Indonesia Client Update

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COMPETITION / ANTITRUST, CONSUMER & TRADE

Managing Competition Law Risk in Indonesia's Centralised Commodities Exports under Government Regulation 24/2026

Following our earlier alert on the broader shift in Indonesia's trade regulatory landscape (please click here to read), Government Regulation No. 24 of 2026 on the Governance of Exports of Strategic Natural Resource Commodities ("**GR 24/2026** ") introduces a centralised exports framework for the export of designated strategic natural resources. These currently include coal, palm oil, and ferro alloys, which are to be channelled through designated state-owned enterprises ("**Export SOEs**"). This regulatory change is not merely a regulatory or trade policy adjustment, but may also signal a shift in competition policy, with potential implications for competition in the domestic market.

Although GR 24/2026 does not explicitly name the entity, the recently established PT Danantara Sumberdaya Indonesia has been mentioned as a potential export aggregator, with no formal designation confirmed to date.

The framework may significantly affect market dynamics. It creates new points of interaction between Export SOEs, producers, and downstream stakeholders, and changes how Indonesian producers access export markets and transact. Existing commercial practices may therefore need to be reassessed to ensure continued compliance with Indonesian competition law, particularly in relation to the management of competitively sensitive information, pricing, and trading terms.

Key Competition Risks and Mitigation Measures

The centralised export framework introduced under GR 24/2026 gives rise to several competition risks under Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition (Indonesian Competition Law or "**ICL**"), particularly businesses engaging with Export SOEs. These risks primarily relate to information flows, pricing dynamics, and trading arrangements under the new model.

- **Information sharing and exchange**

  The centralised framework is likely to involve the collection and aggregation of commercially sensitive information from multiple producers, including pricing, volumes, and contractual terms. Competition risks may arise where such information is accessed, used, or disclosed beyond what is necessary for the administration of the export framework.

  To mitigate this risk, businesses should:

  - Limit disclosure to information that is strictly required for the administration of the export framework;
  - Implement and adopt robust internal protocols to restrict access to sensitive information and ensure its use is limited to the intended regulatory purpose; and
  - Maintain clear documentation of independent decision-making processes to ensure that engagement with Export SOEs does not influence competitive conduct.

- **Pricing and coordination risks**

  The centralised pricing mechanisms create a new environment for pricing interactions between producers and Export SOEs. In this context, stakeholders should prioritise maintaining independent commercial decision-making in line with established commercial practices and competition law principles.

  To mitigate this risk, businesses should:

- Anchor pricing decisions in internal cost structures and objective market factors;
- Maintain safeguards to preserve the confidentiality of pricing strategies; and
- Keep clear records of pricing decisions to demonstrate independent commercial conduct.

- **Trading terms, market access, and foreclosure**

  By channelling export activities through Export SOEs, GR 24/2026 reshapes how producers access export channels and negotiate trading terms. Competitive risks may arise where participation in the framework results in preferential access, discriminatory treatment, or market foreclosure by limiting competing producers' access to export channels.

  To mitigate this risk, businesses should:

  - Ensure that engagement with Export SOEs is based on transparent, objective and non-discriminatory (FRAND) principles; and
  - Avoid arrangements that could result in, or be perceived as resulting in, preferential access to exports or disadvantaging competing producers.

- **Preservation of independent conduct across markets**

  Engagement with Export SOEs should not affect how businesses compete in the domestic market. Competition risks may arise if participation in the centralised export framework influences broader commercial strategy or reduces independent decision making.

  To mitigate this risk, businesses should:

  - Ensure that commercial strategies in the domestic market are determined independently based on internal considerations and market conditions, without influence from export-related activities.
  - Avoid any arrangements or conduct that could facilitate or result in a breach of the ICL.

Availability and Limits of Competition Law Exemption

Conduct implemented within the framework of GR 24/2026 may, in principle, fall within certain exemptions under the ICL. These include exemptions relating to conduct mandated by law, export activities, and state-sanction monopolies.

However, the application of these exemptions is not automatic and must be assessed on a case-by-case basis. Relevant provisions include:

- **Article 50 (a):** Actions implementing prevailing laws and regulations;
- **Article 50 (g):** Export-related agreements or conduct that do not affect the domestic market; and
- **Article 51:** Monopolies mandated by the state in sectors of public interest or strategic industries, carried out by state-owned enterprises or appointed entities.

The availability of these exemptions will depend on the specific facts, including how the framework is implemented in practice and the scope of authority granted to the relevant Export SOEs. In particular, the Indonesia Competition Commission (*Komisi Pengawas Persaingan Usaha Republik Indonesia* or "**KPPU**") retains broad discretion in determining whether the conditions for exemption are satisfied.

