 2113 participants had completed the training course in 40 sessions when the program was closed at the end of

2006.

In addition, the FTC set up two “service centers” to provide business firms and people with consulting services so that the general public as well as enterprises could forward their questions and complaints to the FTC directly. The staff in the service centers takes turns in handling phone calls and visits from the general public every work day. According to the centers’ record, both centers handle more than 10,000 phone calls annually.

3. Promoting Public Awareness of Competition. Included:

- Arranging training and capacity building programs for other administrative agencies, juridical departments and local authorities as well as private trade associations and consumer protection groups to ensure that they are aware of competition considerations.
- Establishing channels of communication with relevant government agencies, the judicial branch, private industrial groups and consumer protection groups, and as part of this, requesting that relevant government agencies incorporate competition principles into their laws.
- Conducting informative activities and seminars on international antitrust regulatory measures to help domestic businesses understand the competition law and enforcement in each economy so that they may avoid violations against the competition law of foreign countries or the Fair Trade Act in Chinese Taipei.
- Aiming at teaching university students the correct ideas about the FTA so that they could help spread the ideas.

4. Enhancing the Transparency of the Enforcement. Included:

- Devising a framework for self-compliance for businesses to follow.
- Providing up-to-date enforcement information via the media, and by releasing publications on enforcement strategies, priorities and the achievements of the FTA.
- Setting up service centers which provide businesses and individuals with consulting services where experienced FTC staff handle calls and visits from the general public.

5. Conducting Coordination Meetings with Agencies Concerned. Included:

- Organizing in-depth meetings, seminars and workshops with government agencies to help enhance the coordination and cooperation between agencies.
- Taking part in meetings held by other ministries to exchange ideas on how the mechanism might involve the FTA.
- Conducting the regular biannual “Meeting on Coordination between the Fair Trade Commission and Local Competent Authorities” twice to review the enforcement of the FTA and ensure the FTA is well enforced at local levels.

To enable all sectors to have a correct understanding of the enforcement of the FTA, the FTC adopts diverse approaches to inform government agencies, business community and general public of the latest concepts and contents of the FTA to ensure that every person is aware of and abides by the law. According to the Chinese Taipei's 2011 competition advocacy self-assessment survey, there are following outcomes:

- for government agencies: 89% of respondents agree “the suggestions made by the FTC are helpful for the future decisions”, 97% agree “issues involved competition are understood”, 87% agree “the suggestions made by the FTC are considering or accepted.”
- for business community: 85% of respondents agree “the duties of the FTC are understood,” 77% agree “the law and guidelines are understood” and over 90% agree “the effectiveness of lowering violation of the FTC.”

The results show the competition advocacy in Chinese Taipei enable public and private sectors to have a better understanding and improves the quality of the law enforcement of the FTC.

In **Thailand** the measures included several mechanisms.

1. Boosting awareness of competition policy principles and rules by creating competition networking and MOUs as well as conducting market study mechanism.

This measure enhances level of the acknowledgement of competition policy principles and rules, for example, the networking with Thai Chamber of Commerce, MOU with educational institutions.

The specific unit in charge of competition advocacy would be challenges for speedy expanding a continuous competition advocacy activity throughout the economy.

2. Providing information on the Trade Competition Act.

The Department of Internal Trade (DIT) will continually raise the volume of publicized information on the Trade Competition Act so that the business operators get a deeper understanding and acknowledge the benefit of the Trade Competition Act. In this respect, DIT has provided the training courses and seminars for government agencies and businesses.

3. The Development of the Act, Regulation and Procedures.

DIT will continue to encourage the development of the Act Regulation and Procedure by holding the meeting training or seminar programs that will allow relevant persons or entities to participate with government agencies and businesses and deepen understanding on competition policy and law.

DIT had been given technical assistance from the World Bank with regard to the drafting of guidelines and implementation of the Trade Competition Act for the Enforcement of the Act.

4. Complaining organized by The Department of Internal Trade. The purpose is to get feedback from stakeholder groups. The following was realized:

- Provided column Questions-Answers (Q&A) in the website of DIT (www.dit.go.th) in order to give and acknowledge information about Trade Competition Act.
- Provided hot line no. 1569 for people to ask their problems or inform to the Office of Trade Competition Commission.

In the **United States of America** the measures included a wide range of transparency-enhancing mechanisms in both enforcement and non-enforcement contexts. Such mechanisms include:

- conducting public hearings, workshops, and symposia;
- publishing reports and guidelines;
- providing guidance on the agencies' enforcement actions through the antitrust

- agencies' public websites;
- publishing the antitrust agencies' filed civil complaints and proposed consent decrees and consent orders in solicitation of public comments thereto;
- on occasion, the U.S. antitrust agencies issue closing statements to explain a decision to abstain from a civil enforcement action;
- the agencies' senior officials regularly speak publicly to provide further clarity on their enforcement agenda.

The U.S. antitrust agencies view competition advocacy as an important complement to their enforcement mission. Such advocacy includes a variety of efforts that focus on federal, state, and local statutes or regulatory schemes that unnecessarily impede competition. The agencies' advocacy activities include the submission of comments and other participation in federal and state regulatory agency proceedings, preparation of testimony and the submission of comments on a wide variety of federal and state legislative initiatives, participation on U.S. government policy-making task forces, the filing of amicus curiae (or "friend of the court") briefs in private antitrust cases, and publishing reports on regulated industry performance.

The purpose of these transparency-enhancing mechanisms is to inform the public about the laws and the boundaries between legitimate conduct and conduct that runs afoul of the antitrust laws.

In **Viet Nam** the measures included two main mechanisms.

1. Clear identification of competition problems and transparent procedures to deal with competition claims.

The VCAD should devise a set of criteria to identify clearly who are affected, which possible legitimate rights and interests are restricted or captured, who are responsible for the problems (those may not be wrong at all but persons to whom a complaint is made must be identified), who are responsible for accepting a complaint, etc. These criteria should follow the Competition Law and its guiding instruments and facilitate the general knowledge of the public about how much the Competition Law can apply to their cases.

The purpose is to encourage and help enterprises and the customers to take the very

initial step of requesting for protection of legitimate rights and interests.

Using the criteria published by the VCAD, enterprises and the customers get the points of the application of the Competition Law; they can clearly identify their problems arising from possible anti-competition practices; they are encouraged to protect their legitimate rights and interests; they find that the Competition Law is not in a distance from their daily operations and that taking competition proceedings is a normal activity in life and in business of the individual customers and the enterprises respectively.

2. Building a long-term strategy for implementing a wide range of advocacy activities aimed at business community and relevant governmental bodies such as:

- Advocacy seminars/conferences: conducted at selected localities where business community operated well and on large scale and there was high likelihood of competition infringement.
- Publications: leaflets, brochures, handbooks, etc. on competition were published and distributed widely to relevant parties aimed at increasing business and public awareness on competition.

The purpose is to ensure dissemination of competition to as many objects as possible.

Competition has been widely distributed to the business circle throughout the economy. This has contributed much to improvement of awareness on competition among business circles and targeted beneficiaries.

