

Case Study: Building ASEAN Investigative Capacities under the Competition Law Implementation Program (CLIP)

AANZFTA Support Unit

June 2017



Participants from the Komisi Pengawas Persaingan Usaha (KPPU) – Indonesia and the Philippine Competition Commission (PCC) during the CLIP Investigation Module 2 workshop on Evidence and Interviewing Skills held in Manila, Philippines in May 2017 (Photo: PCC)

The ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) aims to facilitate, promote, and enhance trade and investment opportunities among its twelve Parties. Promotion and enforcement of competition law and policy, and its contributions to establishing a level playing field for businesses, play critical roles in the success of this AANZFTA objective.

The AANZFTA Economic Cooperation Support Program (AECSP) was established in 2010 to assist Parties in operationalising AANZFTA and in maximizing the benefits they receive from the AANZFTA. Since 2014, the AECSP has supported a multi-year Competition Law Implementation Program (CLIP) to strengthen the region's enforcement of competition law and policy.

Benefits of Competition

Competition fosters more dynamic and innovative economies by promoting business efficiency and dynamism.

New investments, including those from micro, small and medium enterprises, are encouraged in an environment that upholds open and fair competition where firms are encouraged to invest in continuous innovation to gain, grow or maintain their respective market shares.

Correspondingly, when firms are free to compete fairly and the process of competition protected, consumers benefit by receiving ore, cheaper, and higher quality choices in goods and services.

Competition, therefore, impacts how gains from economic growth are distributed and felt more broadly by the general public. Anti-competitive practices, by their very nature, limit economic gains to a small number of colluding parties.

Role of Competition Policy

ASEAN generally regards competition policy as “those governmental measures that directly affect the behaviour of enterprises and the structure of industry and market” (ASEAN, 2010)¹. Competition policy thus covers:

1. **A set of policies** that promote competition in local and national markets, for example policies to eliminate restrictive trade practices, favour market entry and exit, reduce unnecessary governmental interventions and put greater reliance on market forces; and



The ASEAN Experts Group on Competition (AEGC) was set up in 2007 as an official ASEAN body with members comprising senior representatives of ASEAN Member States' competition authorities/bodies. The AEGC oversees and implements the ACAP 2025 including through cooperation with ASEAN dialogue and development partners such as multi-year cooperation programs on competition under the AANZFTA Economic Cooperation Support Program (AECSP).

¹Source: ASEAN Regional Guidelines on Competition Policy, 2010.

2. A **competition law** that comprises specific legislation and regulations aimed at preventing anti-competitive agreements, abuse of dominance and anti-competitive mergers.

ASEAN Priorities on Competition Policy and Law

The ASEAN Competition Action Plan (ACAP) 2025 takes the relevant strategic measures under the ASEAN Economic Community Blueprint 2025 and details the strategic goals, initiatives, and outcomes ASEAN is pursuing on competition policy and law from 2016 to 2025.

The five strategic goals of ACAP 2025 are:

1. Effective competition regimes are established in all ASEAN Member States;
2. The capacities of competition-related agencies in ASEAN Member States are strengthened to effectively implement and enforce national competition policy and law;

The AANZFTA Economic Cooperation Support Program (AECSP) was established in 2010 following the entry into force of the AANZFTA. The AECSP is the main vehicle enabling the operationalisation and implementation of the AANZFTA through the Economic Cooperation Work Program (ECWP) and the AANZFTA Support Unit (ASU) Work Program.

The ECWP facilitates implementation of the AANZFTA across the key areas of rules of origin and other tariff matters, sanitary and phytosanitary measures, standards, technical regulations and conformity assessment procedures, customs, services, investment, intellectual property, and competition policy.

CLIP, over its two phases from 2014 to 2018, is fully supported by the AECSP under the Competition component of the ECWP.

3. Regional cooperation arrangements on competition policy and law are in place to effectively deal with cross-border commercial transaction;
4. Fostering a competition-aware ASEAN region; and
5. Moving towards greater harmonisation of competition policy and law in ASEAN by developing a regional strategy on convergence.

