

# The Implementation of Competition Chapter of the Indonesia-Japan Economic Partnership Agreement

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## Abstract

*The IJEPA is the first bilateral agreement that signed by the Indonesian government. Since its enactment in 2007, Indonesia has been eager to enhance the implementation of each sector of the agreement, including competition provision. This article intends to assess whether the implementation of the competition chapter of the IJEPA has met its objectives. As the research data shown on the implementation of the competition chapter of the IJEPA between the KPPU and JFTC leads into many positive cooperation activities. Accordingly, the fulfilment on the objectives of the competition chapter shows that most activities by the KPPU and the JFTC regarding all provisions of the competition chapter such as notification, exchange of information, technical cooperation, and transparency are in line with its objectives. Nevertheless, there were still limitations of its provisions and constraints on its implementation. The provisions of notification did not state in details and specify how to implement, such as (1) timing of notification; (2) in which phase of enforcement activities that notification should be given to the other party; (3) in what way to send the notification letter; (4) also in what kind of relevant area of enforcement activities it is necessary to have notification.*

*Key words: IJEPA, KPPU, competition provision*

## A. INTRODUCTION

The EPAs known as the Free Trade Agreements (hereinafter referred to as FTAs) with “new issues” came about because of “the Singapore Issues”.<sup>1</sup> The issues, which cover trade and investment, trade and competition policy, transparency in government procurement, and

trade facilitation, brought by developed countries, such as Japan and the EU, into WTO agenda. Unfortunately, during the Doha Round, these issues dramatically resulted in a damaging impasse.

Towards this disappointed situations, many developed countries created their own bilateral agreement. Embarked as the “new era” of the FTAs, the EPAs were established as the comprehensive form of trade bilateral agreement cover not only reduction or liberalization of trade in goods and services but also cover wider aspects such as promoting of investment, expanding of human exchanges, making rule in government procurement (rules of origin and

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<sup>1</sup> Maki Aoki, “New issues in FTAs: The case of Economic Partnership Agreements between Japan and ASEAN Countries,” *IDE APEC Study center*, Working Paper Series 03/04-No.8 (2004): 2, [http://www.ide.go.jp/English/Publish/Download/Apec/pdf/2003\\_08.pdf](http://www.ide.go.jp/English/Publish/Download/Apec/pdf/2003_08.pdf).

customs procedures), energy and mineral resources, competition, intellectual property rights and improvement of business activities.<sup>2</sup> This was also as one of strategies to provide alternative-solution towards the un-resolved Singapore Issues.

Therefore, since 2002, Japan also has been eagerly establishing EPAs with many countries, including Indonesia. For Indonesia, the IJEPA was its first bilateral agreement and was expected to promote mutually beneficial economic ties between the two countries. Since its enactment in 2007, Indonesia has been eager to enhance the implementation of each sector of the agreement. One of these areas is competition. The necessity of competition in this agreement was to manage and promote the fair trade in business activities with the objective of promoting and facilitating the enforcement of competition law and/or policy between two countries effectively and efficiently.<sup>3</sup>

The competition chapter contains nine provisions that should be implemented by the authorized party of each country. As for Japan is the Japan Fair Trade Commission (hereinafter referred to as JFTC) with its competition law, No. 54 of 1947, concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (hereinafter referred to as AMA) Law.<sup>4</sup> The authorized party

for Indonesia is the Commission for the Supervision of Business Competition (hereinafter referred to as KPPU) with its competition law, No. 5 of 1999, concerning Prohibition of Monopolistic Practices and Unfair Business Competition (hereinafter referred to as the Law No. 5).<sup>5</sup> Both parties should implement nine provisions, which are notification, information exchange, coordination of enforcement activities, technical cooperation, transparency, consultations, reviews, and confidentiality of information and communication in order to address the anti-competitive activities.<sup>6</sup>

Although, marked as Indonesia's first bilateral-economic-agreement, after its ratification in 2007, there have been few, even none, records of reviews or analyses of the implementation of the competition chapter of the IJEPA. Thus, this research conducted with main objective in order to determine whether the implementation of the competition chapter of the IJEPA has met its objectives. The other objective of this research is to proposing recommendations for improvement and future changes in order to strengthen the cooperation between two and fully meet its objectives and expectations.

## B. RESEARCH AND DATA COLLECTING METHOD

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<sup>2</sup> Yorizumi Watanabe, "Japan's FTA/EPA Policy and Perspectives for East Asian Economic Community," European Institute for Asian Studies, accessed June 18, 2012, <http://www.eias.org/luncheons/2006/japantrade050406/watanabe.pdf>.

<sup>3</sup> JFTC, "Outline Slide."

<sup>4</sup> Implementing Agreement Between The Gov-

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ernment of Japan and The Government of The Republic of Indonesia Pursuant to Article 13 of The Agreement Between Japan and The Republic of Indonesia for an Economic Partnership, JFTC, accessed December 5, 2012, [http://www.jftc.go.jp/en/international\\_relations/agreements/index.html](http://www.jftc.go.jp/en/international_relations/agreements/index.html).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

The methodology of this research is using qualitative data with descriptive analysis and case study approach. The primary data was collected through interviews with both the JFTC and KPPU officials and their official documents.

The nine provisions of the competition chapter of the IJEPa consists of: (1) Notification; (2) Exchange of Information; (3) Coordination of Enforcement Activities; (4) Technical Cooperation; (5) Transparency; (6) Consultations; (7) Review; (8) Confidentiality of Information; and (9) Communication are the variables to determine whether its implementation has met its objectives and main expectation.

The research was conducted in year of 2012, after five years from the IJEPa first ratification on August 2007 and the fieldwork was in Tokyo, Japan and Jakarta, Indonesia.

### C. LITERATURE REVIEW

One of the reasons on competition to be included in the EPA is when the WTO encountered 'controversial' Singapore issues and avoided to take real endeavour to resolve those issues, but the phenomenal conditions on the market globalization because of the free trade or liberalization is also worth to be state. Confirming the market globalization has effects on competition, Maher M. Dabbah expressed his statement that:

Globalization has led to an increase in the number of competition law issues that transcend national boundaries. The sequence in this regard is an easy one to follow. As markets and competition become increasingly international, so do anticompetitive situations. ... It can be seen therefore that glo-

balization has very significant implication for competition law in the global economy. Globalization has made it almost inevitable to change competition law and policy. In this regard, the internationalization of competition law can be seen as a response to market globalization. Indeed, globalization has had a direct impact in the field of competition...<sup>7</sup>

Another important reason is as a substitute for harmonization of competition laws.. Supporting this reason, Anestis S. Papadopoulos explains:

In the field of competition law enforcement cooperation has been used as an alternative for the harmonization of national competition law. Since no agreement on multilateral code on restrictive business practices could achieve in the last century, a number countries with active international trade and a developed competition law cooperated on enforcement of their competition laws in order to confront the consequences of the increasing number of restrictive business practices with an international effect.<sup>8</sup>

Furthermore, Papadopoulos also mentioned the initial case of the competition enforcement cooperation which happened in late 1950s, **where as a conflict** arose between the governments of Canada and the United States in a case

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<sup>7</sup> Maher M. Dabbah, *International and Comparative Competition Law*, (New York: Cambridge, 2010), 96-97.

<sup>8</sup> Anestis S. Papadopoulos, *The International Dimension of EU Competition Law and Policy*, (New York: Cambridge, 2010), 52.

relating to an US investigation of patent pool among Canadian radio and television makers designed to exclude US manufactured products from the Canadian market, the governments of the United States and Canadian entered into negotiations in order to coordinate their enforcement activities and avoid similar conflicts.<sup>9</sup> The outcome of this case and the subsequent negotiations was the Fulton-Rodgers understanding of 1959,<sup>10</sup> in which the two governments agreed to construct a channel of the communication regarding antitrust matters, through notification and consultation.<sup>11</sup>

Accordingly, Papadopoulos stated competition is included in bilateral agreement because its main role for competition law is to reduce and, if possible, to eliminate, practices carried out by private undertakings that may have an effect on trade and the function of competition as a tool to secure and strengthen market integration.<sup>12</sup>

In addition to the potentially fair-free trade-competition, Louis Michel expressed those countries with no competition rules pay more their imports and

for goods and services produces locally.<sup>13</sup> Thus, the cost of an effective competition policy is therefore negligible when set against the gains it would bring<sup>14</sup>. Michel also describes the necessity for competition to be included in EPAs based on the example of cartel cases in the ACP (African, Caribbean and Pacific) countries which cost hundreds of millions of dollars. In 1997, it is reckoned that the price-cartel-agreement between suppliers covered almost 9% of the poorest countries' imports and in 1999 cartels in heavy engineering sector overcharged Kenya and Zimbabwe by 270 million dollars.<sup>15</sup>

#### **D. THE IMPLEMENTATION OF THE COMPETITION CHAPTER OF THE IJEPA**

##### **1. The Progress of the Implementation of the Competition Chapter of the IJEPA**

Based on the provisions in Chapter 5 (competition) of the Implementing Agreement, there are at least nine articles which should be implemented by the KPPU and JFTC, as follows:

1. Article 12 of Notification
2. Article 13 of Exchange of Information
3. Article 14 of Coordination of Enforcement Activities

<sup>9</sup> Ibid.