2.3. Measures on market participants' access to infrastructure

The quality of infrastructure networks can significantly impact economic growth and reduce income inequalities and poverty. Extensive and efficient infrastructure is crucial for ensuring the effective functioning of the economy, as it is an important factor determining the location of economic activity and the kinds of activities or sectors that can develop in a particular instance. Well-developed infrastructure reduces the effect of distance between regions, integrating the national market and connecting it at a lower cost to markets in other economies and regions.

A well-developed transport and communications infrastructure network is a prerequisite for the access of less-developed communities to core economic activities and services. Effective modes of transport, including high quality and effectively developed networks of roads, railroads, ports, and air transport, enable entrepreneurs to get their goods and services to market in a secure and timely manner and facilitate the movement of the work force to the most suitable jobs. Economies also depend on reliable electricity supply free of interruptions and shortages so that businesses and factories work unimpeded. Finally, an effective telecommunications network allows for a rapid and free flow of information, which increases overall economic efficiency and productivity

Specific examples of such measures developed in different APEC economies are provided below.

In **Australia** the measures include several mechanisms.

1. The National Access Regime. Part IIIA of the *Competition and Consumer Act 2010* (CCA) establishes the National Access Regime for services provided by significant infrastructure facilities.

The National Access Regime sets out several pathways by which third parties can gain a legally enforceable right to access services provided by publicly and privately owned facilities in order to enable them to compete (or compete more effectively) in markets where competition is dependent on such access, and access is not contrary to the public interest. The National Access Regime is not designed to replace commercial negotiations between

infrastructure facility owners and access seekers. Rather, it seeks to enhance incentives for negotiation and provide a means of access on reasonable terms and conditions if negotiations fail.

The National Access Regime seeks to promote competitive markets and avoid any unnecessary and wasteful duplication of costly infrastructure, while simultaneously seeking to balance the desired competitive outcomes against private property rights and incentives for investment. Without the National Access Regime, competition is likely to be stifled with consequent economy-wide losses in efficiency and productivity.

At different times, various elements of the National Access Regime has been applied to services provided by facilities such as: rail tracks, airports, grain handling facilities at ports, water and waste water reticulation pipes, port terminals and natural gas pipelines.

A review of the National Access Regime by the Productivity Commission commenced on 25 October 2012 and will provide an opportunity to address any issues that may have arisen from its application.

In **Chile** there have been several cases of interventions aiming to increase competition in markets where barriers to entry were significant due to limited access to infrastructure. Some examples include the telecom case, in 1994 that obliged local service providers to establish a “multicarrier system” so that the users could choose among long distance providers.

In 1997, the former Antitrust Commission issued general instructions ordering electricity distribution companies to call for bids and sell energy supplies on nondiscriminatory terms. Despite not obtaining a structural separation, in 1999 the FNE obtained improved general instructions for the market and an order that the two largest electric utility companies, ENDESA and CHILECTRA, could not merge or have interlocking directorates.

One of the most relevant measures taken in this regard refers to the ports modernization. In 1997 the law 19.542 was enacted attempting to increase the participation of the private sector. The Ports’ Act replaced the state-owned ports firm (Emporchi) by 10 state-owned companies, each of them in charge of exploiting one state-owned port, mainly

by means of private investments (concessions). Their main duty was to allocate port facilities among interested parties. Two concession regimes were applied: one establishing vertical integration between the concessionaire of port services and the supporting services in the dock area (mono-operating system), and the second allowing for different companies providing those services (multi-operating system).

During the TDLC's period it is worth mentioning the case on access to IP Telephony (Voissnet Case), which improved market participants' access to infrastructure.

Aiming to safeguard competition, the ports' Act considers three cases where the Competition Authority (formerly, the Comisión Preventiva Central, today, the 'TDLC'), should review the conditions of tenders called by port SOEs, when granting concession of an anchor front:

- If in the corresponding administrative region, the only anchor front capable of supplying services to larger ships (nave de diseño) is about to be granted in concession, tender conditions for the concession should be reviewed by the Competition Authority (ports' Act, article 53);
- If in the corresponding administrative region, the only anchor front capable of supplying services to larger ships (nave de diseño) is being operated under a multi-carrier scheme (i.e. various companies offering services in the dock area), and it is about to be granted in concession under a mono-carrier scheme, tender conditions should be reviewed by the Competition Authority (ports' Act, article 23);
- If a concessionaire is linked to concessionaires of other anchor fronts capable of supplying services to larger ships (nave de diseño), in the same port or any other port in the same region, tender conditions should be reviewed by the Competition Authority (ports' Act, article 14).

This regulatory change has proved to be successful. Tenders for concessions were progressively applied in order to facilitate adaptation. In 2006 there were 10 state-owned ports for public use which facilities had been granted in concession or were about to be granted; in addition to 15 privately-owned ports for public use and 11 privately-owned ports for private use.

In **Indonesia** separation of functions for regulatory and supervision with function for operator was organized. Before separation, Indonesian port operator (PELINDO, a state-owned enterprise) has a mandate to operate commercial public port along with its regulatory function, in form of fixing tariff of port services with a change in port regulation, clear separation is set between port authority (regulator) and port operator (business entity). This separation leads to many forms of supervision and regulation of port services and tariffs.

This is supported by the amendment of the Law No. 17/2008 concerning Shipping and its implementing regulations. Policy reform in port is made to reposition state-owned enterprises as port operator and compete with private companies as port entity, and established port authority as the transformation of port administrator.

Separation of functions between operator and regulator in port was resulted from implementation of best practices in infrastructure management, specifically port sector. For information, at first, performance of Indonesian port was relatively lower compared to other economies. Long ship's queuing time, inefficient loading and unloading activity, and extortions are common problems in port sector which make port is one of the highest contributors to high cost economy in transportation and logistics system in Indonesia.

In general, it is an on-going process. There are yet quantitative indicators that can be submitted on the impact of such policy. However, it can be concluded that there is a wide-open opportunity to enter port sector. For some ports, procurement process to be one of the port entities can be accessed by private companies. In some projects, they cooperate with state-owned enterprises in port to enter the procurement process, and compete with other business consortium that involves many globally-known port operators.

Apart from that, it is expected that such separation can escalate efficiency, reduce ship queuing time, and reduce high cost economy through extortions. Competition between port operators surely will thrust the performance of related operators.

Japan has introduced various measures on market participants' access to infrastructure, which include liberalization in several sectors such as electricity, gas and telecommunications, Market Testing, etc.

1. Private Finance Initiative (PFI).

It is important for the government to utilize the private finance, management abilities and technical capabilities to improve the social infrastructure effectively and provide good service to the citizens. Thus, PFI will contribute to develop the national economy by creating opportunities that private business operators can take part.

The Japanese PFI programme began in 1999 with the enactment of the Act on Promotion of Private Finance Initiative (PFI). There has been significant PFI activity in Japan across a number of sectors, including government accommodation buildings, education, health and recreational facilities.

The number of PFI projects has been increasing every year and rose to 393 at the end of December, 2011.

