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Competition, Antitrust, and Agricultural Development in Asia

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Abstract

Competition law—also known as antitrust in some jurisdictions—has become part of governments’ policy arsenal to achieve efficient and welfare-improving market outcomes. From only a handful of economies in North America and Europe, the adoption of competition law and policy has spread rapidly to Asian economies since 1990. Like their Western counterparts several decades earlier, most Asian jurisdictions have exempted agriculture, albeit in varying degrees, from the prohibitions of competition law, such as those involving the exercise of market power by farmers’ associations. Public choice considerations suggest that the exemption serves as a countervailing force for the farmers’ comparatively weak position in the balance of political influence for agricultural policy and in bargaining power over the more concentrated wholesale-retail segments of the agri-food value chain. Farm heterogeneity and farm-operation consolidation, induced in part by the economy’s structural transformation, weaken the case for broad exemption.

Keywords: Competition policy, competition law, antitrust, political economy, agricultural development, Asia

JEL Classification: K21, L40, O13, O53

1. Introduction

In the past 50 years, rapid economic growth has been the single most important contributor to Asia’s record poverty reduction (ADB, 2020). This should not be lost in policy discussions on the appropriate responses to regional and global development challenges post-COVID-19 pandemic. Although globalization has not been smooth and neutral across countries and even across population groups within countries, it has generally resulted in faster and sustained growth, poverty reduction, and shared prosperity in economies where good economic governance is the norm. Where market policies and institutions, particularly governance structures, enable efficient resource allocation, human capital formation, and innovation, both growth and poverty reduction are robust and enduring.

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Increasingly in Asia and elsewhere, governments' policy arsenals to achieve efficient and welfare-improving market outcomes have included adopting competition law and policy (hereafter interchangeably referred to simply as competition policy). A competition policy—also referred to as antitrust in some jurisdictions—commonly provides administrative and judicial measures ensuring that markets are not restricted in ways that reduce economic welfare and stifle economic development. These measures include enforcement mechanisms preventing cartels, collusive behavior, abuses of dominant market position, and anticompetitive mergers and acquisitions. They may also involve leveling the playing field between incumbents and potential market entrants or between state-owned or -controlled enterprises and private enterprises in the same industry or market. If properly designed and implemented to complement other economic policies, including industrial policy, competition policy helps provide an enabling environment for fairer market outcomes, greater innovation, and more durable and inclusive growth.

Interestingly, many jurisdictions, including those in Asia, have exempted agriculture from the discipline of competition policy, such as those involving the exercise of market power by farmer associations or the erection of trade barriers that set an uneven playing field in favor of domestic producers. This stance appears to run counter to the commonly-held observation that, in developing countries, policies and regulations distorting agricultural and food markets have tended to reduce farm incomes and stifle agricultural and rural development. The effective taxation of agriculture is particularly evident from the 1950s to the 1980s (Anderson & Martin, 2021). In recent decades, globalization and technological change, along with shifts in the global trade and financial institutions, have reshaped the dynamics of agricultural and food markets.¹ Nevertheless, market distortions in agriculture continue to be pervasive.

The past two decades have indeed seen a rapid global transformation in the agri-food value chain (Barrett et al., 2020). But the high—and rising—concentration in the chain's downstream segments (such as processing, wholesale, and retail) has raised widespread concerns about abuses of market power by players in these segments, at the expense of farmers who are perceived to have a weak position in the value chain (Deconinck, 2021; Velazquez et al., 2017).

This paper explores the character and role of competition policy in Asia's agricultural development, particularly its enforcement in various segments of the agri-food value chain. It employs political economy perspectives, particularly public choice, to characterize policy formation in agricultural and food markets at various stages of economic development. The effective taxation of agriculture (farm-level production) at low per capita income is seen as balancing the costs and benefits of collective action by various players in the value chain. The resulting inefficiencies, including rent-seeking costs, push agricultural incomes and the economy below its potential. Removing these inefficiencies to engender sustained income growth requires changing the balance of political influence, allowing farmers to acquire a stronger position in the value chain and agricultural policy formation. In this view, the exemption of farmers' associations

¹ Various chapters in the volume edited by Otsuka and Fan (2021) provide extensive discussions on the forces shaping agricultural and food markets, both globally and nationally.

from antitrust laws provides a countervailing force, giving them space to influence the terms of trade in the market.

The rest of the paper is organized as follows: Section 2 briefly characterizes the spread and influences of competition law and policy in Asia. For context, the discussion starts with the Western character and influences of antitrust law. Section 3 describes the treatment afforded to agricultural and food markets by competition policy regimes in Western jurisdictions and their Asian counterparts. Section 4 then uses the public choice lens to examine the nexus between competition policy and structural transformation in agriculture. Finally, Section 5 provides concluding remarks.