<sup>10</sup> K. von Finckenstein, "International Antitrust Cooperation: Bilateralism or Multilateralism," (speech delivered in Vancouver, 31 May 2001, quoted in Anestis S. Papadopoulos, *International Dimension of EU Competition Law and Policy* (New York: Cambridge, 2010), 52.

<sup>11</sup> C. Stark, "Improving Bilateral Antitrust Cooperation," (speech delivered in Washington DC, 23 June 2000), quoted in Anestis S. Papadopoulos, *International Dimension of EU Competition Law and Policy* (New York: Cambridge, 2010), 53.

<sup>12</sup> Papadopoulos, *The International Dimension*, 103-104.

<sup>13</sup> Lois Michel, *Economic Partnership Agreement: Drivers of Development*, (Saarbrücken: Dicitus Publishing, 2010), 28.

<sup>14</sup> Ibid., 29.

<sup>15</sup> Lois Michel, *Economic Partnership Agreement: Drivers of Development*, (Saarbrücken: Dicitus Publishing, 2010), 29

4. Article 15 of Cooperation
5. Article 16 of Transparency
6. Article 17 of Consultations
7. Article 18 of Review
8. Article 19 of Confidentiality of Information
9. Article 20 of Communication.

### Implementation of Article 12 of Notification

At the early stage of its implementation in October 2009,<sup>16</sup> the JFTC sent a notification letter to the KPPU concerning the enforcement activities by the JFTC which involved violations by two Indonesian entrepreneurs against the Japan's AMA. It was the cartel case of Cathode Ray Tubes (CRTs) for television (See Table 3.2 below) which was also known as the first international price

cartel investigated by the JFTC.

In this case, the eleven entrepreneurs, listed in Table 1, formed an agreement to continuously hold meetings about once every month where they jointly set minimum target prices which each of them should abide by and should be applied to the selling prices for Japanese manufacturing and sales companies of CRT televisions on an approximately quarterly basis. Their activities substantially restrained competition in the field of sales of CRTs. Thus, the JFTC found they had engaged in activities that violated Article 3 (prohibition of unreasonable restraint of trade) of the AMA and issued a cease and desist order and surcharge payment orders.

In addition, the Natural Gas Project of Donggi-Senoro case on January 2011

**Table 1.** The Name of Entrepreneurs Involved in Violation in CRT Case and JFTC's Decisions on Cease and Desist also Surcharge Payment

No	Entrepreneurs	Location	Cease and Desist Order	Surcharge Payment Order (in Yen)
1	MT Picture Display Co., Ltd.	Japan	x	-
2	MT Picture Display (Malaysia) Sdn. Bhd	Malaysia	-	650,830,000
3	PT. MT Picture Display Indonesia	Indonesia	-	580,270,000
4	MT Picture Display (Thailand) Co., Ltd	Thailand	-	566,140,000
5	Samsung SDI Co., Ltd	Korea	x	-
6	Samsung SDI (Malaysia) BERHAD	Malaysia	-	1,373,620,000
7	LG Philips Displays Korea Co., Ltd	Korea	-	151,380,000
8	PT. LP Displays Indonesia	Indonesia	-	932,680,000
9	Chunghwa Picture Tubes Co., Ltd	China	-	-

<sup>16</sup> JFTC, "Outline Slide."



No	Entrepreneurs	Location	Cease and Desist Order	Surcharge Payment Order (in Yen)
10	Chunghwa Picture Tubes (Malaysia) Sdn. Bhd	Malaysia	-	-
11	Thai CRT Co., Ltd	Thailand	-	-
Total			2 Companies	4,254,920,000

*Source: The JFTC's outline slide on CRT Case, June 28, 2012*

is one of the bid-rigging cases conducted by the KPPU in which Japanese entrepreneur involved in violation.<sup>17</sup> In this case the KPPU issued a decision on the violation of Article 22<sup>18</sup> and Article 23<sup>19</sup> of the Law No. 5 against four entrepreneurs,<sup>20</sup> one of them was **Mitsubishi Co.** (Japanese entrepreneur), upon their conspiracy on the bid-rigging process for liquid natural gas (LNG) project of Donggi-Senoro in Central Sulawesi.

During its process, the KPPU found that Mitsubishi Co. colluded with PT. Pertamina, PT. Medco Energi International to set Mitsubishi Co. to win the bid, which violated **Article 22**. Furthermore, according to Article 23, the KPPU

found that Mitsubishi Co. colluded with PT. Pertamina, PT. Medco Energi International, and PT. Medco E&P Tomori International to obtain business information about PT. LNG International, a competitor of Mitsubishi Co.'s. The information was classified as a company secret by a confidentiality agreement. The said information was obtained through due diligence processed by PT. Pertamina on early document submissions from PT. LNG International for the Senoro Project (a project where Mitsubishi Co and PT. LNG International had intention to submit their joint cooperation). The joint cooperation was un-concluded, and the obtained information was then benefited by Mitsubishi Co. by using it as the background information in preparing project proposal for the Donggi-Senoro Project. Under this case, the KPPU decided that Mitsubishi Co. must pay fines according to its violation acts, as described on Table 2 below.

In regard to implementing Article 12 of notification of the competition chapter and its enforcement activities, the KPPU sent the notification letter to the JFTC concerning the violation of Mitsubishi Co. as one of Japanese entrepreneur, against the Law no. 5.

Furthermore, another bid rigging

<sup>17</sup> Decision on the Violation of Indonesian Competition Law in the Beauty Contest Process for Liquid Natural Gas Project (Decision No. 35/KPPU-1/2010), KPPU, accessed October 28, 2012, [http://www.kppu.go.id/docs/Putusan/putusan\\_35\\_2010\\_Donggi%20senoro.pdf](http://www.kppu.go.id/docs/Putusan/putusan_35_2010_Donggi%20senoro.pdf).

<sup>18</sup> Business actors shall be prohibited from entering into conspiracies with other parties in order to determine awardees of tenders which may result in unfair business competition.

<sup>19</sup> Business actors shall be prohibited from conspiring with other parties to obtain information regarding the business activities of their competitors classified as company secrets which may result in unfair business competition.

<sup>20</sup> PT. Pertamina, PT. Medco Energi Internasional, PT. Medco E&P Tomori Sulawesi, and Mitsubishi Co.

<sup>21</sup> 1 IDR = 0.00918519 JPY.

**Table 2.** The Entrepreneurs Involved in Violation of Donggi-Senoro Case and the KPPU's Decision on Fines

Entrepreneurs	Fines (in Rp)	Fines (in Yen) <sup>21</sup>
PT. Pertamina	10,000,000,000	91,851,898
PT. Medco Energi Internasional	5,000,000,000	45,926,152
PT. Medco E&P Tomori Sulawesi	1,000,000,000	9,185,230
Mitsubishi Co.	15,000,000,000	137,768,184
Total	31,000,000,000	284,729,008

*Source: KPPU's Decision on the Donggi-Senoro case, January 2011*

case of consulting services for Jakarta Mass Rapid Transit (MRT) System Project<sup>22</sup> also involving one of the Japanese entrepreneurs, namely Nippon Koei Ltd. In this case, Nippon Koei Ltd. was suspected of entering into collusion and conspiracy with the Directorate General of Railways of the Ministry of Transportation, as the committee of the bid, to win the bid. Nevertheless, the investigation conducted by the KPPU stopped and dismissed on the level of clarification because Nippon Koei Ltd. was not found to conduct conspiracy and collusion activities which may lead to unfair business competition. For enforcement of this case, the KPPU only issued a letter of recommendation and consideration, no. 874/K/XI/2009, concerning Tender of consulting services for Jakarta Mass Rapid Transit (MRT). In regard on implementing the notification provision of the competition chapter, informally, the KPPU sent notification letter on this case to the investigation bureau of the JFTC by email.