2. Amendment of the Gas Business Act.

The amendment brought about major changes in the area of supply to large volume customers consuming over 100 thousand m³ per year, by enabling the following three measures:

- Large-volume gas supply by general gas suppliers outside their own service areas;
- Large-volume gas supply by vendors other than general gas suppliers;
- Free pricing of rates.

The purpose was to increase the benefits for gas users. These amendments resulted in progress in the gas sector. The three major changes effected by the amendment were:

- Further relaxation of regulations governing entry into the gas supply market, with a view to boosting competition;
- Enabling of flexible rating systems with the aim of increasing benefits to users;
- Simplification of regulations with the aim of reducing the role of government to an absolute minimum.

The deregulation measures have also resulted in 273 contracts for gas supply to large volume customers by vendors other than the general gas suppliers, and 384 contracts for general gas suppliers to supply gas outside their own service areas.

3. Amendment of the Electric Utility Industry Law.

The purpose of the amendment (1999) to the Electric Utility Industry Law is to promote competition in the electricity supply market through the introduction of a competitive bidding system for the wholesale supply of electricity to electric power companies by non-electric utility companies.

The amendment brought about the same kind of large volume consumer market deregulation as that carried out in the gas supply market, lifting regulations on both pricing and market entry for the supply of power to special-high-voltage customers.

To date (2002) 38 companies have been awarded tenders under the wholesale electricity bidding system, the tenders amounting to a total of 7.4 million kW. Four specific area electricity supply projects, in which vendors use their own supply facilities to supply electricity to consumers in a limited area, are also scheduled.

Where the electricity retail business is concerned, in terms of contracted electricity volume, approximately 60% of the market is now deregulated. 64 companies as of August 31, 2012 entered the market, and supplied about 35,700 GWh in FY2010.

In **Mexico** the CFC is granted with powers to:

- issue binding opinions on processes of structural separation of public assets and entities, as well as, on procedures for granting concessions and permits implemented by offices of the federal Government. In this regard, the CFC has the power to resolve on competition conditions that should be included in the statutory documents related to public tenders or auctions, as well as, to authorize or reject the application of interested parties participating in these processes.
- elaborate binding opinions regarding competition conditions for divisions and units of the federal Government. Specifically, the CFC is able to use this power for preventing the creation of entry barriers by programs or public policies implemented by the Government.
- issue declarations on competition conditions in the markets.
- issue non-binding opinions regarding market conditions to identify potential entry barriers and propose recommendations to encourage access to

infrastructure.

The powers mentioned above have the aim to facilitate access to infrastructure provided by the Government when greater efficiency can be achieved by involving the private sector in the development and management of such infrastructure.

In addition, these powers are aimed at enhancing access to infrastructure by encouraging the introduction of competition conditions where the Commission identifies the existence of entry barriers.

We can see the results of the measures.

For example, in 2009, the Federal Telecommunications Commission (COFETEL for its acronym in Spanish) announced a process of concession granting of the spectrum bands 1850-1910 MHz / 1930-1990 MHz and 1710-1770 MHz / 2110-2170 MHz. The CFC participated in these processes in two stages. In the first phase, the CFC fixed spectrum caps allowing for entrance of potential new competitors in the market. In the second phase, the interested parties asked for the opinion of the CFC on their participation in the process. In this stage the CFC allowed the participation of all interested parties.

In 2009 the CFC issued four declarations on competition conditions in which it determined that TELMEX and TELNOR, providers of telecommunications services, have substantial market power in the markets of leased lines, termination and origination on fixed telephony, as well as, in the market of local transit of calls. In 2010, the CFC declared TELCEL as having substantial power in the market of mobile telephony. In 2011, the CFC stated that TELCEL, IUSACELL and TELEFONICA have a dominant position in the market of mobile termination. In this regard, the Federal Law of Telecommunications enables the COFETEL to impose specific obligations related with price, quality of service, and information obligations to the concessionaires of public networks of telecommunications that, according to the FLEC, have substantial market power in their respective relevant markets.

In 2010, the CFC issued an opinion in which it noted that the principles proposed in the draft guidelines, elaborated by COFETEL, are similar to those recognized as best practices in regulatory matters. The CFC pointed interconnection rates as artificial entry barriers. In this sense, it is recommended COFETEL and the Ministry of Communications

and Transportation to coordinate their correspondent responsibilities to remove disputes for interconnection tariffs among competitors to grant access to telecommunications networks. To do this, the CFC recommended taking into account the cost model elaborated by COFETEL.

In **New Zealand** the structural separation of Telecom, New Zealand's largest telecommunications provider, was implemented.

Separation into two companies (Chorus and Telecom) was undertaken voluntarily by Telecom so that it could participate in New Zealand's ultra-fast broadband (UFB) initiative, which aims to bring UFB to 75% of New Zealanders by 2019. The Government has invested \$NZ1.5b to build a fibre-to-the-premises network (the UFB network) in conjunction with private sector partners selected through a tender process.

Amendments were made to the Telecommunications Act to support the separation (for example, by splitting New Zealand's universal service obligations between the two companies). Under the amendments, the Government's UFB partners, including Chorus, are obliged to enter into open access deeds which require the partners to supply wholesale services on a non-discriminatory basis. For Chorus this covers both the copper and the fibre access networks.

The demerger between Chorus and Telecom was undertaken in November 2011, so more time needs to pass before clear outcomes can be identified. However, the Government expects competitive outcomes to improve and for consumers to benefit from more competitive prices and a wider range of services.

In **Papua New Guinea** a new regime for the regulation of a number of government-owned utilities was developed.

In each of these regulated industries, the corporatize utility business will be subject to a 'regulatory contract', which sets out, among other measures, a future ten-year price path for the monopoly services provided by that utility, together with requirements about quality of service. The utilities' obligations under the regulatory contract are supervised by the ICCC, which is the other party to those contracts.

Under the regulatory contract and under the ICCC Act, there are a number of remedies available to the ICCC to enforce compliance with the price path and service quality standards specified in the contract. If a regulated entity disagrees with decisions of the ICCC, the ICCC Act provides for an appeal process where those decisions can be reviewed by an international Appeals Panel.

In addition to regulatory contracts governing price and service standards, there is industry-specific legislation in relation to each of the regulated industries. In relation to the electricity, telecommunications and ports and harbors sectors, the ICCC has assumed or been given responsibility for issuing and enforcing licenses. PANGTEL, which was previously responsible for all telecommunications regulation, is now confined to technical regulation only.

In addition to the arrangements set out in each of the regulatory contracts and licenses, the ICCC may also make codes or rules relating to the conduct or operations of participants in a regulated industry.

It is introduced by ICCC Act (The Independent Consumer and Competition Commission Act 2002) in conjunction with the corporatization and possible privatization of a number of those utilities.

The ICCC Act provides for the Minister to declare particular entities and goods and services to be regulated entities and regulated goods and services. The sectors in which entities and goods and services have been declared to be regulated are:

- electricity services;
- telecommunications services;
- ports and harbors services;
- postal services;
- compulsory third-party motor vehicle insurance.

In **Peru** was developed the promulgation of the Legislative Decree 1019, Access to Infrastructure Major Suppliers of Public Telecommunications Services Law (10/06/2008).

