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Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Indonesia

-- 2022 --

This report is submitted by Indonesia to the Competition Committee FOR INFORMATION.

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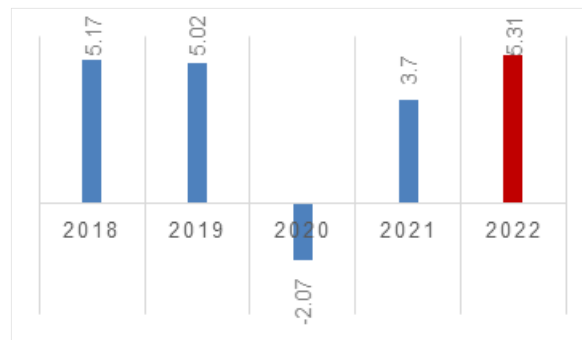
Indonesia

Summary of the 2022 Annual Report of ICC

Introduction

1. Statistics Indonesia (BPS) recorded that the economy of Indonesia in 2022 grew by 5.31 percent, higher as compared to the achievement in 2021 which grew by 3.70 percent. Viewed from the production side, the Transportation and Warehousing Business Field underwent the highest growth of 19.87 percent. The government will keep on being cautious and in anticipation of the global economic slowdown which will reduce the demand rate. Therefore, the strengthening of the domestic core economy through consumption and investment will be a major factor in enhancing the economic resilience of Indonesia in 2023.

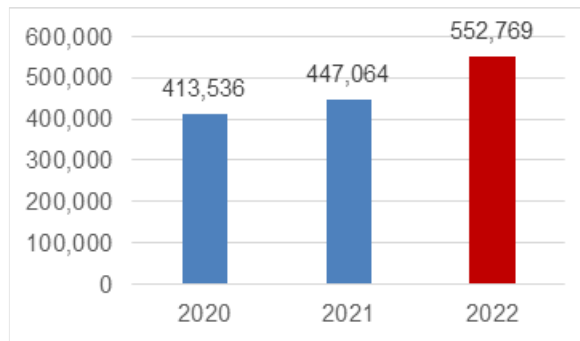
Figure 1. National Economic Growth



Source: Statistics Indonesia, 2022

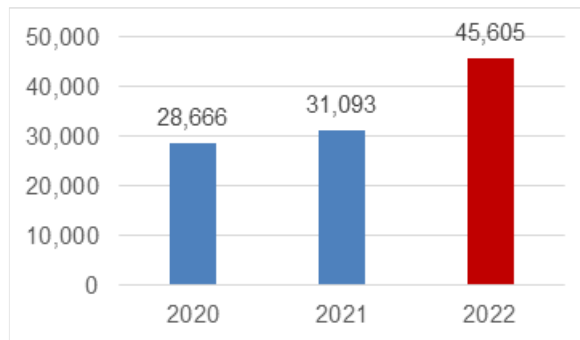
2. This positive enhancement is not separate from the increased public trust to consume goods or services and spur the recovery of domestic demand and lead to the increased production as a business response. Investment grew by 3.33% throughout the year 2021. Purchasing Managers' Index (PMI) of Indonesia's Manufacturing in January 2023 was recorded to increase to 51.3. The PMI of Indonesia's Manufacturing was capable of surpassing Malaysia of 46.5, Vietnam of 47.4, South Korea of 48.5, Taiwan of 44.3, and the United States of 46.8. Meanwhile, the expansive trend in January 2023 was also indicated by several other countries in the ASEAN region, namely the Philippines of 53.5 and Thailand of 54.5.

Figure 2. Trend for National Investment (Domestic, billion Rp)



Source: Statistics Indonesia, 2022

Figure 3. Trend for National Investment (Overseas, million US\$)



Source: Statistics Indonesia, 2022

3. In terms of business competition, the level of national business competition represented by the Business Competition Index was recorded to have undergone an increase as well. Based on the last year's index measurement, the index reached 4.87 points (on a scale of 1-7). This means that business competition in Indonesia is classified as in the category of business competition towards higher points. This value has increased as compared to that of 2020 which was at 4.81. This positive increase also provides optimism for the ICC in pursuing the National Target of 5.0 points as set forth in the 2024 National Medium-Term Development Plan (RPJMN).

