

ARTICLE

COMPETITION IN THE ASEAN COMMUNITY FROM AN ECONOMIC PERSPECTIVE

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ABSTRACT

AEC (ASEAN Economic community) was incepted with the sole purpose of ensuring that communities in Southeast Asia better themselves economically. The whole objective of the Association of South East Asian Nations (ASEAN) was to make sure that the member countries empowered themselves so that they would be able to compete with advanced economies. As a matter of fact, the motto of the ASEAN community is clearly explained in the roadmap for the ASEAN community. This motto states one vision, one community, and one identity. The sole reason why this slogan is designed is to challenge the members of the ASEAN community to be united as they seek to strengthen their community. This slogan ensures that healthy competition is a characteristic of this community. It is necessary for a regulation and a competition law to be formulated to ensure that fairness is maintained in trade. The principle of honesty, the principle of transparency and the principle competition are all critical components to ensure fair competition among member countries.

INTRODUCTION

The ASEAN economic community always strives to set objectives that will be achieved through a free flow of the factors of production. For the success of the AEC to be achieved, there must also be a free flow of skilled labor, goods and services. Entrepreneurs are a key component in ensuring that the AEC is always able to attain its objectives. The AEC always strives to assist southeastern Asian countries to achieve their goal of economic integration (Anbumozhi, 2016). The ASEAN community aims to achieve economic integration in the region through establishing an area which has a robust economy.

KEY WORDS

Asean community,
competition, South East
Asia, global economy.

This economic integration will enable South East Asian countries to be major players in the global economy. Empirical data shows that countries which are developed and have advanced economies are majorly driven by entrepreneurs. Entrepreneurs are responsible for implementing changes by being a creative force that ensures that the countries economic policies are always adhered to (Anshari & Alas, 2015). The ASEAN economic community is founded on the principle that entrepreneurs within the south eastern countries play multiple roles in providing a steady economic development.

These roles are over and above the fundamental objective of the entrepreneur which is to meet the needs of their clients and to avail goods and services that are required in the market. Entrepreneurs can only achieve their objective if they have the necessary technical know-how, skills, and abilities that are needed to enable them to compete fairly with other business ventures both within the Asian community and in the international market (Benny et al. 2015). It has been established that the skills of an entrepreneur are closely tied to economic theories and the mastery of science.

Economic theories and science are necessary for business activities though they are not devoid of moral constraints and legal limitations. In the dispensation of the ASEAN economic community, some entrepreneurs have been seen to conduct their business activities without any regard to legal and moral values that are required to be applied in the community (Chaponnière & Lautier, 2016). As a consequence, the concept of the law is disregarded causing there to be fraudulent competition that reduces the available business opportunities for firms and companies. The result is a dishonest competition that is uncontrollable as the market structure becomes unbalanced making the market to embody a monopolistic system.

Research has also shown that an open entry of products from foreign markets in large quantities will cripple the local industries. A free market will make local entrepreneurs unable to compete in price and quality with foreign firms which have already established themselves and have a larger capital base. The influx of traders at an increasing rate has also changed the role that small businesses play in a village setting (Chia & Plummer, 2015). This is because foreign players have built shopping malls that are more luxurious. The allure of shopping in a luxurious shopping mall has made the villagers to develop a disregard for the small shops.

This article intends to discuss the role of the competition law in the ASEAN community. It also aims to propose principles that can be adopted by the industrial society of South East Asian countries (Crosby, 2016). In discussing these problems, this paper will attempt to show how a healthy business environment can be created among the ASEAN countries (Chia & Plummer, 2015).

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METHODS

This study will use information from legal materials that are collected from both primary sources and secondary sources. We will also ensure that we incorporate data from current journal articles that show the latest data on this subject (Das, 2015). Legal normative research methods will also be applied as we attempt to analyze the competition themes and the legal provisions provided by the ASEAN economic community.

RESULTS

One of the key achievements that have been made following the economic integration, in ASEAN has been the creation of single market and production base. The region has become a single production and marketing, making it stronger than when different countries produce goods and market them on their own. With such a model of production and marketing, the region has performed better than many countries that have been working on their own, not being part of any regional block. The integration has also allowed the region to become part of the global community, with globalization being viewed as the interconnectedness of economies internationally. Working in partnership with others, the countries forming the regional bloc have been able to take part, more easily, in the global economy. Chia & Plummer (2015) suggest the view of ASEAN as part of a global community, as opposed to its being viewed in isolation.