<sup>22</sup> Deswin Nur, Moh. Reza, Esti Wulandari, Ulfah Purba and Ina Purwati, interview by the author, KPPU Headquarter, August 7- August 10, 2012.

Those three notification cases described an early realization on implementing the notification provisions of the competition chapter of the IJEPA.

### **Implementation of Article 13 of Exchange of Information**

In order to implement this provision, the type of information to be shared is public information, and if related to the cases that are investigated by the KPPU or JFTC, the description of the information may include the name of company and its alleged activities, but the cases should be registered as preliminary examination or after the decision of each commission.<sup>23</sup> Outside of the cases, exchange of information by both commissions may be related to competition policy such as competition regulations, market study, market development and so forth.<sup>24</sup>

<sup>23</sup> KPPU, "Chapter III: The Follow-Up the Implementation Agreement of IJEPA on Competition (Indonesian Version)," December 19, 2007.

<sup>24</sup> Deswin Nur, interview by the author, KPPU Headquarter, August 7, 2012.

Furthermore, in regard to exchange information, either the KPPU or JFTC will give the information needed by each other in order to assist its enforcement. Nevertheless, requesting or exchanging information done by both commissions is usually by email.<sup>25</sup> The KPPU will send or request information directly to the Investigation Division of the JFTC and/or deliver it to the International Affairs Division. The same as the KPPU, the JFTC will also send or request the information directly to the foreign division of the KPPU. Heretofore, there were not any official letters delivered by both commissions.

#### **Implementation of Article 14 of Coordination of Enforcement Activities**

With regard to coordination of enforcement activities, the context of this article was unclear. It was not specifically described how the KPPU and JFTC coordinate with each other to take action in related matters and when it needs consideration to develop their coordination.

#### **Implementation of Article 15 of Technical Cooperation: The Highest Achievement on Technical Assistance Offered and Contributed by the JFTC**

Technical assistance offered and contributed by the JFTC is focused on human resources or capacity building and institutional development. Its purpose on promoting competition law and policy based on the respect for each recipient country's individual needs,<sup>26</sup> such as

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<sup>25</sup> Ibid.

<sup>26</sup> WTO's Working Group on the Interaction be-

training course, seminars, and dispatch competition policy experts or Resident Advisor.<sup>27</sup> It was realized in the project, namely Competition Policy Project Phase (II), with its goal to improve the effectiveness of enforcement of competition policy and to promote the fair competition in the market of Indonesia,<sup>28</sup> Which provided by the JFTC in cooperation with Japan International Cooperation Agency (hereinafter referred to as JICA).

#### **Dispatch Competition Policy Experts or Resident Advisor**

In regard to competition policy assistance, The JFTC has dispatched competition policy experts to the KPPU as a long-term resident advisor for in-depth technical assistance on the field of competition law and policy development.<sup>29</sup> The expert assigned in the KPPU office in purpose to assist the KPPU on its endeavour to enforce competition law and policy in a more strategic and effective way, with certain responsibility, such as:<sup>30</sup>

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tween Trade and Competition Policy, "Communication from Japan: The Experiences of Japan and APEC in Technical Assistance and Capacity Building," WT/WGTCP/W186 (June 19, 2002): 2, <http://www.jftc.go.jp/eacpf/05/experiences.pdf>.

<sup>27</sup> Technical assistance offered and contributed by the Japan Fair Trade Commission, JFTC (2004): 1, accessed December 3, 2012, <http://www.jftc.go.jp/eacpf/05/menu.2004.pdf>.

<sup>28</sup> KPPU, "Project Design Matrix: Project for Competition Policy (Phase II) Annex 1," (2009): 1.

<sup>29</sup> Technical assistance offered and contributed by the Japan Fair Trade Commission, JFTC.

<sup>30</sup> KPPU, "Outputs and Activities in Record of Discussions (RD)," 2010.



1. To give advice in order to promote the implementation of activities of the project.
2. To enhance the function of investigation of the KPPU.
3. To promote and disseminate the knowledge regarding the competition policy among governments, enterprises, consumers, academics, and judges.

#### **E. COMPETITION POLICY ASSISTANCE ON EQUIPMENT DEVELOPMENT**

The technical assistance also provides the necessary equipment for the KPPU in order to support the daily activities of competition law and policy enforcement. On April 21, 2012, the KPPU received equipment assistance installed in the KPPU main office in Jakarta, as describe on the following table:

#### **Capacity Building**

In terms of Competition Policy Project Phase II, the JFTC in cooperation with the JICA has provided capacity building development of the KPPU through some training. Its main goal is to develop the human resources of the KPPU to implement competition law. For Detailed its realizations are shown on the table 3 below.

#### **Implementation of 16 of Transparency**

In regard to implementation of transparency, KPPU's transparency activities covered information on its guidelines or regulations, such as regulation on merger and acquisitions, guideline on case handling procedure, regulation on conspiracy on bid rigging, and so

**Table 3.** Implementation of Technical Assistance by JFTC

Type	Number of times	Output	Venue
I. Short Term Training			
a. Advanced Level Training (Country focused training)	3 times	30 staffs	Japan
b. General Training (1 month)	1 times	1 staffs	Japan
c. Internship	1 times	1 staffs	Japan
d. In country Training (Seminar/ Workshop and Training)	12 times	KPPU staffs and other Indonesian stakeholders	Indonesia
e. Daily Training (provided by Resident Advisor)	Every month = 10 times	Internal KPPU (all staffs in central office of KPPU)	Indonesia
II. Long term training (graduate scholarship)	3 times	3 staffs	Japan

*Source: Compilation data from the KPPU and JFTC, 2009-2012*

**Table 4.** The Equipment List on the Competition Policy Project

No.	Name of Item	Marker/Model	Quantity	Total price
1	Desktop Computer	Lenovo Think Center M58	28 set	\$ 27,580
2	Printer	Canon Pixama iP100	28 pcs	\$ 6,720
3	Projector	Epson EB-1725	4 pcs	\$ 8,100
Total				\$ 42,400

*Source: KPPU's document on provision of equipment, April 21, 2012*

on. In similar to the KPPU, the JFTC also conducted transparency activities by informing the KPPU of the JFTC's guidelines and amendment of Japan's AMA. Furthermore, JFTC continually informs the KPPU of its development and enforcement activities.

#### **Implementation of Article 17 of Consultations**

This consultations procedure is proposed to replace the dispute settlement mechanism of Chapter 14 of the IJEPA<sup>31</sup> in order to resolve the disputes which arise while implementing the competition chapter. According to an interview of the JFTC, the disputes will not be resolved through disputes settlement mechanism, as stated in Chapter 14 of the IJEPA,<sup>32</sup> but instead should be resolved through consultations between

two agencies (the KPPU and JFTC). This aims for cooperative problem solving process.

In regard to the implementation of this article, there has not been any conflict arising between the KPPU and JFTC while implementing this chapter. Thus, a consultation to resolve the disputes has never been held before.

#### **Implementation of Article 18 of Review**

Since its ratification, it has not had any discussion on the review of Article 18. Therefore, reviewing on this chapter was never held before. Yet, it should be realized like other chapters in trade and liberalization.

#### **Implementation of Article 19 of Confidentiality of Information**

Exchange of confidential information is one of the most sensitive issues relating to enforcement cooperation in the field of competition law. According to Paragraphs 2 and 3 of Article 19 of confidentiality of information, both KPPU and JFTC "may limit the information it provides to the other Party when the other Party is unable to give the assurance ... with respect to the maintenance of confidentiality or the limitations of purposes

<sup>31</sup> Paragraph 1 Article 138 (Scope) says: "1. This Chapter shall apply with respect to the settlement of disputes between the Parties arising out of the interpretation and/or application of this Agreement."