The implementation of the law established two mechanisms:

- By agreement between the parties during the negotiation period established in

sixty (60) calendar days, computed from the date of filing the respective application. Such agreement shall be collected in a written contract.

- By express order of the Supervisor Body of Private Investment in Telecommunications – OSIPTEL, if the parties despite the negotiation period have not reached an agreement.

Likewise, regarding the technical, economic and legal aspects of access and network sharing in the infrastructure of telecommunication shall be governed by the principles set out in the Telecommunications Act, its General Regulations and in particular the principles of neutrality, non discrimination, equal access free and fair competition and access to information.

The reason to issue this type of legislation was to regulate the access and sharing of telecommunications infrastructure necessary for the provision of public telecommunications services, giving to different economic agents an opportunity to enter the market of telecommunications reducing the infrastructure gap which will promote competition in telecommunications services.

In **Russia** natural monopolies activity is regulating by rules of nondiscriminatory access to its services, adopting by the Government of the Russian Federation and controlling by FAS Russia. It is based on implementation of equal access requirements provided for by Federal Law “On Protection of Competition”. Actually such rules are adopted for the following types of infrastructure and markets:

- railroad infrastructure services (Decree of the Government of the Russian Federation N 710 dating 25.11.2003);
- airport services (Decree of the Government of the Russian Federation N 599 dating 22.07.2009);
- petroleum transportation services (Decree of the Government of the Russian Federation N 218 dating 29.03.2011);
- electronic energy infrastructure services (Decree of the Government of the Russian Federation N 861 dating 27.12.2004).

The same requirements development for the following markets are in progress now:

- infrastructure of electric connection;
- services and infrastructure facilities of the Federal Postal Service;
- services of sea and river ports;
- natural gas distribution systems.

There is the example of Decree of the Government of the Russian Federation No. 599 dated July 22, 2009 «On Principles to Ensure Access to Services Rendered by Natural Monopoly Providers at Airports» implementation.

The present Regulations determine general principles and procedures to ensure access for users to services rendered by natural monopoly at airports in order to discourage conditions, that may put a user (several users) in a disadvantageous position in comparison with any other user (other users) while accessing infrastructure facilities at airports as well as services available at airports.

The purpose is to ensure nondiscriminatory access to services rendered by natural monopoly providers at airports and in compliance with Article 10 of the Federal Act «On Protection of Competition».

The analysis of the practice of government resolution № 599 implementation conducted in 2011 by FAS Russia has shown that the qualitative changes of the competitive environment in the field of ground handling services (including aviation fuel providing services): in some types of ground handling (passenger services, baggage handling, maintenance, aviation fuel providing, etc.) several operators (from 2 to 7 operators) are working now.

In 2009 - 2011 FAS Russia and its territorial bodies initiated dozens of cases of violation of the antimonopoly legislation in the markets of jet fuel and aviation fuel services.

In 2010 the FAS Russia initiated a case against a number of airports in several Russian cities with regard to violation of part 1 Article 10 of the Law on protection of competition (prohibition of abuse of dominance). The total sum of imposed fine was 10 million rubles (\$333,000).

Violation was in evasion of airports and economic entities rendering jet fueling services from provision of a possibility for air carriers to store their own fuel in those airports.

The FAS Russia initiated a case due to the claim of OJSC “Aeroflot-Russian Airlines”. The company requested above mentioned airports and economic entities to allow it providing supply of its own jet fuel, cost of which is lower than proposed in the airports, however airports refused from providing such a possibility.

Since above mentioned airports and economic entities occupy dominant position on the local jet fueling markets, the FAS Russia decided that their actions that led or could have led to restriction of competition on jet fueling market and infringement of interests of other economic entities are to be considered as violation of the Law on protection of competition.

Judicial proceedings supported the FAS Russia decision thus the successful enforcement practice with regard to ensuring access to the jet fueling services in airports was formed.

Overall, by the result of the measures, as well as due to changes in market conditions, the price of jet fuel in the various airports in the Russian Federation decreased by 1.5 times compared to the maximum during the crisis.

The analysis of antimonopoly violations in the field of air transport revealed by FAS Russia and its territorial bodies shows that the predominant share of violations is making by natural monopolies - airports. More than 50 cases were initiated by competition authorities against the operators of airports over the past two years. Typical violations – refusal of airport operators to allocate slots to airlines, refusal to storage of aviation fuel, owned by carriers, intrusion of complex service on aviation fuel providing.

But at the last period positive legal practice in this sphere is forming. Due to the reduction in fuel prices, as well as to the carrier fleet modernization, share of jet fuel in the cost structure of airlines has declined from 40% - 45% to 27% -30% in recent years.

In **Singapore** as the measure was realized the program of deployment of the Next Generation National Infocomm Infrastructure (Next Gen NII).

This comprises a nationwide ultra-high speed fibre access infrastructure called the Next Gen Nationwide Broadband Network (Next Gen NBN) and a complementary pervasive wireless network, including the Wireless@SG Wi-Fi service which will be free until 31 March 2013.

The purpose is to support new industries like the digital media and the biomedical sciences industry as next engines of growth for Singapore's economy.

The NGNII will also be instrumental in enabling another Next Gen service - Grid Computing.

The National Grid will give rise to new uses that are computationally and data intensive in nature, enabling applications that are previously difficult to undertake. For example, animation rendering using GSPs will require high bandwidth network connectivity to transmit the huge volume of rendered images. Access to data grid will be possible via broadband connections especially for domestic and SME market. Therefore, it is anticipated that the adoption of GSP services will lead to a corresponding increase in broadband.

In **Chinese Taipei** as an enforcement mechanism was implemented the enactment sector-specific legislation is measure on market participants' access to infrastructure by having the sector-specific regulatory authorities with competition enforcement power.

For example, telecommunications business (telecommunication operations Act 2001 enforced by national broadcasting & telecommunication commission), energy sector (Energy industry Act enforced by energy regulatory board, energy regulatory office).

This measure results in increasing number of players participating in the market. Cooperation and Coordination between national competition authority and sector-specific regulatory authorities with competition enforcement are challenges.

The prominent example in Chinese Taipei is that telecommunications services open to competition, and to this effect, the FTC has been participating in establishing sound mechanisms for post-opening market competition. The Telecommunications Act of 1996, amended in 2005, has promoted liberalization of the telecoms market while trying to curb the abuse of dominance.

Since 1997, various telecommunications services that used to be monopolized have since been liberalized one after another. The outcome includes, but not limited to:

- The mobile phone, paging, and mobile data communications service markets were opened up (1997), with private operators gaining the right to enter the mobile communications market; obviously this was the demise of the

monopoly on services in that area.

- The respective markets for satellite communications services (1998), fixed network communications services (1999), and 3rd generation mobile communications services (3G) (2001) were opened up.
- Fixed-line, mobile and broadband service penetration significantly improved over the last two decades, while price has been decreasing rapidly over the same period.
- Some access charges for mobile services fell to zero in 2004, after the introduction of 3G mobile services: this pricing model facilitates access to services, while suppliers recoup costs through use charges.