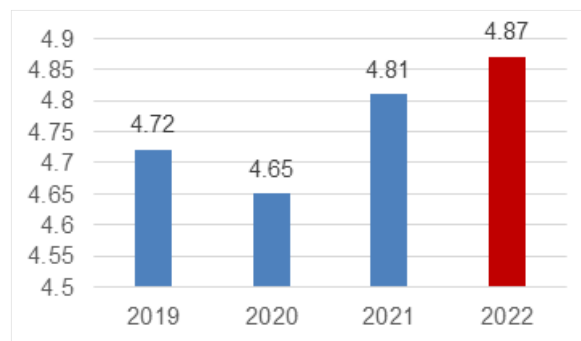
4. This positive momentum must be kept so that the Indonesian economy continues undergoing a positive acceleration. To that end, the Indonesia Competition Commission (ICC) is committed to assisting the government in creating a business climate that is competitive, free from various forms of anti-competitive behaviors that distort the market as well as hinder trade and investment in Indonesia.

5. We hereinafter present the law enforcement performance of the ICC throughout the year 2022 and our priorities in in the year 2023 as follows.

1. Overview of National Business Competition

6. Similar to the 2024 RPJMN, the level of the national business competition is measured using the Business Competition Index as assessed by the ICC. The said RPJMN targets the level of business competition in Indonesia to reach 5.0 (on a scale of 7.0) in 2024. Based on the calculations, the 2022 business competition index will reach 4.87 or in a high competition category. The quantity of indexes or the level of business competition has increased if compared to that of 2021. This means that the intensity of business competition in Indonesia has increased as well in line with the increased economic growth during this period of the pandemic.

Figure 4. Trend for Business Competition Index



Source: ICC, 2022

7. Business Competition Index (BCI) is measured to determine the level of competition in 15 (fifteen) economic sectors in every province in Indonesia. The said index was measured through a survey of 34 (thirty-four) provinces with the respondents representing various institutions such as the Chamber of Commerce and Industry, academics, Bank Indonesia, and Provincial Industry and Trade Service Offices. The study was conducted using the industrial structure, behavior, and performance (SCP) concept or paradigm. Business environment factors such as regulations, institutions, demand and supply factors become the business competition index forming dimensions as well.

2. Reform in Competition Regulation

8. The ICC issued Regulation of ICC Number 1 of 2022 concerning Business Competition Compliance Program in 2022. This regulation had been promulgated in the State Gazette of the Republic of Indonesia Number 313 of 2022. Business competition compliance constitutes a form of commitment, active stance, awareness, and actions of business actors so as not to violate the provisions of Law No. 5/1999. The compliance program constitutes a series of activities that demonstrate the efforts made to comply with the principles of fair business competition, is implemented and developed as well as compiled by business actors in a written Indonesian document. Business actors prepare the compliance programs independently and register the same with the ICC for evaluation purposes. The compliance program documents submitted are in the form of (i) the code of ethics document; (ii) the compliance guidelines document; and (iii) the implementation of dissemination, extension, and training.

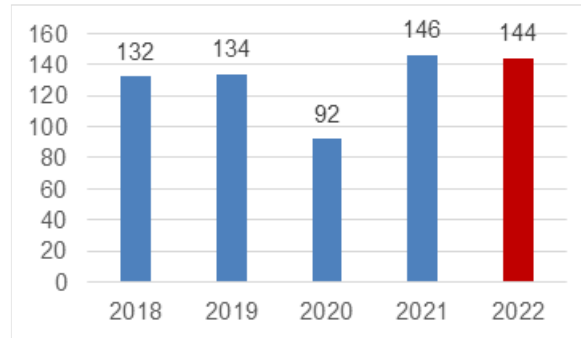
9. The ICC has also made and issued various regulations to improve the quality and credibility of the ICC as a business competition law enforcement agency in Indonesia. The following are the several regulations:

- Regulation of ICC Number 2 of 2022 concerning the Revocation of Regulation of Indonesia Competition Commission Number 3 of 2020 concerning the Relaxation of Law Enforcement of Monopolistic Practices and Unfair Business Competition as well as Supervision of the Implementation of Partnerships in the Context of Supporting the National Economic Recovery Program;
- Regulation of ICC Number 3 of 2022 concerning the Revocation of Regulation of Indonesia Competition Commission Number 5 of 2015 concerning Guidelines for the Preparation and Implementation of Standard Operating Procedures within the Indonesia Competition Commission;
- Regulation of ICC Number 4 of 2022 concerning the Preparation and Implementation of Standard Operating Procedures within the Indonesia Competition Commission;
- Regulation of ICC Number 5 of 2022 concerning Legal Documentation and Information Network within the Indonesia Competition Commission;
- Regulation of ICC Number 6 of 2022 concerning Amendment to Regulation of Indonesia Competition Commission Number 4 of 2015 concerning Forms Management Guidelines;
- Regulation of ICC Number 7 of 2022 concerning the Revocation of Regulation of Indonesia Competition Commission Number 1 of 2021 concerning Accounting Policies within the Indonesia Competition Commission;
- Regulation of ICC Number 8 of 2022 concerning Archives Retention Schedule within the Indonesia Competition Commission;
- Regulation of ICC Number 9 of 2022 concerning the Revocation of Regulation of Indonesia Competition Commission Number 3 of 2009 concerning Guidelines for the Application of Article 1 Sub-article 10 Concerning the Relevant Market;
- Regulation of the Chairman of ICC Number 1 of 2022 concerning Accounting Policies within the Indonesia Competition Commission;
- Regulation of the Chairman of ICC Number 2 of 2022 concerning the Classification of Archives within the Indonesia Competition Commission;
- Regulation of the Chairman of ICC Number 3 of 2022 concerning Security Classification System and Access to Records Management of the Indonesia Competition Commission;
- Regulation of the Chairman of ICC Number 4 of 2022 concerning the Determination of the Relevant Market.

3. Enforcement of Competition Law

10. The ICC handled 297 (two hundred and ninety-seven) complaints last year, 144 (one hundred and forty-four) among them were received in 2022. Such number of complaints decreased by 1.36% as compared to that of in 2021.

Figure 5. Trend for Complaint Accepted



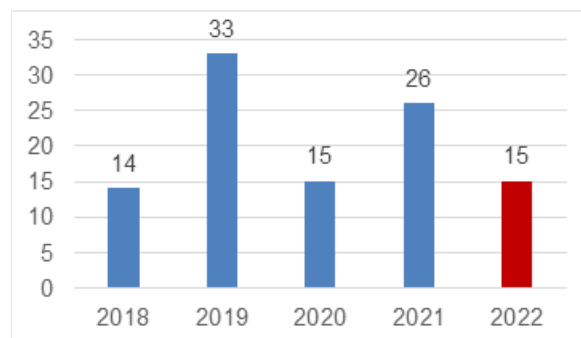
Source: ICC, 2022

11. Out of the complaints received, 69% of them was alleged bid rigging and 31% was alleged non-bid rigging conducts. This data shows that bid rigging still dominates the complaints lodged to the ICC.

12. The ICC has also conducted law enforcement initiatives and focused on the non-bid rigging conducts. There were 6 (six) law enforcement initiatives being conducted by the ICC. In total, the ICC conducted 58 (fifty-eight) investigations throughout the year 2022.

13. The ICC issued 15 (fifteen) decisions regarding the violations of the law in 2022. Most of the cases (7 cases) were decisions on the postponement of the notifications of mergers and acquisitions, 1 (one) decision on bid rigging case, and 7 (seven) decisions on other cases. All in all, the ICC had imposed a fine of IDR17,700,500,000 deriving from 15 (fifteen) decisions on 8 (eight) Reported Parties in the relevant year.

Figure 6. Trend for ICC's Decision



Source: ICC, 2022

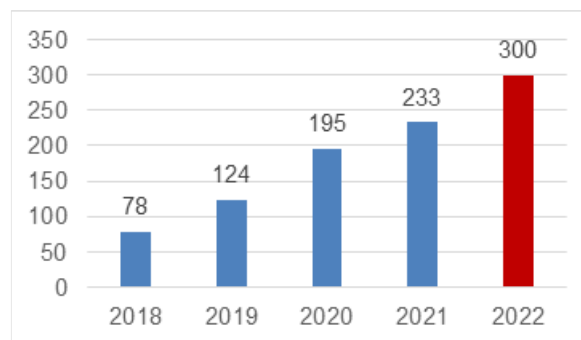
14. Business actors can lodge objections to decisions of the ICC to Commercial Courts and file cassations to the Supreme Court. There were 7 (seven) objections to ICC Decisions being successfully resolved last year. Five (5) of them were won by the ICC. In terms of the execution of the ICC decisions through the competition law enforcement proceedings,

the business actors have paid for violation fines of IDR110,736,820,422 throughout the year 2022.