<sup>32</sup> Paragraph 2, Article 138 (Scope) says: "2. Notwithstanding paragraph 1, this Chapter except Article 139 shall not apply to Articles 104 and 122, and Chapters 10 through 13," and Chapter 11 of IJEPA is Competition, thus, the dispute settlement will not apply to competition chapter.

for which the information will be used," except the publicly available information. Yet, if the confidential information "is needed for presentation in criminal proceedings carried out by a court or a judge" of either Japan or Indonesia, then each country "shall submit a request for such information ...through diplomatic channel or other channels established in accordance with the laws and regulations."

In regard to the implementation of confidentiality information, there were some information and data requested by KPPU, but could not be provided by JFTC because such requests concern on confidential information and those information were not requested for criminal proceedings process.<sup>33</sup>

### **Implementation of Article 20 of Communication**

According to Article 20, communication related to the any field of competition law and policy can be conducted directly between the KPPU and JFTC. Occasionally, under certain circumstances the communications will be conducted through diplomatic channels, but to accelerate the communication between two parties, the technical procedure of its implementation will be discussed and agreed by both the KPPU and JFTC.<sup>34</sup> Figure 1 below shows the KPPU's organizational structure with its disposition flow which is involved in implementing the competition chapter.

In addition, Figure 2 shows the JFTC

organization structure and their disposition flow which are involved in implementing the competition chapter.

### **Evaluation Review on the Implementation of the Competition Chapter of the IJEPa**

The implementation of the competition chapter of the IJEPa will be considered as successful if those provisions implemented by the JFTC and KPPU meet its main expectations and objectives.

### **F. ASSESSING THE IMPLEMENTATION OF THE COMPETITION CHAPTER OF THE IJEPa: FULFILLING THE OBJECTIVES AND ITS LIMITATION**

#### **Fulfilling the Objectives of Competition Chapter of the IJEPa**

As the research data shown on the implementation of the competition chapter of the IJEPa between the KPPU and JFTC leads into many positive cooperation activities. Accordingly, the fulfilment on the objectives of the competition chapter shows that most activities by the KPPU and the JFTC regarding all provisions of the competition chapter such as notification, exchange of information, technical cooperation, and transparency are in line with its objectives. Figure 4 below simply shows the fulfilment of objectives of the competition chapter.

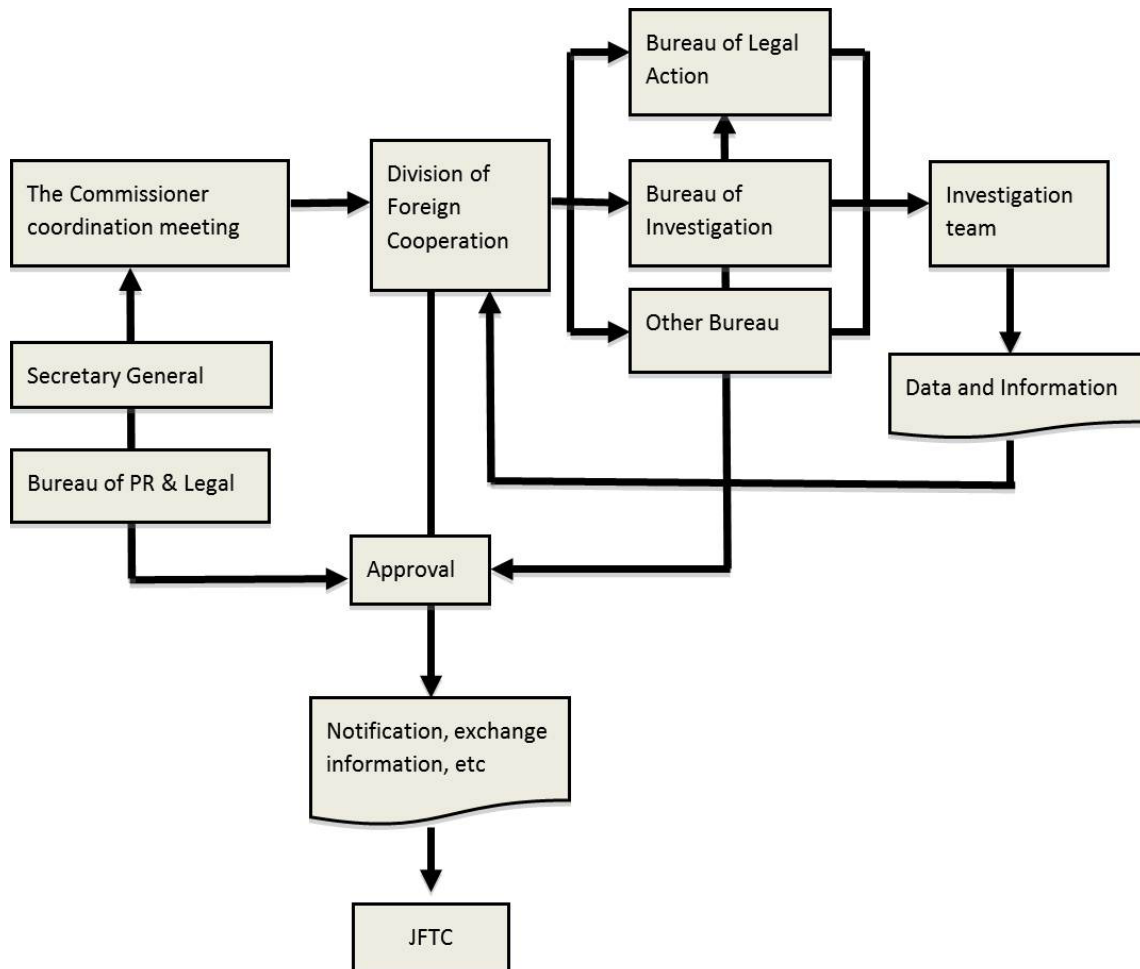
#### **Limitations of the Competition Chapter and Constraints in Its Implementation**

Although, almost all the provisions of the competition chapter fulfil its main expectation and objectives, there

<sup>33</sup> Deswin Nur, interview by the author, KPPU Headquarter, August 6, 2012.

<sup>34</sup> KPPU, "Chapter III: The Follow-Up."

**Figure 1.** The KPPU's Organization Structure and Disposition Flow on the Implementation of the Competition Chapter



*Source: Author, 2012*

are some findings on the limitations in regard with provisions of the competition chapter, which may be lead to constraints of implementation activities conducted by the KPPU and JFTC in order to strengthen and enhance effective competition cooperation under the framework of the IJEP. Those are discussed below.

### 1. Notification

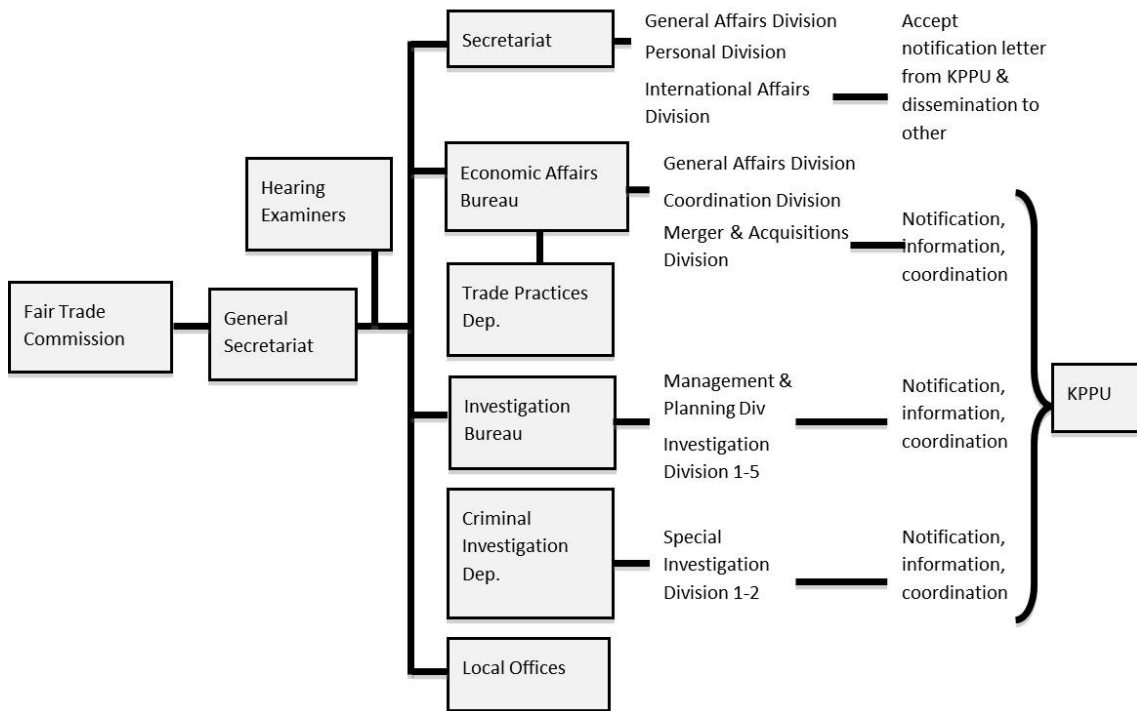
There are not sufficiently detailed

explanations regarding technical implementation of notification, such as:

#### a. Timing of Notification

According to an interview with the KPPU, timing when the notification letter should be delivered or deciding the time requirement to issue a notification letter to the other party is still ambiguous and vague. These ambiguities and vagueness may become one of constraints for both the KPPU and JFTC in implementation of

**Figure 2.** The JFTC's Organization Structure and Disposition flow on the Implementation of the Competition Chapter



Source: The JFTC's outline slide on organization chart of the JFTC, June 28, 2012

the notification provision of the competition chapter. Refer to Rill explanation that the notification set forth not only obligation for each party to notify the other party of competition activities affecting the interest of other party, but also described in detail the circumstances and timing when notification should take place.<sup>35</sup> Furthermore, Rill states that the detailed timing provisions are designed to facilitate timely interface between the agencies.

b. The phase of enforcement activities

when notification should be given to other party

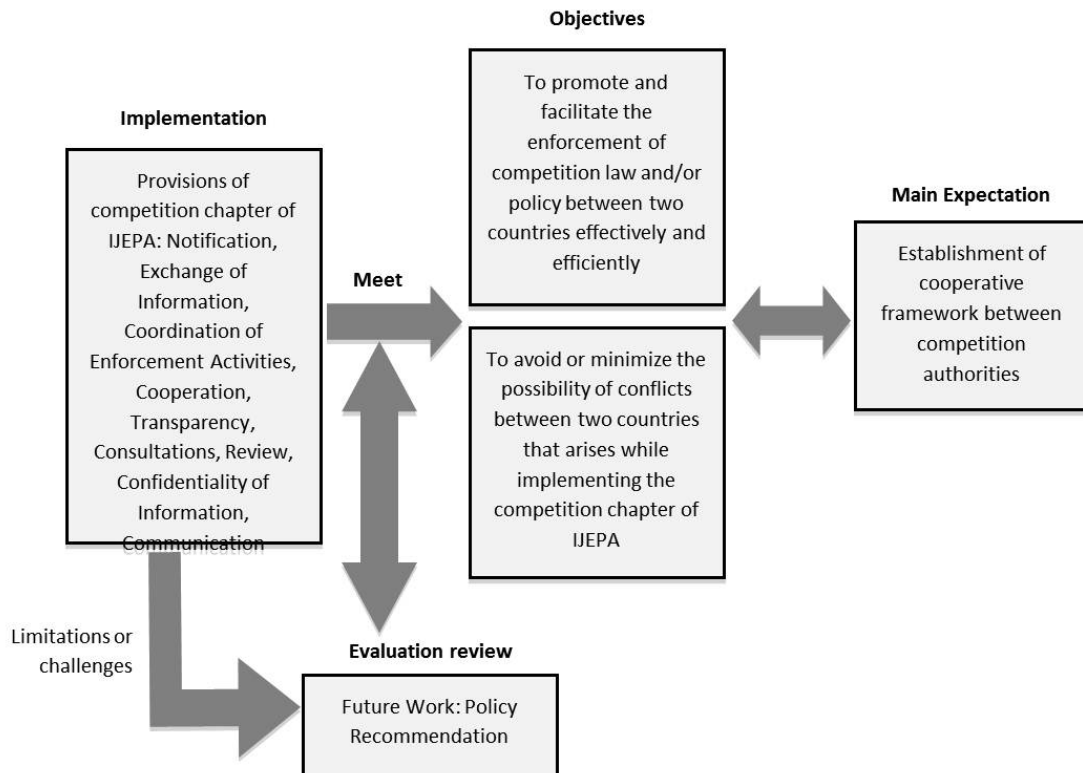
Regarding the notification provision in the competition chapter of the IJEP, it only states that each party should notify the competition authority of the other party of certain enforcement activities which may affect the important interests of the other party. Notwithstanding, limitation appears here because it does not clearly state in which phase of enforcement activities notification should be given. Compare to the Competition Chapter of Japan-Switzerland EPA that clearly stated on the Paragraph 4 (a),<sup>36</sup>

<sup>35</sup> James F. Rill, "The U.S./EC Antitrust Cooperation Agreement: Genesis, Innovation, and Early Implementation," *CPI Antitrust Chronicle*, no. 1 (2011): 3, <https://www.competitionpolicyinternational.com/>

<sup>36</sup> Where notification is required pursuant to paragraph 1 with respect to enforcement activities



**Figure 3.** The Connectivity of the Implementation of the Competition Chapter with its Objectives and Main Expectation and the Evaluation Review of its Implementation



*Source: Author compilation, 2012*

Article 10 of Notification of the Competition Chapter of Japan-Switzerland EPA, the JFTC's possible actions on notification that should be given to the competition authority of Switzerland, are explained as follows:<sup>37</sup>

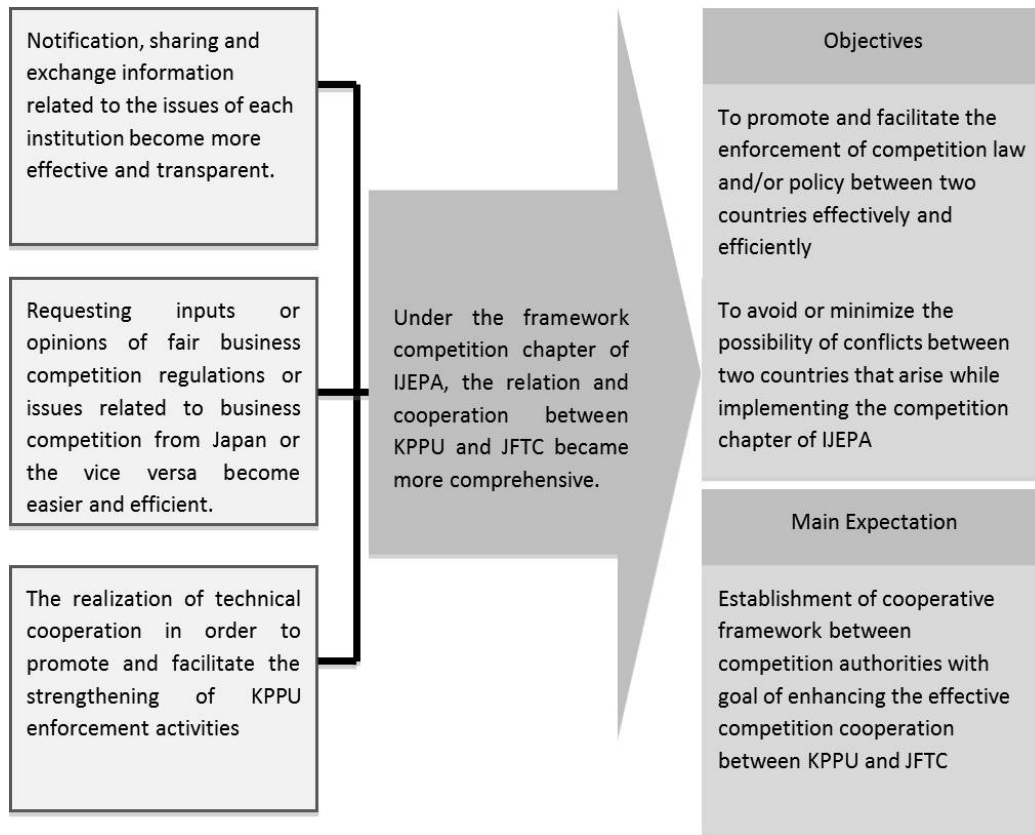
- (i) the filing of a criminal accusation;
- (ii) the filing of a complaint seeking an urgent injunction
- (iii) the issuance of the decision to initiate a hearing
- (iv) the issuance of a cease and desist order; and
- (v) the issuance of a surcharge payment order when no prior or simultane-

ties other than those related to mergers or acquisitions, the notification shall be given... and Paragraph 1 says The competition authority of each Party shall notify the competition authority of the other Party of the enforcement activities of its Party that it considers may affect the important interests of the Country of the other Party.