In **Thailand** as an enforcement mechanism was implemented the enactment of sector-specific legislation by having the sector-specific regulatory authorities with competition enforcement power. For example: telecommunication operations Act (2001).

The Act describes granting license to operate telecommunications business, the qualification of a person applying for a license, the use and the connection of telecommunication networks, equipment standards, etc.

This measure results in increasing number of players participating in the market. Cooperation and Coordination between national competition authority and sector-specific regulatory authorities with competition enforcement are challenges.

In the **United States of America**, pipelines are the most important transportation mode for the U.S. energy industry. Energy transportation facilities, including pipelines, have been the subject of federal regulations for nearly a century. Three principal agencies are involved: the U.S. Federal Energy Regulatory Commission (FERC) provides detailed economic regulation (rates, terms of service, and access) of interstate pipelines and necessary support facilities, while the Department of Justice (DOJ) and the Federal Trade Commission (FTC) have antitrust jurisdiction (mergers and anticompetitive practices), for almost all energy transportation facilities but do not exercise traditional regulatory oversight.

FERC issues detailed regulations concerning various matters affecting the specific industries within its jurisdiction and then adjudicates issues concerning the application of the regulations as they arise. To ensure access, FERC's principal activities, in the last 20 years, have been associated with the restructuring of the natural gas pipeline industry. The guiding policy principle has been to have natural gas pipelines provide "open access" transportation service on a non-discriminatory basis to all natural gas shippers. Most observers consider the regulatory reform of the natural gas pipeline industry to be successful and to have contributed toward a competitive supply of natural gas. Access to petroleum pipelines has received relatively less recent regulatory attention, perhaps because these have a longer established regulatory structure.

DOJ and FTC enforce antitrust statutes of general application across a wide range of industries. Their principal activities affecting access to energy transportation facilities have arisen through their merger review process. They have acted in numerous mergers affecting these facilities, primarily by requiring the divestiture to competitive buyers of facilities that would pose competitive problems if they were owned by a single enterprise. In several antitrust enforcement matters, the reviewing agency has required divestitures of partial interests in jointly owned pipelines so that their use might remain competitive.

In **Viet Nam** were organized the market researches on regulatory sectors and transfer recommendations to related parties.

The purpose is to navigate conflicts between competition legislations and sector regulatory legislations especially sectors with high level of monopoly such as electricity, telecommunications, etc.

Build up good relationship between competition authorities and sector regulators in both legal construction and enforcement.

CONCLUSION AND COMMON RECOMMENDATIONS

Competition policy is an important factor to promote structural reform in APEC. As APEC is a regional organization comprising both developed and developing economies it offers a great opportunity for APEC economies (especially developing ones) to share practical experience and knowledge.

The project outcomes can be used by APEC member economies for:

- 1) appropriate government programs;
- 2) reforms promotion;
- 3) a compendium of guidance on competition policy measures undertaken in the APEC region.

The research highlights suggested the following observations:

1. Effective measures often involve the combination of multiple mechanisms.

The examples of different economies demonstrate the value of multiple approaches, for example, combining effective enforcement with competition advocacy, or combining legislative and organizational mechanisms, including a specialized competition law.

2. Economy individualities determine the most effective measures.

State measures on competition development should be tailored to the economy's specific circumstances, including those of its economic conditions.

3. Monitoring and streamlining the measures are very important.

Changes in economic conditions and business needs call for ongoing review of legal measures on competition development. That is why it is important to review the efficacy of the competition laws periodically. By the results of such review the measures and main legislative acts of the economies can be corrected for improvement if necessary.

4. An effective system can be based on a special Competition Act.

The best practices of APEC economies in measures of competition development implementation show that institutional measures are most effective when based on specialized acts (usually a Competition Act). At the same time the measures for its correction can include the amendments for that Act or implementation of practical measures or legislative acts in support of the main Act.

5. Streamlining regional authorities' measures implementation is important for effectiveness of the mechanism.

For federal economies, or economies consisting of different autonomous regions with wide authorities (with different conditions), special regional programs (or road maps for competition policy measures on the regional level) implementation can be very effective. It is important to ensure that various regional competition implementations are consistent with one another, in order to create a single homogenous competition regime within an economy.

6. The main purpose of implementation of competition advocacy measures is informing stakeholders, including the business community, and government decision makers, about competition.

The first step to support the competition authority in implementing competition advocacy and public education is to determine what the authority should do to educate stakeholders and government decisions makers about competition. The methods that could be employed by the competition authorities in order to promote an understanding of competition are:

- Seminars and workshops for public and business sector representatives, experts in regulatory authorities, lawyers, judges and/or representatives of the academic community;
- Publication of annual reports and newsletters;
- Maintenance and dissemination of a bulletin containing articles and analyses;

- Development of a website in order to improve public access to information, which could include:
 - ✓ Relevant competition legislations;
 - ✓ The competition authorities' activities in each of its areas of responsibility;
 - ✓ Materials explaining the purposes and benefits of competition and the basic content of the competition law;
 - ✓ Regular publication and description of case decisions in order to help lawyers and businesses develop an accurate understanding of specific questions in the application of the law and to tailor business behavior accordingly;
 - ✓ Competition analysis of specific markets containing direct discussion of specific competition problems that are encountered in the markets or specific recommendations for changes that need to be made to increase competition;
 - ✓ Publication of several guidelines or viewpoints, aiming to clarify the approaches used by the competition authorities in certain cases.

These activities will, as a result, increase transparency and compliance with the competition law, as well as promoting the credibility of the institutions that enforce the law.

7. Measures on market participants' access to infrastructure can impact the competitive conditions of affected markets.

Measures on market participants' access to infrastructure can include: accessible consulting, innovative activity development, government procurement, leasing development, microlending, preferential informational resources, sectors liberalization, and utilities regulation.

ANNEXES

ANNEX I. LIST OF PARTICIPANTS

S/N	Name	Economy	Position, Organization	Email	Task
1	Mr. James Dalton	Australia	Executive Officer, Australian Department of Foreign Affairs and Trade, Free Trade Agreement Division	James.Dalton@dfat.gov.au	1.To make a presentation “The Significance of Developing a Competition Culture” 2. To moderate Session 2, Part 1“
2	Mr. Yukinari Sugiyama	Japan	CPLG Convenor Director, International Affairs Division, Japan Fair Trade Commission	APEC-jftc@jftc.go.jp	To make a speech on the Opening Plenary
3.	Mr. Viviano Esteban Carrasco Zambrano	Chile	Economic Adviser, Ministry of Economy, Competitiveness Office	ecarrasco@economia.cl	To make a presentation “Competitiveness Agenda as a Mean for Encouraging Competition
4	Mr. Christian Fresard Briones	Chile	Economist ,Ministry of Foreign Affairs, Trade Remedies and Competition Department	cfresard@direcon.gob.cl	To attend the 2 days of Workshop, actively participate in all Sessions
5.	Mr. Zhu	China	Director,	zhuzhongliang@	To make a