Economic performance of the region has improved because of the contributions made by the members towards the united whole, ASEAN. In fact, Chia & Plummer (2015) suggest that there has been achievement of equitable economic growth and development in the members making up the bloc. To be able to gain the benefits of being part of the bloc, the peoples and businesses in the involved countries have had to engage in the process of integration. As a result, the players have taken part in trying to better themselves and their countries to avoid being left behind in the process of development. Such an environment has allowed for all the members to reap the economic benefits resulting from the integration. Evidently, countries in the region, including China and Japan are rapidly becoming economic powers globally.

Ing & Cadot (2016) cite the following as the important pillars of the economic integration in the region: competition, integration, dynamism and stability. Implementation of the four pillars by ASEAN has allowed not only better economic performance in the region, but also greater competitiveness. Increased competition is evident between the members of the community and also with the rest of the world. The region has had to put an emphasis on competitiveness of its products and services. The integrated body has allowed greater production as well as greater capability to export the products from the region to the rest of the world. Working as a whole has been evidence of success for the exporting abilities of the region as well as by individual countries. Following the model of the European Union, ASEAN is proving to be beneficial to the region and the members.

Research has revealed that while some benefits have already been achieved, more work is needed to completely realise the benefits of the AEC. According to many leaders in business like Tony Fernandes, AirAsia CEO and leaders in politics such as Lee Hsien Loong, Singapore PM, more work is pending if the region will gain the complete benefits including competitiveness. The leaders have stated that the work will proceed to later than 2015 to realize the vision. However, this should not be taken to mean that the region has not been achieving the desired benefits, thanks to the ASEAN (Ing & Cadot, 2016). The regional trading bloc is a greatly advanced block that has made huge steps towards realising its vision, and is likely to realise the remaining benefits within the next few years. One of the efforts that are underway is the reduction of trade tariffs, a factor that plays out in its becoming more competitive.

Evidently, most part of the work has been completed towards making ASEAN more competitive. ASEAN economies and businesses are reaping the great benefits of being part of the block. A report has been produced by the Association of Southeast Asian Nations "Thinking Globally, Prospering Regionally – ASEAN Economic Community 2015" (Ing & Cadot, 2016). The report has highlighted the current achievements and the work that remains to be done in making the community stronger economically. The trading bloc has created a market of more than 600 million consumers. It has an overall Gross Domestic Product (GDP) of about US\$3 trillion. It has major prospects in terms of continued economic growth and development, for the greater good of the region and the individual countries. The future of the region is even brighter.

DISCUSSION

Reconstruction of the rules that govern the law of competition is a positive step that will help to regulate business transactions that are conducted outside of the laws created for trade in the ASEAN community. The impact of reconstructing the competition rules will majorly be felt by the domestic markets (Das et al. 2015). The policies that govern competition will be critical in ensuring that there is a free flow of goods and services. These laws will only have a positive impact if they are adopted by all countries within the ASEAN community.

The competition policies and the law will also be necessary to ensure the integration of services and trading activities in one market. This will be majorly facilitated by the free movement of labor. This far, the ASEAN economic community has been able to establish a competitive economic region (Dosch, 2015). It is necessary that the ASEAN countries have an agreement as to the rules that will be used in ensuring a healthy competition. These rules will enable them to compete in the international market.

It is important for the current competition laws to be reconstructed for ASEAN countries to be able to adopt these standards universally. The reconstruction of these competition laws will ensure that the welfare of the residents of South East Asia is improved (Ing&Cadot, 2016). The efficiency of ASEAN member countries will also be increased to quicken economic development within the region. Reconstructing competition laws and regulations will also help to ensure that there is fair competition within the member countries of the ASEAN economic community (Dosch, 2015). This fair competition will guarantee a conducive business environment for the establishment of small-scale businesses, medium scale businesses and large scale enterprises to be successful. Restructuring of the laws is also an important step towards ensuring that unfair competition and monopolistic practices are curbed (Ing&Cadot, 2016).

Monopolistic competition is common among entrepreneurs who have large scale businesses. These policies are usually adopted to ensure that competitors are kept away from the market. Reconstructing competition laws will also ensure efficiency and effectiveness in conducting business activities in ASEAN countries (Jurje, f., & Lavenex, 2016). The tagline of the ASEAN community is clear that it is necessary for legislation to be formulated to ensure that the ASEAN economic community operates efficiently and effectively.