<sup>37</sup> Implementing Agreement Between The Government of Japan and The Swiss Federal Council

Pursuant to Article 10 of The Agreement on Free Trade and Economic Partnership Between Japan and The Swiss Confederation, JFTC, accessed December 8, 2009, [http://www.jftc.go.jp/en/international\\_relations/agreements/index.html](http://www.jftc.go.jp/en/international_relations/agreements/index.html).

**Figure 4.** Fulfilling of the Objectives of the Competition Chapter



*Source: Author, 2012*

ous cease and desist order with respect to the payer has been issued;

Accordingly, the unclear and undetailed requirement actions in the notification provision of the competition chapter of the IJEPA may become one of the constraints for both the KPPU and JFTC in its implementation.

c. The description on which way the notification letter should be delivered

In the actions of delivering notification letter, the JFTC sent the notification letter through diplomatic way, Indonesian embassy. On the other hand, the

KPPU sent it directly to the Investigation Division of the JFTC. This dissimilarity between the KPPU and JFTC due to unspecified technical procedures can also become one of the constraints to the implementation of this provision.

d. Relevant interested areas of enforcement activities that are necessary to have notification.

Admittedly, the notification provision states that each party shall give notification regarding its enforcement activities “that it considers may affect the important interests” of the other party. However, it is still a vague statement. Thus, one must question is in which area

**Table 5.** KPPU's Merger Cases on the Merger Notification and Merger Consultation

Merger Notification	Merger Consultation
<p>3 (three) cases:</p> <ol style="list-style-type: none"> <li>1. On March 2<sup>nd</sup>, 2011. Mitsubishi Co. merger with Tomori E&amp;P Limited</li> <li>2. Toshiba Corporation merger with PT Envitech Perkasa on May 19, 2011</li> <li>3. Mitsui Sumitomo Insurance Co. Ltd merger with PT Asuransi Jiwa Sinarmas on July 20, 2011.</li> </ol>	<p>1 (one) case:</p> <p>On September 13, 2011, Komatsu Undercarriage made consultation with KPPU on its proposed acquisition of PT Komatsu Forging Indonesia.</p>

*Source: Lili Rosmiati, interview by the author, KPPU Headquarter, August 10, 2012 and compilation data on the notification list of merger and acquisition, accessed October 28, 2012, <http://www.kppu.go.id/id/merger/daftar-notifikasi/publikasi-pemberitahuan/pemberitahuan-merger-2011/>.*

of important interest each party should notify about.

In fieldwork, the author found that there were four of KPPU merger cases consisting of three cases of merger notifications and one case of merger consultation which has not been notified to the JFTC,<sup>38</sup> all of which will be shown in Table 5.

Thus, the notification provision of the competition chapter of the IJEPa, which does not describe details of relevant areas like mergers and acquisitions, become limitation on both endeavour activities of notification implementation. Detailed descriptions on the notification activities, may lead to the successful implementation. They also become necessary since notification is one of important provisions of the competition

chapter of the IJEPa, besides exchange information and technical assistance, to be implemented by both the KPPU and JFTC.<sup>39</sup>

### 2. Coordination of Enforcement Activities

In provision of coordination of enforcement activities, the context of coordination activities was not described in details. One question arises concerning this provision implementation: in which enforcement activities both the KPPU and JFTC should coordinate? The unclear description under the coordination of enforcement activities also may lead to the constraints of the competition chapter implementation.

### 3. Consultations

The provision of consultations also

<sup>38</sup> Lili Rosmiati, interview by the author, KPPU Headquarter, August 10, 2012.

<sup>39</sup> See Section 2.4. Provisions of Competition Chapter of the IJEPa, p. 17 of this paper.

vaguely talks about how framework in consultation actions should be implemented by the KPPU and the JFTC. This provision should include the description of several real-actions, if there are incompatible functions of the competition chapter. It may be necessary to provide a detailed description since the competition chapter was purposed to replace dispute settlement by consultation. Thus, this provision also has its limitation and may lead to constraint of the competition chapter implementation.

#### 4. Review

The provision of review also has limitations. This provision only describes that in review, “the Parties may consider enhancing the cooperation pursuant to this Chapter such as notification, exchange of information, coordination of enforcement activities and technical cooperation,”<sup>40</sup> but it not specifically states neither the time to hold review nor the mechanism to review those provisions. Thus, both the KPPU and the JFTC have not performed a review on the implementation activities of the competition chapter of IJEPa.

### **G. POLICY RECOMMENDATION: THE SHORT-TERM REFORM AND LONG-TERM REFORM**

#### **The Short-Term Reform: Technical Guideline for Implementing the Competition Chapter of the IJEPa**

The technical guideline is recommended as the first step of actions for both the KPPU and the JFTC for future changes in order to meet the objectives

of the competition chapter. This guideline may also work as “a realistic approach” to corroborate implementation activities from ambiguity and work as a way to resolve some limitations of provisions of the competition chapter and the constraints of its implementation. However, in order to realize it and make such technical guideline, further discussion and review by both the KPPU and the JFTC is necessary. The following descriptions suggest possible content of the technical guidelines for implementing the competition chapter.

#### 1. Review: Continually conduct review

It is necessary to describe the **detailed activities in the technical guideline**, for example, to hold review once in five years including the description of the mechanism activities on how to review all provisions of the competition chapter of the IJEPa. Nevertheless, this review should be based on the consensus of both parties and it is necessary to further discussion.

#### 2. Coordination of Enforcement Activities: Set Regular Meeting

In regard to the coordination of enforcement activities; technical guidelines should describe the coordination related to both the KPPU and JFTC’s mutual interests. In order to coordinate, it may be necessary to set a regular meeting or annual meeting of both parties, for example meeting twice a year to discuss future frameworks of coordination in order to establish comprehensive cooperation on competition enforcement activities. Also, within this meeting both parties can share experiences and consult each other on specific issues related to competition law and policy.

#### 3. Consultations: Establish Joint Committee

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<sup>40</sup> Paragraph 2, Article 18 (Review).

As the replacement of dispute settlements, detailed activities with regard to consultation also become a consideration to be included on the technical guideline to eliminate the vagueness of its activities. This is because consultations should be the action taken if there are incompatibles actions conducted by both the KPPU and the JFTC with the objectives of this chapter.

Furthermore, for realizing consultation actions it will be necessary to establish the Joint Committee as the media to request consultations. This committee will assign a representative to resolve disputes between the KPPU and the JFTC that arise when implementing the competition chapter of IJEPA.

#### 4. Notification

The contents of the technical guideline on notification may refer to Subsection 4.1.2.1, which includes description on the specific implementation activities such as:

- a. Timing of notification; it may specifically state the due date to send the notification letter; for example, no later than two weeks after the commissioners' final decision
- b. The content of the notification letter; within the notification letter each party should give detailed descriptions of enforcement activities such as date and time, businesses who were involved, which article is imposed, the decision and details of the scene of enforcement and so forth.
- c. Relevant interested areas of enforcement activities that are necessary to have notification; one of the limitations on the notification provision of IJEPA compared to others competition chapters is the detailed relevant area on the mergers and acquisitions. This is should be taken into consideration because the mergers and acquisitions may affect the important interests of each party. Thus, it will be necessary to have descriptions of the technical guideline including the notification actions on mergers and acquisitions.
- d. The phase of enforcement activities when notification should be given to other party; it is also necessary to include in the guideline detailed description on which stage of enforcement activities notification should be informed to other party. For example, one party should have to notify to other party in one of these phases; clarification, the preliminary examination, the advanced examination or after the final decision; and continually send notification if enforcement activities enter into the next phase.
- e. The description on in what kind of way the notification letter should be delivered also should also be included in technical guideline. It is described above that there was dissimilarity between the KPPU and JFTC in the way they sent the notification letter; the JFTC sent it through diplomatic channel while the KPPU sent the notification directly to the JFTC. Thus, in the guideline, it should clearly discuss this procedure. Nevertheless, this suggestion should be discussed first by both parties,



under what circumstances and activities they can conduct informal notification as initial step with respect of each other's confidentiality information.