	Zhong Liang		Ministry of Commerce, Anti-Monopoly Department	mofcom.gov.cn	presentation “The Latest Development of Anti-Monopoly Law Legislation and Enforcement in respect of Undertakings” Concentrations in China
6.	Ms. Zhang Huawei	China	Deputy Director, Ministry of Commerce, Anti-Monopoly Department	zhanghuawei@mofcom.gov.cn	To attend the 2 days of Workshop, actively participate in all Sessions
7.	Mr. Tri Hidayatno	Indonesia	Head of the Section, Coordinating Ministry of Economic Affairs, International Economic Cooperation and Financing	tri_hidayatno@yahoo.com	To attend the 2 days of Workshop, actively participate in all Session
8.	Mr. Supriyadi	Indonesia	Senior adviser to Coordinating Minister for Economic Affairs for Business Competition, Coordinating Ministry of Economic Affairs	supriyadi@ekon.go.id	To attend the 2 days of Workshop, actively participate in all Session
9.	Mr. Manuel Sanches Salinas	Mexico	Deputy Director for Planning and International Affairs, Federal Competition	masanchez@cfc.gob.mx	To make a presentation “Recent Development in Mexican Competition Law”

			Commission of Mexico, Directorate General for Institutional Relations and International Affairs		
10.	Mr. Juan Rodrigo Ruiz Esparza Catano	Mexico	Area Director, Federal Competition Commission of Mexico, Legal Affairs Department	jruiz@cfc.gob.mx	To make a presentation “Recent Development in Mexican Competition Law”
11.	Ms. Elsa Gabriela López Medrano	Peru	Ejecutivo 1, National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI), Defense of Free Competition Commission (CLC)	glopez@indecopi.gob.pe	To make a presentation “Institutional Reform in Peruvian Competition Law”
12.	Mr. Luis Fernando Castellanos Sánchez	Peru	Ejecutivo 2, National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI), Defense of Free Competition Commission (CLC)	lcastellanos@indecopi.gob.pe	To attend the 2 days of Workshop, actively participate in all Sessions
13.	Mr.	Philippines	Assistant	glsy@doj.gov.ph	To make a

	Geronimo Sy		Secretary, Office of Competition, Department of Justice		presentation “Fresh Perspectives: Establishing the Office for Competition(OFC) Year 1”
14.	Mr. Nonnatus Caesar	Philippines	Director, National Bureau of Investigation, Department of Justice	caesarojas@yahoo.com	To attend the 2 days of Workshop, actively participate in all Sessions
15.	Dr. Chuwit Mitrchob	Thailand	Executive Director, Office of the National Economic and Social Development Board, Competitiveness Development Office	Chuwit@nesdb.go.th	To make a presentation “Competition Development in Thailand: the Way Forward”
16.	Ms. Patcharawan Ubonloet	Thailand	Policy and Plan Analyst, Office of the National Economic and Social Development Board, Competitiveness Development Office	Patcharawan@nesdb.go.th	To attend the 2 days of Workshop, actively participate in all Sessions
17.	Mr. Vo Tri Thanh	Viet Nam	Vice President, Central Institute for Economic Management	votri Thanh@mpi.gov.vn votithanh98@yahoo.com	To make a presentation “Economic Reform and Competition Policy in an Economy in Transition: Vietnam Experience”
18.	Mr. Vo Van Thuy	Viet Nam	Deputy Chief, Vietnam	thuyvv@moit.gov.vn	To attend the 2 days of Workshop,

			Competition Authority		actively participate in all Sessions
19	Mr. Alexey Shekhovtsov	Russia	Vice-President , National Institute for System Study of Entrepreneurship	shekhov@nisse.ru	<p>1. To make a presentation “Survey of the Most Effective Measures of Competition Development in the APEC Region”</p> <p>2.To moderate Opening Plenary, Brainstorm Session Group 1,</p> <p>3. To present the Workshop Outcomes and Workshop Conclusions</p>
20	Ms Darya Silkova	Russia	Leading Expert Specialist, Federal Antimonopoly Service of the Russian Federation	silkova@fas.gov.ru	To make a presentation “Competition Advocacy of the Federal Antimonopoly Service of Russia”
22.	Ms. Anastasia Filichkina	Russia	Development Director “Borlas Security Systems, Ltd.”	afilichkina@borlas.ru	To make a presentation “Project Overview”
23.	Ms. Zinaida Sopina	Russia	Manager, “Borlas Security Systems, Ltd.”	zsopina@borlas.ru	To attend the 2 days of Workshop, actively participate in all Sessions

24	Mr. Daisuke Takato	Japan	Assistant Director, International Affairs Division, Japan Fair Trade Commission	daisuke_takato@jftc.go.jp	To make a presentation “Competition Advocacy to General Public”
25	Mr. Shunsuke Fujimori	Japan	Deputy Director, Ministry of Foreign Affairs, International Economy Division	shunshuke.fujimori@mofa.go.jp	To attend the 2 days of Workshop, actively participate in all Sessions
27.	Ms. Shu-Fang Chen	Chinese Taipei	International Affairs Officer, Fair Trade Commission, Department of Planning	sfchen@ftc.gov.tw	To make a presentation “Competition Reforms: on the Way toward Competition Policy Improvement”
28.	Mr. Hsing-Feng Tu	Chinese Taipei	International Affairs Officer, Fair Trade Commission, Department of Planning	hftu@ftc.gov.tw	To moderate Brainstorm Session Group 2
29.	Ms. Sylvia Reed Curran	USA	Consul General, Consulate General Vladivostok	curransr@state.gov	To attend the 2 days of Workshop, actively participate in all Sessions
30.	Mr. Kirill	Russia	Deputy Director	emelianovku@ec	To make a speech on the Opening

	Emelianov		Ministry of Economic Development of the Russian Federation, Department for Competition Development	conomy.gov.ru	Plenary and Closing Ceremony
31.	Ms. Ekaterina Shibkova	Russia	Counsellor, Ministry of Economic Development of the Russian Federation, Department of Asia and Africa, International Organizations Division	ShibkovaE@conomy.gov.ru	To attend the 2 days of Workshop, actively participate in all Sessions
32.	Mr. Nicolay Dubinin	Russia	Director, Administration of Primorsky Region, Department of Economy	depeconomy@primorsky.ru	To make a speech on the Opening Plenary
33.	Ms. Anna Dachuk	Russia	Deputy Director, Administration of Primorsky Region, Department of Entrepreneurial Development		To attend the 2 days of Workshop, actively participate in all Sessions
34.	Ms. Elena Romashko	Russia	Director, Administration		To attend the 2 days of Workshop,

			of Primorsky Region Department of Entrepreneurial Development		actively participate in all Sessions
35.	Ms. Galina Sakh	Russia	Director, Administration of Primorsky Region, Department of Competition Development	shakh.85@mail.ru shah_gv@primorsky.ru	To attend the 2 days of Workshop, actively participate in all Sessions
36.	Dr. Vladimir Kurilov	Russia	Pro-rector, Far Eastern Federal University	lawkur@gmail.com	To make a presentation "Russia in the Asia-Pacific Region: Prospects of Integration"
37.	Mr. Andrey Velichko	Russia	Assistant Professor, Far Eastern Federal University, Department of Mathematical Methods in Economy		To attend the 2 days of Workshop, actively participate in all Sessions

ANNEX II. AGENDA



Ministry of Economic Development of the Russian Federation

Department of Competition Development

APEC WORKSHOP

Measures of Competition Development in APEC

September 27 - 28, 2012

A G E N D A

Vladivostok, Russia

Venue: Business Centre «Hyundai»

29, Semenovskaya st., Vladivostok

tel.: +7 (423) 240-22-33

fax: +7 (423) 240-70-08

Organizer: “Borlas Security Systems”, Ltd.