These laws are crucial in acting as a means for providing direction for the ASEAN community as it seeks to attain its objectives. Different officials of the ASEAN economic community have clearly stipulated that entrepreneurs within the establishment have to abide by the rule of law if they are to achieve any substantial economic gains from the community (Menon & Melendez, 2015). Competition law provides a legal framework which ensures that the rights and the obligations of all business parties are protected at all times.

Competition law also makes it possible for entrepreneurs to operate businesses with an ability to project the future. This enables the mumto design growth plans and budgets. As a consequence of the competitive law, entrepreneurs can gain legitimacy for their businesses (Mohan, 2015). The competition law also creates confidence in businesses making it possible for more entrepreneurs to enter the market. Confidence in the business framework is also as a result of the availability of the legal framework to provide solutions to business conflicts.

As such the competition law is perceived by economic stakeholders as a behavioral control tool which seeks to establish standard practices for entrepreneurs. This law also ensures that entrepreneurs who disregard the set standards are faced with punishment. The competition law also works as a tool that sets the environment for healthy competition. If the law is not implemented effectively, then the aspirations and the functions of the ASEAN economic community will not be achieved (Nguyen et al. 2016). The basic survival and continued success of the ASEAN economic community are based on a common arrangement among ASEAN countries which have shared commitments.

This agreement has been signed by the heads of government of the ASEAN member countries. This blueprint provides that all countries are required to play the role of practicing fair trade in an open and competitive manner within the ASEAN economic community (Ofreneo & Abyoto, 2015). The guiding principles of the ASEAN economic community are to ensure that there is a continued understanding of the commitments and the limitations of the freedoms enjoyed. This community always aspires to achieve its targets through the set vision of ASEAN 2020.

In the production and flow of goods within the community, there have been problems that have required legal solutions. Since the declarations of the ASEAN economic community do not provide solutions for disputes that occur in the ASEAN economic community, it is important that there be an established system of resolving the violation of the set laws and agreements (Pangestu, 2015). The agencies that are mandated to resolve disputes arising within the ASEAN economic community should be allowed to provide solutions which are binding and final. This will ensure that effectiveness and certainty becomes a hallmark of business transactions within the ASEAN community.

Such an agency will also guarantee that obligations are met and that the balance of rights is observed. To achieve an environment where healthy competition is possible within the ASEAN community, there must be a realization that entrepreneurs are synonymous with economic activities (Papademetriou et al. 2016). This will ensure that rules are enforceable within the community. This is especially necessary for an era where the ASEAN economic community is bent on creating an environment where goods and services move freely. It is required that competition among entrepreneurs becomes more open to ensure that unfair practices by entrepreneurs who aspire to gain supernormal profits are curbed. Several steps can be implemented to ensure that unfair competition is adequately controlled (Pangestu, 2015).

The principle of honesty as provided in regulation 95 of 1999 clearly enumerates the principles that must be observed to ensure fair competition between service providers (Pangestu, 2015). This law requires there to be a complete and a binding document that is recognizable by all parties involved. It also requires the admission of a lateral position between service providers and the users of these services.

Transparency in electoral processes in ASEAN countries are deemed necessary to ensure that the chances of fair competition commensurate the necessary provisions and capabilities. The principle of fair competition is required for the tender process to ensure that service users have access to reliable service providers. This ensures that jobs are generated over the set period. Principles of fair competition also set a business climate which supports the required development and growth of service providers. Article 23 and 22 of law number five in 1999 describes the principle of fair competition (Piris & Woon, 2015).

This regulation also explains the behavior that constitutes illegal acts by entrepreneurs. It states that entrepreneurs are prohibited from conspiring with other parties to determine the winner of a tender with a view of locking out other parties. This regulation states that the tendering process should always be transparent, the rule also prohibits entrepreneurs from conspiring with other individuals to receive private information on the business activities of their competitors (Secretariat, A. S. E. A. 2015). Acquisition of information that is not of public knowledge is considered to be a form of unfair competition. Principles of fair competition are deemed necessary to ensure that monopolies, collusion, inefficiency, and corruption are eliminated.

The adoption of the principles of fair competition is also needed to ensure that state losses are mitigated. The principle of transparency requires that information is available for it to be accessible by all service providers. The principle of transparency creates a fair ground for all service providers to compete in an auction process (Siraprasiri & na Thalang, 2016). The administrative requirements, evaluation of the results and the determination of the candidates who win is required to be transparent. By applying the principles of transparency, ASEAN countries can ensure that the auction process is socially reliable.