Importantly, any exemption that may apply to an Export SOE does not necessarily extend to private sector partners. Where private conduct falls outside the scope of the government mandate, it remains subject to scrutiny under the ICL, particularly where it affects competition between private market participants or has an impact on the domestic market.

Key Takeaways

GR 24/2026 introduces significant changes to the competition landscape, requiring businesses to review and, where necessary, update their existing compliance frameworks. The transition period (see here) offers a critical window for businesses to align their operational procedures with the new regulatory framework and applicable competition law principles.

While certain statutory exemptions under the ICL may be relevant, their application is not automatic. Availability will depend on a case-by-case assessment, including the KPPU's interpretation and exercise of its enforcement discretion.

In light of the potential for increased regulatory scrutiny and the evolving approach of the KPPU, businesses should undertake a targeted review of their current and proposed export engagement strategies. In particular, attention should be given to:

- **Engagement with Export SOEs:** Ensuring that dealings are conducted on transparent, objective, and non-discriminatory (FRAND) terms, comply with competition law requirements, and preserve independent commercial decision-making.
- **Information sharing:** Managing risks arising from the exchange of commercially sensitive information within the centralised export framework.
- **Pricing practices:** Ensuring that pricing decisions in transactions with Export SOEs are independently determined and based on internal commercial considerations.
- **Domestic market conduct:** Avoiding conduct that may give rise to anti-competitive effects in the domestic market as a result of participation in the centralised export framework.

For regional Competition matters, please see Rajah & Tann Asia's Regional Competition for more information.

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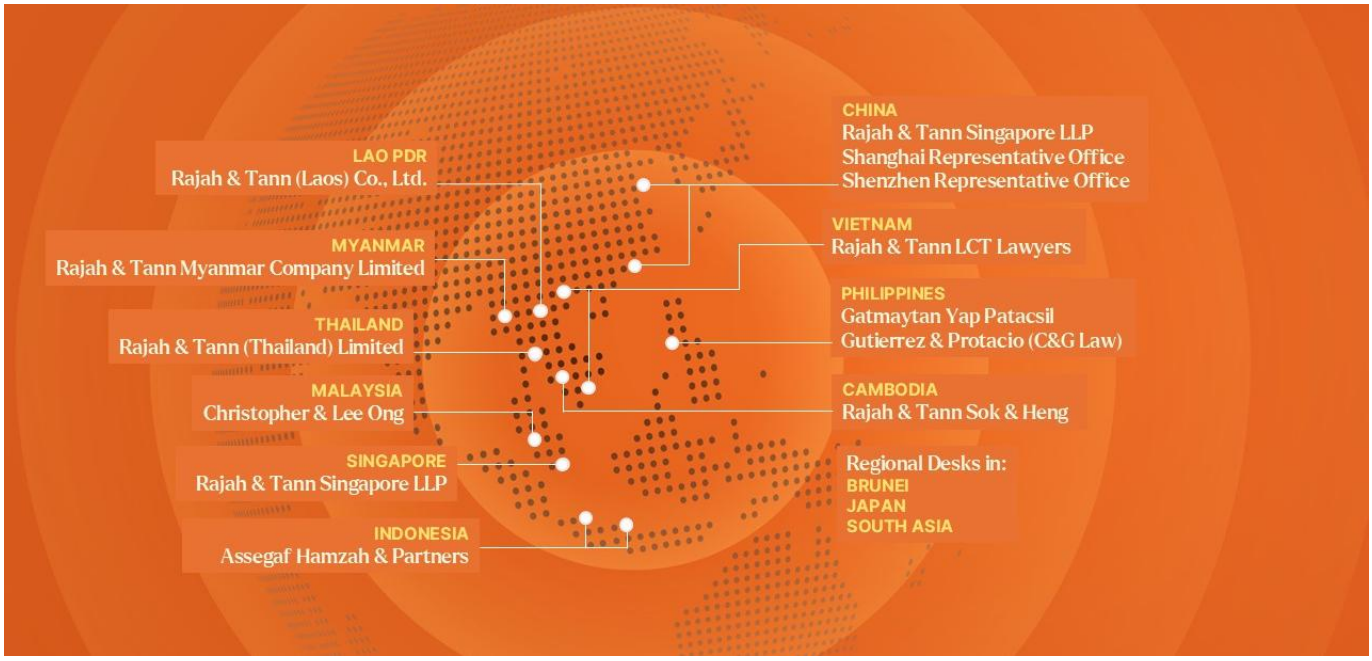

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