September 27, 2012 (Thursday)

09:30 – 10:00	Registration
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Opening Ceremony

Moderator – **Mr. Alexey Shekhovtsov**, National Institute for System Study of Entrepreneurship, Vice-President

10:00 – 10:15	<ol style="list-style-type: none">1. Opening Plenary<ul style="list-style-type: none">• Mr. Kirill Emelianov, Ministry of Economic Development of the Russian Federation, Department of Competition Development, Deputy Director• Mr. Nikolay Dubinin, Administration of Primorsky Region, Department of Economy, Director• Mr. Yukinari Sugiyama, APEC Competition Policy and Law Group, Convenor
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Session 1

Competition Policy in APEC Region

Moderator: **Ms. Anastasia Filichkina**, “Borlas Security Systems”, Ltd., International Projects Department, Development Director

10:15 – 11:00	<ol style="list-style-type: none">1. Russia in the Asia-Pacific Region: Prospects of Integration Dr. Vladimir Kurilov, Far Eastern Federal University, Pro-rector (Russia)2. Project Overview Ms. Anastasia Filichkina, “Borlas Security Systems” Ltd., International Projects Department, Development Director (Russia) Q & A Session3. Survey of the Most Effective Measures of Competition Development in the APEC Region Mr. Alexey Shekhovtsov, National Institute for System Study of Entrepreneurship, Vice-President (Russia) Q & A Session
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11:00 – 11:30	Coffee Break
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Session 2. *Institutional Reforms, Advocacy and Access to Infrastructure as Key Aspects of Competition Development*

11:30 – 13.30	<p style="text-align: center;">PART 1</p> <p><u>Moderator:</u> Mr. James Dalton, Australian Department of Foreign Affairs and Trade, Free Trade Agreement Division, Executive Officer</p> <ol style="list-style-type: none"> 1. Competition Advocacy of the Federal Antimonopoly Service of Russia Ms. Darya Silkova, Federal Antimonopoly Service of the Russian Federation, Press Service Department, Leading Expert Specialist (Russia) Q & A Session 2. Competition Development in Thailand: the Way Forward Dr Chuwit Mitrchob, National Economic and Social Development Board, Competitiveness Development Office, Executive Director (Thailand) Q & A Session 3. Economic Reform and Competition Policy in an Economy in Transition: Vietnam Experience Mr. Vo Tri Tranh, Central Institute for Economic Management, Vice-President (Viet Nam) Q & A Session 4. Competition Reforms: on the Way toward Competition Policy Improvement Ms. Sofia Chen, Fair Trade Commission, Department of Planning, International Affairs Officer (Chinese Taipei) Q & A Session 5. The Latest Development of Anti-Monopoly Law Legislation and Enforcement in respect of Undertakings Concentrations in China Mr. Zhu Zhongliang, Ministry of Commerce, Anti-Monopoly Department, Director (China) Q & A Session 6. Institutional Reform in Peruvian Competition Law
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	<p>Ms. Elsa Gabriela Lopez Medrano, National Institute for the Defense of Competition and Protection of Intellectual Property, Defense of Free Competition Commission, Executive 1 (Peru)</p> <p>Q & A Session</p>
13:30 – 14:30	Lunch
14:30 - 16:45	<p style="text-align: center;">PART 2</p> <p><i>Moderator:</i> Ms. Anastasia Filichkina, “Borlas Security Systems” Ltd., International Projects Department, Development Director</p> <p>1. The Significance of Developing a Competition Culture</p> <p>Mr. James Dalton, Australian Department of Foreign Affairs and Trade, Free Trade Agreement Division, Executive Officer (Australia)</p> <p>Q & A Session</p> <p>2. Competition Advocacy to General Public</p> <p>Mr. Daisuke Takato, Japan Fair Trade Commission, International Affairs Division, Assistant Director (Japan)</p> <p>Q & A Session</p> <p>3. Recent Development in Mexican Competition Law</p> <p>Mr. Juan Rodrigo Ruiz Esperanza Catano, Federal Competition Commission of Mexico, Department of Legal Affairs, , Area Director (Mexico)</p> <p>Mr. Manuel Sanchez Salinas, Federal Competition Commission, Directorate General for Institutional Relations and International Affairs, Deputy Director for Planning and International Affairs (Mexico)</p> <p>Q & A Session</p>
15:30 – 16:00	Coffee Break
	<p>4. Competitiveness Agenda as a Mean for Encouraging Competition</p> <p>Mr. Viviano Esteban Carrasco Zambrano, Ministry of Economy, Competitiveness Office, Economic Adviser (Chile)</p> <p>Q & A Session</p> <p>5. Fresh Perspectives: Establishing the Office for Competition(OFC) Year 1</p> <p>Mr. Geronimo Sy, Department of Justice, Office for Competition, Assistant Secretary (Philippines_)</p> <p>Q & A Session</p>
17:00 – 21:00	Vladivostok City Tour

September 28, 2012 (Friday)

Brainstorm Session: Best Practices of Measures of Competition Development in APEC

10:00 – 11:30	<p>Group 1</p> <p><u><i>Institutional Measures of Competition Development</i></u></p> <p><u>Moderator:</u> Mr. Alexey Shekhovtsov, National Institute for System Study of Entrepreneurship, Vice-President</p> <ul style="list-style-type: none">• The best practice in institutional measures of competition development implementation• Practice of “universal” measures, that can be used by different economies• Specific recommendations for the economies with the different economic conditions
11:30 – 12:00	Coffee Break
12.00 – 13.30	<p>Group 2</p> <p><u><i>Measures on Competition Advocacy</i></u></p> <p><u>Moderator:</u> Mr. Eric Tu, Fair Trade Commission, Department of Planning, International Affairs Officer</p> <ul style="list-style-type: none">• The best practice in measures on competition advocacy implementation;• Practice of “universal” measures, that can be used by different economies;• Specific recommendations for the economies with the different economic conditions
13:30- 14:30	Lunch

Final Session

Moderator: **Ms. Anastasia Filichkina**, “Borlas Security Systems” Ltd., International Projects Department, Development Director

14:30 – 15:00	1. Presentations of the Groups’ work outputs Mr. Alexey Shekhovtsov , National Institute for System Study of Entrepreneurship, Vice-President Mr. Eric Tu , Fair Trade Commission, Department of Planning, International Affairs Officer
15:00-15:30	Coffee Break
15:30 – 16:00	2. Workshop Outcomes and Workshop Conclusions Mr. Alexey Shekhovtsov , National Institute for System Study of Entrepreneurship, Vice-President
16:00 – 16:15	Closing Remarks Mr. Kirill Emelianov , Ministry of Economic Development of the Russian Federation, Department of Competition Development, Deputy Director

ANNEX III

Workshop Conclusions

APEC Project CPLG 02 2011T:
“Measures of Competition Development in APEC”

Workshop “Measures of Competition Development in APEC”

27 - 28 September 2012, Vladivostok, the Russian Federation

The APEC Workshop “Measures of Competition Development in APEC” was held in Vladivostok, the Russian Federation, on 27 - 28 September, 2012.