4. Merger and Acquisition Assessment

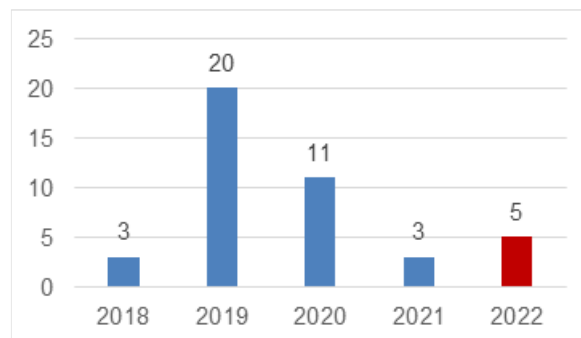
15. Merger and acquisition notifications to the ICC increased significantly in 2022. There were 300 notifications being received, an increase of 22% as compared to that of 2021. The compliance of business actors in notifying the mergers and acquisitions has increased for the last five years. This can be seen from the increased number of notifications submitted to the ICC within such period.

Figure 7. Trend for M&A notification



Source: ICC, 2022

Figure 8. Trend for Delay in M&A Notification



Source: ICC, 2022

5. Supervision of MSME Partnership

16. The supervision of the implementation of micro, small and medium enterprise (MSME) partnerships has become the authority of the ICC following the issuance of Law Number 20 of 2008 and Government Regulation Number 17 of 2013. The ICC has been specifically authorized to enforce the law on the violations of the implementation of MSME partnerships by large or medium enterprises. Law enforcement is conducted based on Regulation of ICC Number 4 of 2019 concerning Procedures for the Supervision and Handling of Partnership Cases.

17. The ICC received 8 (eight) complaints in respect of the partnership supervision and conducted 1 (one) research initiative in 2022. There are 7 (seven) MSME partnership cases being handled by the ICC in 2022.

18. MSME actors have gained various benefits through the supervision of partnerships and the ICC has gradually begun to be recognized as the defender for MSME partnerships. In the construction sector, the partnership issues regarding the payments for works from the main contractors to the sub-contractors in Sumatra and Kalimantan worth IDR9,189,505,575 were resolved successfully. In the oil palm plantation sector, the issues of plasma partnerships with several oil palm business actors in Jambi, South Sumatra, North Kalimantan, East Kalimantan, West Kalimantan, and Central Kalimantan were resolved successfully and the management of the plasma plantations in an area of 14,950.5 hectares was improved successfully, hence, 5,460 Heads of Family or approximately 27,300 people benefitted from the increased crop yields. The ICC has also managed to resolve the issue of the return of the plantation land from the nucleus plantation company in an area of 101.01 hectares.

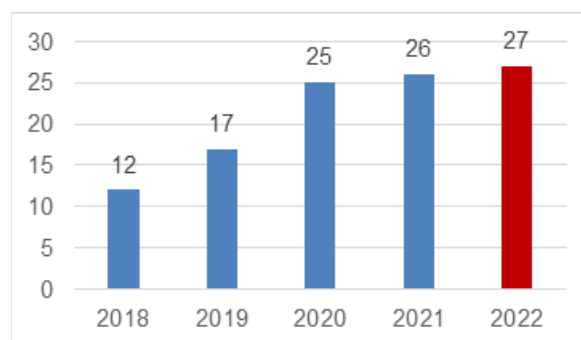
19. The various positive benefits from the ICC partnership settlement actions constitute a struggle in defending equality in partnering or collaborating between large business actors and MSMEs and this constitutes the efforts made by the ICC to support the Inclusive Partnership Movement for MSMEs to be Upgraded (*Gerakan Kemitraan Inklusif untuk UMKM Naik Kelas*) by President Joko Widodo. Resources and coordination constitute the several challenges obstructing. To that end, partnerships or collaborations are not only needed by the various types of business actors and the government, but such collaboration are also needed by the government and the Institution engaged in supervising the implementation of the MSME partnerships, especially with the ICC.

6. Policy Advocacy

20. Last year, the ICC conveyed 27 (twenty-seven) suggestions and recommendations for policies to the Government in order to prevent monopolistic practices and unfair business competition. Such policy suggestions and recommendations concern the policies of the Central Government, Regional Governments, as well as the execution of case decisions at the ICC.

21. In total, since 2001, there have been 302 (three hundred and two) suggestions and recommendations for policies being spurred by the ICC to the Government.

Figure 9. Trend for Policy Advice and Recommendations>



Source: ICC, 2022

22. One of the factors in the increased number of the ICC letters of suggestions and consideration is the increased number of requests for consideration from policy makers to the ICC. Such requests for consideration are submitted to obtain ICC's opinions about the draft policies that are being/will be prepared as well as in terms of the implementation of policies.

23. In line with the said matter, the ICC is aware that the granting of suggestions requires strong bases to show that the suggestions of the ICC are essential to adopt. To that end, each opinion is granted on the basis of a comprehensive policy analysis. The nonbinding nature of ICC's recommendations constitutes a separate challenge for the ICC to strengthen the arguments used in the granting of the suggestions and considerations.