AANZFTA Cooperation on Competition Policy and Law

AANZFTA reinforces the ACAP 2025 commitment of ASEAN Member States to ensure a level playing field and to foster a culture of fair business competition for enhanced regional economic performance.

Chapter 14 of the AANZFTA is dedicated to Competition and underscores the importance of cooperation, among the 12 Parties, in the promotion of competition, economic efficiency, consumer welfare, and the curtailment of anti-competitive practices.

In 2014, four years after the AANZFTA entered into force, a multi-year CLIP program was designed and approved for support under the AECSP. The total project support from AECSP, covering two phases of CLIP from 2014 to 2018, is AUD5.62 million.

CLIP is led by the Australian Competition and Consumer Commission (ACCC) in partnership with the New Zealand Commerce Commission (NZCC) and in close consultation and coordination with the AANZFTA Competition Committee and the ASEAN Secretariat.

Cooperation on competition under the AANZFTA recognises the differences in capacities among ASEAN Member States, Australia, and New Zealand in the area of competition policy. Cooperation activities under AANZFTA include:

- a) exchange of experience in the promotion and enforcement of competition law and policy;
- b) exchange of publicly available information about competition law and policy;
- c) exchange of officials for training purposes;
- d) exchange of consultants and experts on competition law and policy;
- e) participation of officials as lecturers, consultants, or participants at training courses on competition law and policy;
- f) participation of officials in advocacy programs;
- g) other related activities following the introduction of a competition law in a Party; and
- h) any other form of technical cooperation as agreed upon by Parties.

CLIP, with the instrumental support of the Competition, Consumer Protection and Intellectual Property Rights Division (CCPID) and the AANZFTA Support Unit (ASU) of the ASEAN Secretariat, commenced implementation in September 2014 and has provided tailored and targeted capacity building assistance to support ASEAN Member States to effectively implement national competition law. CLIP implements a range of activities that include: practical skills development; institution building; effective advocacy; competition law strengthening; and expanded regional cooperation among competition agencies in the AANZFTA region.

Between September 2014 and June 2017, CLIP delivered more than 41 activities for 925 ASEAN officials (at least 48.5 per cent of whom are women).

Case Study: Building Investigation Skills in ASEAN Competition Agencies

The primary objective of this case study is to present emerging outcomes from one stream of CLIP's work program: investigations. Investigation is a core function of a competition regulator. Through investigations, competition agencies assess market conduct,

review priorities and gather evidence that may, ultimately, lead to enforcement action against offending parties. competition regulator. Through investigations, competition agencies assess market conduct, review priorities and gather evidence that may, ultimately, lead to enforcement action against offending parties.

The reliability and credibility of evidence gathered by investigators is critical if it is to be depended on, for example, by courts hearing competition cases. It demands robust processes and capabilities of competition agencies and their staff when gathering and handling evidence and investigating anti-competitive conduct.

Investigations capability development has been pursued by CLIP through a number of means, including secondment of ASEAN competition officials to the ACCC and NZCC, on-the-job coaching by ACCC experts placed at ASEAN competition authorities, as well as investigations workshops. Under the CLIP, this includes designing and delivering of three investigation skills training modules for ASEAN Member States: (i) cartel investigations; (ii) interview skills and evidence handling; and (iii) Investigations Masterclass. The modules aim to provide training and comparative sharing of experiences

between participating countries through a step-by-step progression of learning on topics critical to the investigation process. These modules were designed and produced with the assistance of ACCC experts.

Case Study Background and Methodology

While all ten ASEAN Member States participate in CLIP activities, findings from this study are based on a sample of the following four countries' competition agencies, namely:

- Komisi Pengawas Persaingan Usaha (KPPU) – Indonesia;
- Malaysia Competition Commission (MyCC),
- Philippine Competition Commission (PCC); and
- Viet Nam Competition Authority (VCA).

Lessons arising from this documentation of the change process could be used to reinforce good practices for countries who continue to implement their national competition laws and for the ACCC, as the implementer of CLIP and provider of capacity building support to countries. Feedback and suggestions shared by beneficiary countries are also summarised with the aim of maximising the impact of future CLIP activities.

Data from this case study report was gathered from one-on-one and group interviews conducted by the ASU at the sidelines of the CLIP Investigation Module 3 Masterclass workshop in Ho Chi Minh, Viet Nam from 19 to 21 June 2017.