37 participants from 13 APEC Member economies (Australia, Chile, China, Indonesia, Japan, Mexico, Peru, the Philippines, the Russian Federation, Chinese Taipei, Thailand, USA and Viet Nam) attended the Workshop. The delegates represented governmental agencies, responsible for competition policy development and other competition and antimonopoly agencies, as well as private businesses and non-government organizations.

The Workshop gave an opportunity for APEC economies to network and exchange views on possible measures of competition development and the most effective measures of competition development in APEC economies.

In addition, the Workshop participants:

- were informed on the ongoing project and its preliminary findings, in particular “Survey of the most effective measures of competition development in the APEC region”, including main measures and principles of competition policy development in APEC Member economies;
- got acquainted with effective and adaptable measures of competition development in the markets within such fields as institutions (development of competition (related) institutions), advocacy (development of advocacy by

competition (related) authorities) and accessibility to essential infrastructure with natural monopoly characteristics;

- shared experiences earned by APEC economies on the issues of competition policy development;
- discussed the best practice in institutional measures of competition development and on competition advocacy implementation, including: practice of “universal” measures, that can be used by different economies; specific recommendations for the economies with the different economic conditions;
- discussed further steps to improve the results of the project.

During the Workshop, representatives from the following APEC Member economies made their presentations: Australia, Chile, China, Japan, Mexico, Peru, the Philippines, the Russian Federation, Chinese Taipei, Thailand and Viet Nam. There were also reports without presentations. It is essential that various Russian government bodies presented the current situation and prospects of competition measures development in Russia: Ministry of Economic Development of the Russian Federation, Federal Antimonopoly Service, Administration of the Primorsky Region. Representatives from the expert sector, including educational institutions (for example Far Eastern Federal University) and non-governmental organizations also made their presentations and statements on the Workshop issues. Representatives from the World Bank sent their presentation, which was discussed during the Workshop.

The Workshop speakers and presenters were drawn from a range of different economies, governmental agencies and businesses, and offered participants a variety of ideas and lessons learnt from their relevant experiences. Bringing together the APEC economies representatives from various backgrounds, the Workshop has proved to be a good occasion for sharing visions on relevant APEC economies initiatives.

The project outcomes can be used by APEC member economies for:

1. appropriate government programs;
2. reforms promotion;
3. a compendium of guidance on competition policy measures undertaken in the APEC region.

A consensus was reached on the following key aspects of competition policy development:

- Developing a competition culture is very significant for effective regulation.
- Effective measures often involve the combination of multiple mechanisms.
- Economy individualities determine the most effective measures.
- Monitoring and streamlining the measures are very important.
- Ongoing exchange of the measures development experience between economies can support implementation of effective competition policy.
- An effective system can be based on special Competition Act.
- Streamlining regional authorities' measures implementation is important for effectiveness of the mechanism.
- The main purpose of implementation of competition advocacy measures is informing stakeholders, including the business community, and government decision makers, about competition.
- Measures on market participants' access to infrastructure can impact the competitive conditions of affected markets.

The Workshop increased the knowledge and understanding of successful reforms and best practices in competition policy development measures already implemented in many APEC economies. The Workshop was successful in promoting understanding of the APEC economies concerning the significance of competition policy.

The discussions at the workshop indicated that there was interest in APEC member economies to develop competition policy measures, as well as possible tools and actions at the various levels for its actualization and implementation.

Participants agreed that the Workshop made substantial progress in advancing an understanding of the issues of competition policy development. It was noted that the Workshop holding and outcomes ensured the successful implementation of the project “Measures of Competition Development in APEC”.

The Workshop participants made the recommendations and comments to improve “Survey of the most effective measures of competition development in the APEC region” and confirmed their willingness to assist the survey’s authors with the suggestions and additions.

The Workshop participants made the following recommendations about further development of the project’s results:

1. In cooperation with European Union competition policy authorities to organise some workshops with the purpose of exchanging the experience in competition policy measures development between EU and APEC economies.
2. To organize discussion of the project’s results with APEC Business Advisory Council – to get output from the business community of APEC economies.
3. To discuss the most effective competition policy measures in different markets of the APEC region – in cooperation with the following APEC fora :
 - Automotive Dialogue;
 - Agricultural Technical Cooperation;
 - Energy;
 - Telecommunications and Information;
 - Tourism;

- Transportation.
4. To discuss the project's results and organize further cooperation with the following APEC fora:
- Group on Services;
 - Market Access Group;
 - Anti-Corruption and Transparency Working Group;
 - Small and Medium Enterprises;
 - Free Trade Agreements and Regional Trading Agreements.

The participants extended their special thanks to the Ministry of Economic Development of the Russian Federation and Administration of the Primorsky Region of the Russian Federation for active participation, hosting and assisting in the Workshop holding.

**ANNEX IV. LIST OF ECONOMIES PARTICIPATING IN THE' IN
THE PROJECT ACTIVITIES**

Economies	Quaestionnaires	Comments	Workshop	Comments after Workshop
1. Australia	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
2. Brunei Darussalam	<u>YES</u>	<u>YES</u>	NO	NO
3. Canada	NO	NO	NO	<u>YES</u>
4. Chile	<u>YES</u>	<u>YES</u>	<u>YES</u>	NO
5. China	NO	<u>YES</u>	<u>YES</u>	<u>YES</u>
6. Hong Kong, China	<u>YES</u>	<u>YES</u>	NO	<u>YES</u>
7. Indonesia	<u>YES</u>	<u>YES</u>	<u>YES</u>	NO
8. Japan	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
9. Korea	NO	NO	NO	NO
10. Malaysia	NO	<u>YES</u>	NO	NO
11. Mexico	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
12. New Zealand	<u>YES</u>	<u>YES</u>	NO	NO
13. Papua New Guinea	NO	NO	NO	NO
14. Peru	<u>YES</u>	<u>YES</u>	<u>YES</u>	NO
15. Philippines	NO	<u>YES</u>	<u>YES</u>	<u>YES</u>
16. Russia		<u>YES</u>	<u>YES</u>	<u>YES</u>
17. Singapore	NO	<u>YES</u>	NO	<u>YES</u>
18. Chinese Taipei	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
19. Thailand	<u>YES</u>	NO	<u>YES</u>	<u>YES</u>
20. United States of America	<u>YES</u>	<u>YES</u>	<u>YES</u>	NO
21. Viet Nam	NO	NO	<u>YES</u>	NO

1. Sent Quaestionnaires – 12 economies.
2. Sent comments for the Report – 16 economies.
3. Took part in the Workshop – 13 economies.
4. Sent comments after the Workshop – 11 economies.

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