7. Competition in Globalization

24. Competition constitutes one of the economic issues that serves as the focal point in various discussions about international trade agreements as initiated by the Government of Indonesia. At the moment, competition is one of the chapters discussed in various comprehensive economic partnership agreements (CEPAs). The ICC was appointed by the Government to lead the negotiation processes in respect of the competition chapter in various agreements.

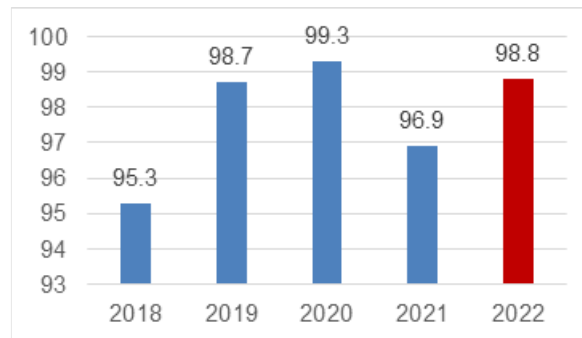
Table 1. International Negotiations with the Competition Chapter

No.	Negotiation	Process
1	Indonesia – European Union CEPA	Ongoing
2	Indonesia – Canada CEPA	Ongoing
3	Indonesia – EAEU FTA	Ongoing
4	ASEAN – Canada FTA	Ongoing
5	ASEAN – China FTA	Ongoing
6	ASEAN Framework Agreement on Competition	Ongoing
7	Indo-Pacific Economic Framework for Prosperity	Ongoing

8. Finance and Human Resources

25. The ICC earned the Unqualified Opinion (WTP) for the tenth time in a row on the 2021 Fiscal Year Financial Statement of the ICC in 2022. This demonstrates the consistency of the quality of the financial supervision at the ICC. In terms of budget, the ICC was supported by a budget of IDR135,642,665,000 in 2022. The ICC was capable of using its budget with an annual realization of up to 98.8%.

Figure 10. Trend for Annual Budget Realization



26. The ICC obtained a score of 79.7 in the implementation of the 2022 Integrity Assessment Survey (SPI) conducted by the Corruption Eradication Commission (KPK) and the score is above the national average of 71.9. This means that the ICC has a low risk of corruption and has a good system for responding to corruption incidents and corruption prevention.

27. This positive performance is supported by the resource assets of the ICC Secretariat. Demographically, the ICC Secretariat at the moment consists of a total of 329 employees. The comparison of the researcher's function with the administrator's function and other functions is extremely sharp. Out of the total demographics of 329 employees, merely 42.5% constitutes the functional pre-investigators of the ICCU, whereas 57.4% constitutes administrators. This demonstrates the minimum number of the ICC investigators who serve as prosecuting investigators and investigating investigators in the law enforcement and case handling proceedings.

28. In the meantime, at the Secretariat level, the Secretariat General office has 66.5% of the total employees, the Deputy for Law Enforcement has 18.5%, and the Deputy for Studies and Advocacy has 8.5%. Whereas for Regional Offices, there are 92 employees with the following breakdowns: 7.7% in Regional Office I, 6.8% in Regional Office II, 5% in Regional Office III, 6.8% in Regional Office IV, 5% in Regional Office V, 6.3% in Regional Office VI, and 4.1% in Regional Office VII.

29. To date, efforts made to change the status of the employees of the ICC to become Civil State Apparatus are still not yet satisfactory. The ICC Secretariat is currently not yet integrated with Law No. 5/2014 concerning Civil State Apparatus. Over the past 22 years, various efforts have been made to resolve the regulating of the organization and personnel especially through an amendment to Law No. 5/1999 and cooperation with the Supreme Court in construing Article 34 paragraph (4) of Law No. 5/1999, as well as the filing of a judicial review at the Constitutional Court. Such various efforts have yet to be capable of granting a solution to the resolving of the existing organizational and personnel regulating.

30. The ICC has also conducted harmonization and synchronization with related agencies so as to impart the urgency of the institutional and personnel structuring, including asking for directives from the Vice President of the Republic of Indonesia. On the said occasion, the Vice President of the Republic of Indonesia was strongly in support of the acceleration of the institutional and personnel structuring of the ICC in line with the importance of the ICC's strategic role and function, in keeping the climate of business competition in Indonesia. The regulating of the institution and personnel of the ICC should not be the task of the ICC alone, but should also be that of the Government and all the related elements. Therefore, the ICC is committed to resolving this issue by the mid-year 2023.