Eighteen respondents participated in the interviews, comprising four competition officials each from the four sample ASEAN Member



Participants from the KPPU, MyCC, PCC, and VCA during the CLIP Module 3 Investigation Masterclass workshop held in Ho Chi Minh City, Vietnam from 19 to 21 June 2017. (Photo: ASU)



PCC participants discussing a hypothetical case during the CLIP Module 3 Investigations Masterclass workshop in June 2017 (Photo: ASU)

States as well as two ACCC officials experienced in delivering CLIP activities. All country respondents participated in previous CLIP Modules 1 and/or 2 investigation workshops and two respondents were previously seconded to the ACCC.

CLIP's General Approach to Enhancing Competition Law Enforcement

Enhancing the investigative capacity of regional competition authorities has been a primary focus of activities under CLIP to date. Investigation is ACCC's bread and butter and the institution is well-placed, within the AANZFTA region, to deliver capacity building on investigation.

CLIP activities that directly or indirectly build investigative capacity of countries include: a) CLIP modules of investigations training to detect anti-competitive behaviours and prioritise enforcement; b) CLIP 3-month placements of ACCC experts in-country; c) bilateral seminars and training; d) 8 ASEAN secondments to either ACCC, the New Zealand Ministry of Business, Innovation and Employment, or the NZCC; and e) regional workshops

"Aside from the "what", the ACCC focuses also on the "how". The ACCC strongly believes that our way is not necessarily the correct way for another country. We respect the differences between countries, cultures, and legal systems. This has always influenced how we approach the design and conduct of CLIP activities."

- Ms. Dominique Ogilvie,
Senior Program Manager, CLIP

on competition economics in practice and leniency programs.

CLIP Outcomes on Investigative Capacity

Respondents from the four countries have observed the following benefits arising from their and their colleagues' participation in CLIP activities:

1. Improved ability and confidence in conducting effective investigations. Trainees have applied lessons and new skills learned from participation in CLIP activities in their actual investigations. Examples include:

- Recalling the module 2 workshop session on how to **handle difficult witnesses**, a PCC investigator was able to effectively manage the information requests of a difficult and demanding complainant without compromising the preliminary assessment and the investigation process. Officers from MyCC added that real situations do not surprise them as much as they did before because they had previously discussed and experienced these during their CLIP training.

On handling a difficult complainant: "At first I was flustered, but eventually the training kicked in. If I did not attend the CLIP Module 2 training, I would have unnecessarily shared and spilled all the facts and details of the case to this difficult complainant."

– Mr. Christian de los Santos, Attorney IV,
Philippine Competition Commission

- KPPU and MyCC investigators are better at **structuring and presenting cases to their superiors** and to commissioners to inform case decisions. The CLIP module training provided officers with insights in prioritising information that could attract senior management's attention to support their investigations.
- Investigators across the four competition authorities are now spending more time in **structured and systematic planning prior to conducting their investigations**. PCC's enforcement office uses an interview plan for each interview based on learning from CLIP's module 2 training. KPPU and VCA investigators are also setting clearer timelines and objectives for each stage of the investigation, including plans in evidence gathering and how to present findings

in a report. This has resulted in efficiencies by reducing the time required to conduct investigations, an important benefit given that investigators tend to handle multiple cases.

- KPPU and MyCC investigators also **changed their interview approach** from being confrontational and formal to making witnesses more comfortable through a friendlier and less formal way of conducting interviews. As a result, witnesses are now more open in sharing information and investigators are getting more follow-up meetings with witnesses to gather additional data and verify evidence. PCC has also adopted this same interviewing approach.