The principle of transparency also makes a provision for citizens to correct a sale if they observe that there are irregularities in the system. Law number 5 of 1999 prohibits monopolistic practices and an environment that propagates unfair competition. To ensure that this regulation is fully implemented, the law allows citizens to supervise implementation (Somjai & Moussa, 2016). This law also allows citizens who are aware of entrepreneurs who have violated this law to report them to a created Commission with details of the violation. The principle of fair competition is established to ensure that all prospective service providers are given appropriate treatment.

This allows them to enjoy all the advantages and access to information that is available to all parties. This principle emphasizes egalitarianism and non-discrimination in the treatment of service providers. The principle of equity ensures that all sides within the ASEAN community are accorded the same liberties (Verhezen et al. 2016). The principles of proportionality competition in ASEAN communities allows entrepreneurs to be given access to the international market. This is because this policy recognizes that competition is the essence of businessmen and that it is a prerequisite for economic development.

The principle of proportionality competition allows competition among businesspeople to be more open. This is because this policy recognizes that competition is vital to ensure efficiency and market transparency. Research has shown that free competition ensures efficiency in the activities of businesspeople to make sure that nonefficient businesses do not continue to operate (Yean & Das, 2015). Competition is good when it is moderated since it allows the firms which are most efficient to have access to the market and the available resources. Unregulated competition is harmful to small scale and medium scale businesspeople.

Service providers and micro enterprises may also be harmed if large scale businesses are allowed to set market prices. It is the requirement of fair competition to allow market participants to have an equal role in determining the actions taken in the market. The principles of balance and proportionality are inseparable with competition (Yoo & Kim, 2015). This is because businesspeople use competition as a means of developing their businesses and furthering their interests. By some descriptions and principles, it has been seen that laws that relate to fair competition do not show positive results in the dimension of ensuring harmonious coexistence among businesspeople.

It is common practice among entrepreneurs to constantly conspire with one another to manipulate the prices and the flow of goods and services in the market. As a result, this collusion creates a toxic environment which threatens the existence of micro businesses and small business operations. To create a business climate which is fair and competitive, there should be a thorough research on the existing laws (Pangestu, 2015). The ASEAN economic community comprises of the ten countries of southeastern Asia. Implementation of these regulations that allow for fair trade practices will ensure that this region continues to evolve as one of the most dynamic economic zones. The ASEAN plays a significant role in ensuring that the trade and investment activities within the economic zone are liberalized.

Fair competition is critical in the process of liberalization since these countries are expected to create a conducive climate for trade and investment. Because most of the ASEAN communities have deregulated and liberalized economies, it is necessary for their economies to adopt practices and regulations that promote fair

competition (Yoo & Kim, 2015). This will be beneficial in ensuring that cross-border cooperation and openness increases over time. Bilateral and regional trade pacts that continue to be signed in the ASEAN economic community necessitate the need for a competition law. Competition law has been perceived by business analysts as an effective way to reduce regulatory and administrative barriers. This is necessary to ensure competitiveness in ASEAN economies to promote economic growth.

CONCLUSION

The mandate of the ASEAN economic community is to ensure fair competition among all the stakeholders and the member countries. This fair competition is considered necessary to help the Association of South East Asian nations to achieve their target of empowering them economically to enable them to compete with western countries which are advanced economically (Dosch, 2015). It is, therefore, necessary to establish laws which ensure fair competition among all the entrepreneurs in ASEAN countries.

To make sure that fair competition is achieved in the ASEAN economic community, it is important for policymakers to consider the incorporation of the principles of competition. Some of the required principles of competition include the principle of transparency, the principle of proportionality competition law and the principle of honesty. The application of all these policies jointly will ensure that the ASEAN economic community can establish laws and regulations that mitigate unfair competition within the region (Ing & Cadot, 2016). Establishment of a legal framework and agencies which are tasked with the responsibility of implementing these laws will ensure that a uniform standard applies to all member states of the ASEAN economic community.

Suggestions

- It is imperative that all the members of the ASEAN economic community create a general agency that will be charged with enforcing the laws and regulations that are developed by the ASEAN legal board.
- It is also necessary for member countries of the ASEAN economic community to develop a common legal framework that will act as a guiding principle for the resolution of disputes that are common among entrepreneurs of the ASEAN economic community.
- It is also necessary that entrepreneurs be included in the formulation of these laws to ensure that the laws created do not lead to a strained relationship between entrepreneurs after dispute resolution.

CONFLICT OF INTEREST
There is no conflict of interest.

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