As recommendation for improvement and future changes, the content of technical guideline not only limit for provisions stated above but also for other provisions such as exchange of information, transparency, technical cooperation, confidentiality of information and communications. In such overarching descriptions, the technical guideline may enhance and strengthen the competition authority's position, especially the KPPU, in other bilateral agreements concerning on competition. Furthermore, the goal of this recommendation is to provide a comprehensive guideline, not only applicable for the IJEPa competition chapter but also other EPAs.

### **The Long-Term Reform: Amendment**

Proposed to long-term reform, possible area to review for future amendment of the competition chapter of IJEPa is comity. This is because the competition chapter of the IJEPa has not included the negative and positive comity.

Refer to Papadopoulos, negative comity is **primarily aimed at the avoidance** of conflicts between cooperating parties.<sup>41</sup> It is a concept under which extraterritorial jurisdiction are often grounded in consideration of polite-

ness<sup>42</sup> or good will between sovereigns<sup>43</sup> and a "willingness to grant a privilege, not as matter of right, but out of deference and good will"<sup>44</sup> in order to avoid the conflicts relating to jurisdiction. In regard to the positive comity, it could be characterised as the most revolutionary form for cooperation<sup>45</sup> because one party to an agreement can request the other party to take enforcement action.

Accordingly, the characteristic provision approach on positive and negative comity will be worth taking into consideration and necessary to review for future recommendation. That is because both positive and negative comity may meet the objectives of the competition chapter, which is described in Figure 5.

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<sup>42</sup> Black's Law Dictionary 267 (6th ed. 1990). The U.S. Supreme Court has defined comity as "the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation," and *Hilton v. Guyot*, 159 U.S. 113, 164 (1895), quoted in J.R. Paul, "Comity in International Law," *Harvard International Law Journal* 2, 32, no.1 (1991): 3.

<sup>43</sup> Henry Wheaton, *Elements of International Law* § 79 (R. Dana 8th ed. 1866) and Lassa Oppenheim, *International Law* 34 n.1 (H. Lauterpacht 8th ed. 1955), quoted in A.J. Himelfarb, "The International Language of Convergence: Reviving the Antitrust Dialogue between the United States of America and the European Union with a Uniform Understanding of Extraterritoriality," *University of Pennsylvania Journal of International Economic Law*, 17, no. 3 (1996): 914.

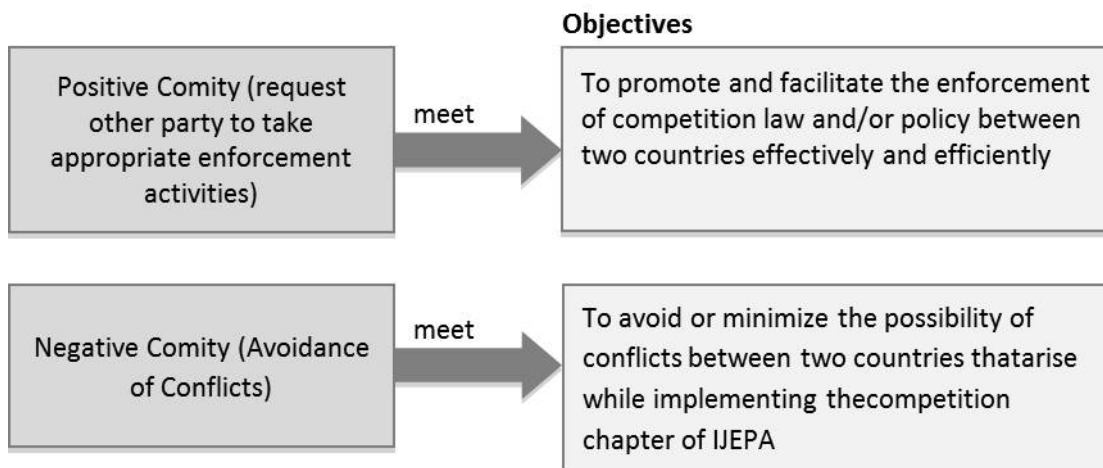
<sup>44</sup> William E. Hall, *A Treatise on International Law* 14 n. 1 (A.P. Higgins 7<sup>th</sup> ed. 1917) Law Dictionary 267 (6th ed. 1990) and Lassa Oppenheim, *International Law* 34 n.1 (H. Lauterpacht 8th ed. 1955), quoted in Himelfarb, "The International Language," 914.

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<sup>41</sup> Papadopoulos, *The International Dimension*, 64.

<sup>45</sup> Papadopoulos, *The International Dimension*, 73.

**Figure 5.** The Connectivity of Negative and Positive Comity to the Objectives of the Competition Chapter of the IJEPA



*Source: Author, 2012.*

**Possible Strategies: Internal KPPU Measures to Improve the Implementation of the Competition Chapter of the IJEPA (Unilateral Measures)**

Under the circumstances of KPPU actions on implementing the competition chapter, there may be possible strategies to be taken into consideration on internal KPPU measures in order to improve its implementation, which describe as follows:

1. Propose to enhance coordination between the Foreign Cooperation Division with other related bureaus and divisions, which are involved in implementing of the competition chapter, such as the Bureau of Legal Action, Bureau of Investigation and related bureau including their divi-

sions.<sup>46</sup>

2. Re-disseminating the competition chapter of the IJEPA to the related bureaus and divisions in order to remind them of their task in realizing its implementation. This activity will be responsibility of, and carried out by Foreign Cooperation Divisions. It is because, in the KPPU, all activities related to the foreign relations activities are centralized in Foreign Cooperation Divisions. Furthermore, in order to effectively re-disseminate this information, the KPPU may hold internal seminar or workshop.

**H. CONCLUSION**

After analysing the implementation of the competition chapter of the

<sup>46</sup> For further information, see figure 3.2 the KPPU’s organization structure and disposition flow on implementation of competition chapter.

IJEPA conducted by the JFTC and KPPU, it showed the positive outcomes. Under the framework competition chapter of IJEPA, the relation and cooperation between the JFTC and KPPU became more comprehensive. Many provisions of competition chapter were realized consistent with its objectives and main expectation. Notification, sharing and exchange information related to the issues of each institution become more effective and transparent. Requesting inputs or opinions of fair business competition regulations or issues related to business competition from Japan or the vice versa become easier and efficient. Technical cooperation also realized in order to promote and facilitate the strengthening of KPPU enforcement activities.

Nevertheless, there were still limitations of its provisions and constraints on its implementation. The provisions of notification did not state in details and specify how to implement, such as (1) timing of notification; (2) in which phase of enforcement activities that notification should be given to the other party; (3) in what way to send the notification letter; (4) also in what kind of relevant area of enforcement activities it is necessary to have notification. Furthermore, other provisions such as coordination of enforcement activities, consultations and review do not describe in details what kind of specific actions are needed. Those provisions bring the vagueness and ambiguity on their implementation activities, which lead to the limitations on those provisions and constraints on their implementation.

In order to address and resolve those vagueness, limitations and constraints, this research proposing two possible policy recommendations for improvement and future changes on

the implementation activities. First, possible policy recommendation is to set a forum for discussion on the constraints and future changes. This recommendation offers the short-term and long-term reform. Proposing the technical guideline will be the first possible action to take and more realistic approach toward the short-term reform recommendation. The guideline will contain detailed descriptions on technical implementation activities of each provision. Another recommendation is an amendment of the competition chapter to introduce provisions on comity. It is possible to take into consideration because the characteristics provisions on positive and negative comity meet the objectives of the competition chapter of the IJEPA. In addition, in order to realize such recommendations, there should be consensus between two parties, and especially for amendment, it will take long time to create consensus.

Second, recommendation for KPPU's internal measures, such as enhancing coordination between the Foreign Cooperation Division with other related bureaus and divisions and re-disseminating the competition chapter of the IJEPA to the related bureaus and divisions in order to remind them of their task in realizing its implementation. This recommendation can be unilaterally implemented without any consensus.