2. Changing organisational processes on investigations based on best practices. Participation in various CLIP activities has led to positive changes in how competition agencies of ASEAN Member States are tackling investigations. These changes further sustain and institutionalise good investigative practices within organisations, making competition agencies more effective in performing their enforcement mandate. Examples include:

- Trainees, especially from MyCC and PCC, report **widespread use by their organisation, during their investigations, of manuals and templates on investigation plan, evidence matrix, and risk management** provided during CLIP module training

The series of CLIP module investigation workshops include:

- Module 1: Cartel Investigations which covered proactive and reactive cartel detection, case selection, developing a case theory, planning investigations, managing risk to an investigation, analysing evidence, and making recommendations to decision makers on enforcement response;
- Module 2: Evidence and Interviewing Skills which covered evidence gathering and handling, use of expert witnesses, and investigative interviewing; and
- Module 3: Strategic Investigation which covered powers, tools, and processes of competition authorities, market definition and assessing substitution, stakeholder engagement and communication to advance an investigation, post-investigation phase, how to build and lead investigation teams, and creating hypothetical scenarios for staff training.



KPPU and VCA investigators discuss and share their experiences in investigating anti-competitive business practices during the CLIP Module 3 Investigations Masterclass workshop held in Ho Chi Minh from 19 to 21 June 2017. (Photo: ASU)

workshops. This includes approaches such as developing a case theory, the PEACE (Planning and Preparation; Engage and Explain; Account; Closure; and Evaluation) model for non-accusatory interviewing, and theory of harm explaining why an agreement between firms may harm competition and affect consumers.

These templates, drawn from the ACCC, were revised and adapted by PCC and MyCC to fit their institutional contexts and are now being used as standard templates across their competition enforcement units. KPPU trainees have also been using these templates in their personal approaches to investigation, including in developing a case theory and in presenting their investigation plan.

- Learnings from the CLIP module training prompted MyCC to **adopt a mentor-mentee approach in case investigations** whereby a senior and a junior officer work together to handle an investigation. The senior officer, most likely someone who has attended CLIP training, will monitor, guide, and give useful tips to the junior officer on how to handle the investigation.
- MyCC is in the process of **standardising their investigation process** by refining some of its standard operating procedures based on ACCC advice. PCC is in a similar stage working closely with an ACCC expert placed within the commission for three months to, among other tasks, assist in revising its rules of procedures.

- A MyCC officer, previously seconded to the ACCC, initiated **changes in MyCC's internal evidence handling system** with the establishment of a dedicated evidence room based on the ACCC's filing system. This new system enables MyCC's enforcement division to track and record all the evidence that is taken in and out of the room. MyCC also appointed lead evidence officers to ensure the integrity of evidence handling. Prior to the above, officers assigned to investigate the case were solely responsible for evidence safekeeping. This improved case management system provides efficiency in storing and retrieving evidence, secures access to confidential evidence to authorised personnel, and ensures a proper handover of active cases to different officers.
- Short-term three-month placements of senior ACCC experts within ASEAN competition authorities are providing invaluable **demand-driven on-site training, policy advice, and practical mentoring to embed skills and progress country-led organisational reforms on competition enforcement.** An ACCC officer was placed within MyCC in 2016 and provided training on conducting a raid and advice on how to deal with different situations across case investigations. Similarly,

an ACCC officer was placed within PCC in May 2017 and has since been instrumental in contributing to PCC investigative capacity through mentoring and advice to the establishment of PCC policies and operational frameworks. To date, the ACCC expert has been working with her PCC colleagues on:

- Provision of training during the Module 2 investigation workshop held in Manila in May 2017;
- Preparing PCC officers in conducting road shows for public consultations in finalising the rules of regulations of the national competition law and in handling media;
- Assistance to the Technical Working Group drafting the rules and regulations for the PCC;
- Strategic advice and mentoring PCC investigators in three actual live investigations;
- Advice on finances and budget approval for office procurement;
- Advice to the PCC legal division on how to structure the office in order to deliver faster and more effective operational legal support to assist competition enforcement, including on how to be more responsive to the legal needs of all units at all levels.

- Assisted PCC in designing the institution's case and records management system in consideration of confidentiality issues and the applicable IT system that could work in the PCC context.

3. **Fostering closer intra-ASEAN and intra-AANZFTA learning and cooperation on competition policy and law enforcement.**

Respondents from the four countries provided overwhelming support to CLIP's approach in pairing of two ASEAN Member States during the module investigation training workshops. In pairing countries, CLIP considered factors such as the mix between more established and newer competition agencies and/or similarities in domestic reform processes. Trainees particularly valued the practical exchanges of experiences between countries. These provided countries with new perspectives on how they could respond to a similar problem or case. Such exchanges not only promote cross-country learning but also strengthen personal relationships among competition law enforcers. These relationships and networks could be a good basis for stronger institutional linkages and regional cooperation in the future.

