The Role of a Fair Competition Policy in view of the Lao PDR

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First of all, I would like to express my sincere thanks to the government of Indonesia and ASEAN Secretariat for sponsoring and hosting ASEAN Conference on Fair competition Law and Policy in the AFTA. I believe that this conference will be fruitful due to active deliberation, exchange creative ideas and various views on competition policy and law from all of our delegates.

In this connection, I would like to share competition awareness and attitude of the Lao PDR to the conference. I prefer to divide my presentation into three parts as follows:

I. The experience of the Lao PDR in relation to a competition policy

The government of the Lao PDR (GOL) has undertaken substantial transformation from Centrally Planned to Market-Oriented Economy since 1986. In this regard, privatization policy and relevant liberalization programs were introduced. The outcomes of these programs were satisfied in the certain level.

For instance, in 1999, among 777 registered companies in the Lao PDR, only 7 percent were state-owned enterprises. The economic significance of the state-owned sector in the Lao PDR is now similar to that in many market economies. In terms of liberalization program, in September 1995, the Lao PDR formally adopted a managed floating exchange rate system. In turn, the market could set the prices for most products. However, we still maintain price surveillance of some strategic products such as food staples and fuel. Up till now, pricing policy is non-discrimination between imported product and domestically produced products.

The reason why we raise the privatization and liberalization issues in this part, because we realize that these issues could facilitate the competition in the market. Although the GOL does not have comprehensive policy or specific law on competition, does not have authorities, which give specific attention to proceed the fair competition policy, the Lao PDR has been supporting most effort on market liberalization. Showing that the Lao PDR was a full member of ASEAN since July 1997. Furthermore, the Lao PDR has applied to be a member of WTO since 1997, and become the observer government in February 1998, and so far is in the accession process to be a full member of WTO. Therefore we have a full commitment to the liberalization efforts to dismantle tariff and non-tariff barriers on trade. Moreover, we also actively participate in regional and international forum of competition policy.
II. Competition awareness in view of the Lao PDR

In general, as we are aware, a competition policy has emerged as an important aspect of international and domestic business, and the primary purpose of competition policy is to improve economic efficiency so that consumers enjoy lower prices, increased choices and improved productive quality. In addition, a competition policy could be a broader concept that includes aspects of regulatory reform, demonopolisation, liberalization, privatization, and seeks to halt the harm the society. These aspects could prevent the broader range of anti-competitive actions and policies, including corrupt grants of monopoly power and unduly restrictive government regulation.

We also recognize that the goal of competition policy is to benefit society as a whole, by ensuring economic system and market mechanism work well and run smoothly, avoiding the economic power is in the hands of the few, and eliminating special treatment of protected business and so on.

However, a competition policy is rather complex and varies from member to member. Therefore, in order to adopt a comprehensive competition policy is not an easy task particularly for the Lao PDR. Based on the inappropriate initial conditions such as weak institution building and lack of experiences and competition culture, and then it would be appreciated, if experts from international organization and other developing countries could provide technical assistance, and experiences in terms of proper competition policy to our country.

III. The need for, and timing of enacting and enforcing Prime Minister’s Decree on Anti-Monopoly and competition policy

During the transition period to market-oriented economy, we have understandable concerns of opening our economic system and market mechanism to fair competition in order to facilitate the achievement of market-oriented economy in the Lao PDR. In this respect, we also believe that a fair competition policy will support the continued growth and development.

To this end, the GOL are preparing Decree on Anti-Monopoly and Competition policy. So far it is under the consideration process of Prime Minister’s Office, and expected to be issued at the end of this year.

The purpose of this Decree is to safeguard the interests of the consumer and provide for fair-trading and competition in the operation of business activities in the Lao PDR, and to improve the efficiency and the quality of commercial production and sale of goods and services in the country.

In article 5 of this draft Decree, which related to getting rid of unfair competition, mentioned that a business operator having market domination, as determined by the Commission, shall not engage in the following restrictive trade practices as follows:
- Discriminatory pricing so as to prevent competition from small business
- Fixing compulsory conditions, directly or indirectly, requiring other business operators who are his or her customers to restrict services, production, purchase or distribution of goods, or restrict opportunities in selling or purchasing goods,
receiving or providing services, or obtaining credits from other business operators

- Suspending, reducing or restricting services, production, purchase, distribution, deliveries or importation without justifiable reasons, or destroying or causing damage to goods in order to reduce the quantity lower than the market demand
- Intervening in the operation of business of other persons without justifiable reasons.

In article 6, which related to anti-monopoly, mentioned that a business operator shall not enter into an agreement with another business operator to do any act amounting to monopoly, market domination, or reduce of competition, or restriction of competition as prescribed by the Commission, in any of the following manners:

- Fixing selling prices of goods or services as a single price
- Restricting the purchase volume of goods or services
- Restricting the sale volume of goods or services
- Colluding to enable one party to win a bid to a tender for the goods or services, or in order to prevent one part from participating in a bid or a tender for the goods or services
- Fixing geographical areas in which each business operator may distribute or restrict the distribution of goods or services, or fixing customers to whom each business operator may sell goods or provide services to the exclusion of other business operator from competing in the distribution of such goods or services
- Fixing the quantity of goods or services in which each business operator may produce, purchase, distribute, or provide with a view to restricting the quantity to be lower than the market demand
- Reducing the quality of goods or services to a level lower than that in the previous production, distribution or provision, and selling at the same or at the higher price

In this perspective, the GOL will set up the Commission of Anti-Monopoly and Competition policy headed by Deputy Minister of Commerce and consist of relevant competent agencies.

We strongly believe that this decree will eliminate unfair competition actions in the market, and also support the continued growth and development in the Lao PDR at the same time. Moreover, it will complement and facilitate the fruitful transformation from centrally planned to market-oriented economy as expected.

In conclusion, we have a great pleasure to hear any comments and suggestion from participants, related to these issues.

Thank you for your attention.