Those recommendations might not be easy to make them realize immediately. Even though for the short-term reform recommendation, it still needs to take step to "open" for its- first-consensus between the KPPU and JFTC. Yet, it is necessary to keep in mind that those recommendations are "ambitious" solutions for improvement and futures changes. If they can be translated into real-policy actions, it will bring the im-

provement to the stage of much more advanced cooperation on the competition chapter, not only under the IJEPAs but also other EPAs. On top of that, such policies can be required as a new foundation for bilateral-unilateral cooperation on competition.

## BIBLIOGRAPHY

### Books, Journals, Papers

- Aoki, Maki. "New issues in FTAs: The case of Economic Partnership Agreements between Japan and ASEAN Countries." *IDE APEC Study center. Working Paper Series 03/04-No.8* (2004): 2. [http://www.ide.go.jp/English/Publish/Download/Apec/pdf/2003\\_08.pdf](http://www.ide.go.jp/English/Publish/Download/Apec/pdf/2003_08.pdf).
- "Chicago Citation Style." UBC Okanagan Library. February, 2012. Accessed December 26, 2012. [http://www.ubc.ca/okanagan/library/\\_shared/assets/chicago14394.pdf](http://www.ubc.ca/okanagan/library/_shared/assets/chicago14394.pdf). "Chicago Manual of Style – Personal Interview." Citesource. Accessed December 26, 2012. [http://citesource.trincoll.edu/chicago/chicagointerview\\_000.pdf](http://citesource.trincoll.edu/chicago/chicagointerview_000.pdf).
- Dabbah, Maher M. *International and Comparative Competition Law*. New York: Cambridge, 2010.
- Himelfarb, A.J. "The International Language of Convergence: Reviving the Antitrust Dialogue between the United States of America and the European Union with a Uniform Understanding of Extraterritoriality." *University of Pennsylvania Journal of International Economic Law* 909, vol. 17(3): 914, 1996. [https://www.law.upenn.edu/journals/jil/articles/volume17/issue3/Himelfarb17U.Pa.J.Int'lEcon.L.909\(1996\).pdf](https://www.law.upenn.edu/journals/jil/articles/volume17/issue3/Himelfarb17U.Pa.J.Int'lEcon.L.909(1996).pdf).
- Komisi Pengawas Persaingan Usaha, *Jurnal Persaingan Usaha*, 5th edition. Jakarta: Komisi Pengawas Persaingan Usaha Republik Indonesia, 2011
- Michel, Lois. *Economic Partnership Agreement: Drivers of Development*. Saarbrücken: Dictus Publishing, 2010.
- Papadopoulos, Anestis S. *The International Dimension of EU Competition Law and Policy*. New York: Cambridge, 2010.
- Paul, J.R. "Comity in International Law," *Harvard International Law Journal* 2, vol. 32(1): 3, 1991. <http://heinonline.org/HOL/Print?collection=journals&handle=hein.journals/hilj32&id=7>
- Rill, James F. "The U.S./EC Antitrust Cooperation Agreement: Genesis, Innovation, and Early Implementation." *CPI Antitrust Chronicle*, no. 1 (2011): 3. <https://www.competitionpolicyinternational.com/>
- Stark, C. "Improving Bilateral Antitrust Cooperation," speech delivered in Washington DC, 23 June 2000. <http://www.usdoj.gov/atr/public/speeches/5075.htm>.
- Watanabe, Yorizumi "Japan's FTA/EPA Policy and Perspectives for East Asian Economic Community." European Institute for Asian Studies. Accessed June 18, 2012. <http://www.eias.org/luncheons/2006/japantrade050406/watanabe.pdf>.
- WTO's Working Group on the Interac-

tion between Trade and Competition Policy, "Communication from Japan: The Experiences of Japan and APEC in Technical Assistance and Capacity Building." WT/WGTCP/W186 (June 19, 2002): 2. <http://www.jftc.go.jp/eacpf/05/experiences.pdf>.

### **Government Regulation and Documents**

"Cease-and-Desist Order and Surcharged Payment Order against Manufacturers of Cathode Ray Tubes for Televisions." JFTC. Accessed October 7, 2009. <http://www.jftc.go.jp/en/pressreleases/archives/individual-000136.html>.

"Decision on the Violation of Indonesian Competition Law in the Beauty Contest Process for Liquid Natural Gas Project (Decision No. 35/KPPU-I/2010)." KPPU. Accessed October 28, 2012. [http://www.kppu.go.id/docs/Putusan/putusan\\_35\\_2010\\_Donggi%20senoro.pdf](http://www.kppu.go.id/docs/Putusan/putusan_35_2010_Donggi%20senoro.pdf)

"Decision No. 05/KPPU-L/2010." KPPU. Accessed October 29, 2012 . <http://www.kppu.go.id/docs/Putusan/Putusan%20Lokomotif.pdf>.

"Implementing Agreement Between The Government of Japan and The Government of The Republic of Indonesia Pursuant to Article 13 of The Agreement Between Japan and The Republic of Indonesia for an Economic Partnership." JFTC. Accessed December 5, 2012. [http://www.jftc.go.jp/en/international\\_relations/agreements/index.html](http://www.jftc.go.jp/en/international_relations/agreements/index.html).

"Implementing Agreement Between The Government of Japan and The Swiss Federal Council Pursuant to Article 10 of The Agreement on Free Trade and Economic Partnership Between Japan and The Swiss Confederation." JFTC. Accessed December 5, 2009. [http://www.jftc.go.jp/en/international\\_relations/agreements/index.html](http://www.jftc.go.jp/en/international_relations/agreements/index.html)

Japan-Indonesia Partnership Agreement: Joint Study Report." MOFA. Accessed December 8, 2012. <http://www.mofa.go.jp/region/asia-paci/indonesia/summit0506/joint-3-2.pdf>.

"Joint Statement at the Signing of the Agreement between the republic of Indonesia and Japan for an Economic Partnership." Bank Indonesia. Accessed December 9, 2012. <http://www.bi.go.id/NR/rdonlyres/C3A644ED-2502-4795-9D30-83A4B45E5109/9489/jointstatementepaindonesiajapan.pdf>.

JFTC. "Outline Slide for June 28, 2012."

KPPU. "Ratification on Text Explanation of the IJEPA." 2007.

KPPU. "Text Explanation on the Competition Chapter of IJEPA (Indonesian Version)." December 19, 2007.

KPPU. "Chapter III: The Follow-Up the Implementation Agreement of IJ-EPA on Competition (Indonesian Version)." December 19, 2007.

KPPU. "Minutes of meeting between Japan International Cooperation Agency and Authorities concerned of the Government of Republic of Indonesia on the Japanese technical cooperation project for competition policy project



(phase 2) in Indonesia: the Attached Document," 2009.

KPPU. "Project Design Matrix: Project for Competition Policy (Phase II) Annex 1," 2009.

KPPU. "Outputs and Activities in Record of Discussions (RD)," 2010.

KPPU. "Form Digest Green Book 2009," 2009.

"Law Number 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition." KPPU. Accessed December 8, 2012. <http://eng.kppu.go.id/wp-content/uploads/2010/04/uu-en.pdf>.

"Pemberitahuan Merger 2011." KPPU. Accessed October 28, 2012. <http://www.kppu.go.id/id/merger/daftar-notifikasi/publikasi-pemberitahuan/pemberitahuan-merger-2011/>.

"Ratification Agreement between the Republic of Indonesia and Japan for an economic Partnership." Directorate General of International Trade Cooperation. Accessed December 8, 2012. [http://ditjenkpi.kemendag.go.id/website\\_kpi/Umum/IJEP/Perpres%2036%202008.pdf](http://ditjenkpi.kemendag.go.id/website_kpi/Umum/IJEP/Perpres%2036%202008.pdf).

"Technical assistance offered and contributed by the Japan Fair Trade Commission." JFTC, 2004. Accessed December 3, 2012, <http://www.jftc.go.jp/eacpf/05/menu.2004.pdf>.

"The Antimonopoly Act: Chapter II Private Monopolization and Unreasonable Restraint of Trade." JFTC. Accessed September 23, 2012. [http://www.jftc.go.jp/en/legislation\\_guidelines/ama/amended\\_](http://www.jftc.go.jp/en/legislation_guidelines/ama/amended_)

[ama09/02.html](#).

### **International Organization Documents**

"Day 5 Conference end without consensus." WTO. Accessed December 3, 2012. [http://www.wto.org/english/thewto\\_e/minist\\_e/min03\\_e/min03\\_14sept\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min03_e/min03_14sept_e.htm).