Examples under this outcome include:

- VCA is **amending its competition law** incorporating dawn raid power or unannounced inspections to the law based on KPPU experience in addition to provisions to investigate anti-competitive

"It is good to know that we are not the only agency facing similar problems such as public perception and other pressures. When we get together in a CLIP activity, we can see how other ASEAN competition authorities have approached the issue and these have changed our opinions. For example, VCA took our leniency regime into consideration in amending their laws."

– Ms. Nurul Afiqh Binti Soohaimi,
Assistant Director, Malaysia Competition Commission

practices occurring outside Viet Nam's borders but impacting on Viet Nam's competition landscape based on MyCC practices.

- To bolster the quality of its investigations, MyCC has adopted *a more cautious approach in evidence gathering* by double-checking and verifying multiple sources and not taking evidence at its face value. This was based on learning from the VCA's sharing of its own experiences in careful validation of information.
- CLIP activities have resulted in *increasing bilateral engagements between competition agencies for technical exchanges or to investigate cross-border cases*. MyCC officers visited ACCC in Australia to discuss a similar case they were investigating and to get the ACCC's insights on how they approached the investigation process. Such exchanges assisted MyCC to avoid pitfalls and learn from the ACCC's experience.

At intra-ASEAN levels, KPPU and MyCC will, for the first time, commence a two-month exchange of its officers. MyCC requested from the KPPU experts on bid rigging given KPPU's extensive experience in this area. Meanwhile, PCC's legal and enforcement units have indicated plans to visit VCA to coordinate a cross-border investigation.

- KPPU investigators have learned practical interviewing techniques from their PCC counterparts owing to their joint participation in a CLIP module 2 workshop.



Participants at the CLIP in-country training for MyCC investigation staff held from 25 to 27 May 2016. (Photo: MyCC)

Factors of Success

Actions of trainees who participated in CLIP activities

- **Cascading of knowledge across the organisation.** Competition officials from MyCC and PCC who attend CLIP training workshops are required, upon their return to the workplace, to conduct brown bag sessions to cascade new learning more broadly to other staff. MyCC officers also had to submit a report of the training to the minister so that other agencies under the same ministry could benefit from new knowledge learned from the training.

PCC officers seconded to the ACCC are required to conduct in-house training to benefit other PCC staff. After the completion of their secondment, these officers are also required to submit a report containing recommendations on how to improve operational processes within the organisation. A PCC secondee drafted an investigations manual guideline with inputs received

from discussions with various ACCC units during her stay in Canberra. Similarly, VCA officers submit a report and share any materials obtained during the training. VCA senior investigators are also tapped to provide in-house training to new staff on the regulatory framework and on specifics of investigation. In 2015, a VCA officer was seconded to the NZCC for two months, joining the NZCC investigation team in conducting interviews to gain experience. CLIP also supported a train-the-trainer workshop for Viet Nam investigators in the same year which produced training materials that were then translated into Vietnamese and modified by the VCA to suit the VCA context. The workshop also included participation of National Police Academy officers who then cooperated with VCA to draft new training materials for an internal advanced course for investigators based on new learning from the workshop. VCA is exploring the possibility of conducting training of police officers on competition matters.



PCC Competition Enforcement Director Orlando Polinar speaking to KPPU and PCC participants at the CLIP Investigation Module 2 workshop held in Manila in May 2017. (Photo: PCC)

Actions of competition authorities participating in CLIP

- ***Getting the right people working as investigators and attending CLIP training.*** The four participating ASEAN Member States have sent senior officials who are heading investigations to CLIP module investigation workshops. In addition to investigators, CLIP also provided training to other units that provide operational support to investigations (e.g. statistics, economics, legal, mergers, etc.). The rich discussions, for instance, during the module 3 masterclass workshop were possible as all participants are investigators and attended at least one of the two previous modules. Getting the right people to attend CLIP workshops therefore plays a big role in the ability of participants to share relevant operational experiences during the practical sessions of the workshop. Without such sharing, participants lose the value of learning from each others' experience.

The VCA requires a minimum of 5 years work experience in areas such as law, economics, and finance for a person to be considered for an investigator position. In addition, they need to pass a certification course for investigators conducted by the National Police Academy. Lastly, to be a VCA investigator, one has to be officially appointed by the Minister of Trade and Industry.

- ***Openness of agencies to change and to adapt new practices learned through a CLIP activity.*** The outcomes described in the previous section were possible because beneficiary agencies have been open to and have supported changes based on best practices learned from their participation in CLIP. This openness of agencies is also partly due to the commitment of trainees to demonstrate the practical benefits of practices learned at CLIP activities. For instance, MyCC officers demonstrated and convinced their senior management that the use of the investigation templates from CLIP would lead to efficiencies and less time in conducting assessments.

Implementing approach under CLIP

- ***CLIP's programmatic approach to addressing capacity development.*** As opposed to one-off and ad hoc capacity building activities, the programmatic approach under CLIP is seen by beneficiaries to be more effective as it recognises the long-term nature of building individual and organisational capacities. Under a programmatic approach, various capacity building activities are systematically planned to achieve organisational outcomes and to maximise impact. These activities are varied, linked, and implemented across multiple years. For example, the investigators who took part in the module investigations workshops also participated in other CLIP bilateral in-country trainings and were the persons receiving mentoring and policy support from ACCC expert placements. This allows participants to build on base capacities and implement changes incrementally.
- ***Structured and logical training approach.*** The CLIP modules 1 to 3 investigation workshops present a step-wise approach to learning investigation from the basics to more advanced and strategic issues. This structure is highly valued across the four competition authorities and tracks the different stages of the investigation process.
- ***CLIP's non-prescriptive and relaxed training approach allows a conducive and non-judgemental learning environment.*** Trainees highly appreciate CLIP's training approach where, despite having very experienced experts, trainees were treated as equals,

learning was provided in a relaxed manner, and trainees were free to approach the trainers for advice even after the training activity. Countries also appreciated the small group size of the training workshops which promotes livelier discussions and interactions among participants.

Furthermore, CLIP's focus on soft skills meant that learning could be applied in various sectors and in varying local contexts. Beneficiaries also valued that technical advice from the ACCC and NZCC is always presented within what is possible and relevant in the local regulatory and institutional context – i.e. countries are free to choose what they think would be best for them based on the options and opinions presented by the experts from Australia and New Zealand. This approach has led to advice that is more valued and easily absorbed into a foreign environment. It also builds mutual respect and a two-way flow of learning and sharing of experiences between ACCC, NZCC, and their ASEAN Member State counterparts.

The above was contrasted with trainees' experience with other training providers who aim to obtain global consensus and standardisation on how things need to be done. While the later type of training is important, these do not consider varying levels of capacities of countries and the training topic may be too advanced for younger competition agencies still grappling with establishing their internal investigation systems.

- **Combining theory and practice.** The CLIP module investigation workshops rely heavily on the use of hypotheticals and country case studies during practical group work sessions. This attention to practice was highlighted by countries as a strong distinguishing feature of CLIP activities and has resulted in cross-country learning and cooperation (See Outcome 3 above).
- **Flexible, individualised, and tailored capacity development.** ACCC expert placements were triggered by request from ASEAN Member States eligible for AECSP funding support. The workplan for the ACCC expert is negotiated with the receiving competition agency and is based on the agency's priorities. Meanwhile, the content of CLIP's bilateral training is tailored to the laws and processes of the beneficiary institution. For instance, MyCC investigators were asked to comment and provide inputs to the workshop content prior to implementation. CLIP has also used feedback contained in participant evaluation forms in planning and designing the content of these activities (e.g. modules 2 and 3 investigation workshops, economics in competition workshop, and leniency workshop).

- **Peer-to-peer learning between competition regulators.** Through CLIP, competition authorities across the 12 AANZFTA parties are able to share investigation experience and engage in capacity development activities on a regulator-to-regulator basis. There is strong demand for such peer-to-peer learning. For instance, an ASEAN Member State asked to be mixed with another ASEAN Member State during practical group work sessions in a module investigation workshop to maximise cross-country learning. In addition to encouraging adoption of best practices, capacity building exchanges tend to be highly practical as they are based on actual experiences of ACCC, NZCC, and counterpart regulators from ASEAN Member States. More importantly, engagement in such peer-to-peer learning has important spillover effects in fostering closer and operational arrangements between and among competition agencies as described in the previous section on outcomes.

- **Using lessons learned to improve training effectiveness.** Prior to 2015, CLIP would run investigations training either bilaterally to one country or regionally where two trainees each from all 10 ASEAN Member States attended. Training content was too generalised in regional trainings given the varying levels of development and inherent differences across the 10 countries' culture and competition enforcement context. Practical application of new knowledge was therefore limited. Based on this lesson, CLIP adopted a two-country pairing approach in its module investigation workshops to enable better tailoring of training content as well as to build closer relationships between participating countries.

Challenges to Achieving and Sustaining Outcomes

- **Support from the judiciary and law enforcement sectors.** The success of a competition-related investigation also depends on factors that are external to a competition authority's investigation skills training. Success in prosecuting an anti-competition case, for example, may rely on the police and/or the court system, especially at district levels, having knowledge of competition cases and accepting evidence presented to them by the competition authority. Competition may also be a new area for these parties. Amendment of the competition law may be required for some competition authorities to provide enough teeth for the agency to effectively perform its mandate.

- **Inter-agency coordination.** Competition authorities frequently need to coordinate their investigation efforts with sectoral regulators, other government agencies (e.g. statistics, trade and industry, agriculture, local governments, corruption commission, etc.), the police force, and universities. Coordination with other government agencies requires knowledge of each others' legal mandates and, often, the presence of operational mechanisms to facilitate that cooperation. Inter-governmental agency coordination may be a challenge for newly established competition authorities still trying to establish their footing, not to mention the long process of building capacities and organisational confidence to perform their mandate.

- **Brain drain of highly skilled and trained investigators.** As with other capacity development initiatives, sustainability of the skills developed at the individual level is compromised by high turnover of staff in some competition authorities. Organisation-wide adoption of best practices on investigation, engaging all relevant staff in such processes where possible and implementing career development initiatives such as job rotation to maintain highly-trained and qualified investigators within competition authorities, could mitigate some of this risk.

- **Capacity to address emerging technologies.** Competition authorities operate in highly dynamic environments where solutions need to constantly adapt to new and emerging issues. The use of technology, new business models, and electronic commerce would, for instance, require new and more sophisticated methods in gathering electronic evidence to prove anti-competitive conduct. This further stresses the importance of continuous learning within competition agencies, including engagement and learning from the experience of other countries' competition authorities.

“As a woman, we are sometimes underestimated by the people we interview and investigate. When this happens, it is difficult to gather evidence.”
- A competition official shared with ASU during the interview

- **Gender issues when conducting investigations.** In some countries, women investigators have to deal with difficult witnesses who may discriminate against an investigator's gender and age. Women investigators will need different approaches from their

male counterparts in addressing these issues, according to their specific cultural contexts. CLIP could provide insights and facilitate a discussion on how women investigators across the region can handle gender discrimination while performing their investigative work.

Conclusion

CLIP has significantly contributed to operationalising the AANZFTA chapter on competition and to achieving the strategic goals of ASEAN in establishing a competitive, innovative, and dynamic ASEAN region with effective and enforceable competition policies and laws.

CLIP capacity building activities are highly valued by countries and have contributed to important outcomes in improving actual investigation capacities of trainees and in strengthening organizational processes within KPPU, MyCC, PCC, and VCA that help institutionalise best practices in investigation and operational support to investigation.

Moving forward, it is important to keep the momentum of reforms and ASEAN competition agencies' commitment in continuously improving their investigative capacities and in adapting to a dynamic and fluid environment where new technologies present new challenges to competition enforcement. The various factors contributing to CLIP's success should be maintained as these distinguish CLIP from other training providers and have contributed to concrete outcomes on increasing intra-ASEAN cooperation on competition.

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