2. Spread and influence of competition law and policy

Modern competition policy has its origins in the late nineteenth century when changes in transportation, communication, and manufacturing technologies brought unprecedented economies of scale and scope, fueling the rise of industrial behemoths. In the United States, the eventual formation of cartels and trusts among them sparked concerns about their economic power and the costs to smaller firms and consumers. Motta (2004, p. 3) notes that while “farmers and small businesses had enough political voice and public sympathy to lead to the formation of antitrust in many US states,” such laws were inadequate against agreements involving more than one state. This led to the passage of the Sherman Act in 1890, supplemented in 1914 by the Clayton Act and the Federal Trade Commission Act. The Sherman Act prohibits price-fixing and market-sharing agreements among competitors and monopolization practices by an individual firm; the Clayton Act regulates mergers that are capable of substantially lessening competition.

The decades that followed the Sherman Act saw enforcement actions hard on firms acquiring significant market power. In the late 1970s, influential ideas—associated with the Chicago school—challenged the core tenets of antitrust, describing the antitrust regime as excessive to the point of inhibiting economic efficiency and market dynamism.² Consequently, competition enforcement was relaxed, providing a more permissive environment for any type of market structure and conduct. This shift in the regime, lasting until the late 1990s, had “the effect of making it more difficult for plaintiffs to prevail and easier for defendants to establish efficiency justifications” (Baker & Morton, 2019, p. 3). But the rise of market power and income inequality in the ensuing decades—arising from the relaxed antitrust enforcement as well as other changes, including globalization and information technology—once again triggered calls for a stronger, more effective antitrust law and policy. As in the Sherman Act’s early years, the demand reflected the concern for consumer welfare and the threat posed by substantially rising market power to foment inequality and undermine democracy.

In Europe, in the aftermath of the Second World War, competition policy measures were introduced into the 1951 Treaty of Paris partly to diminish the excessive concentration of economic power, prevent discrimination on national grounds, and guarantee equal access to essential

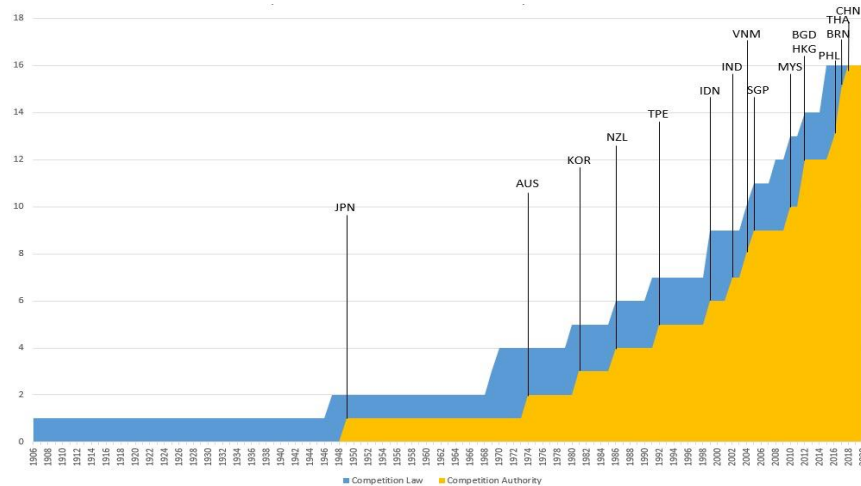
² The late 1970s saw two of the most influential publications—by Robert Bork and Richard Posner—about antitrust law and policy (Baker, 2019, p. 1).

resources, such as coal and steel. Moreover, the measures reflected the increasing appreciation at the time for free competition (broadly, economic freedom) as an organizing structure—instead of the centralized organization of markets that prevailed in countries such as Germany and Austria before World War II—to attain optimal resource allocation, technological progress, and the ability to adjust to changing economic conditions. At the backdrop of this development was the success of the US economy, which had relied on antitrust rules to guard against excessive economic concentration that threatened economic progress and democracy.

Broadly, from the formation of the EU to today, the objectives of European competition policy remain anchored on economic efficiency and European market integration. By preventing market discrimination on national grounds, competition policy serves to make the home market and the European Community (EC) competitive in worldwide markets. However, under certain circumstances, the implementation of the policy also considers social and political objectives, as when the EC regards the high social cost of considerable job losses when it prohibits agreements tantamount to anticompetitive behavior. In particular, the policy accords special importance to small and medium enterprises (SMEs), giving them favorable treatment, including exemptions from anticompetitive agreements. The argument is that the share of SMEs in intra-community trade or in competition is not appreciably substantial (*de minimis* doctrine). Furthermore, the favorable treatment is seen as a balancing act for the disadvantage that SMEs, including farmers, have in the markets because of their small size.

From a handful of countries in North America and Europe, the adoption of modern competition law and policy, including the establishment of competition agencies, has spread rapidly to over 70 country jurisdictions, both developed and developing, since 1990 (Figure 1). In general, high-income countries adopted earlier than low-income countries. In Asia, the first to adopt was Japan (1947), as imposed by the Allies after World War II partly to prevent a resurgence of excessive concentration of economic power. In the economies of the Association of Southeast Asian Nations (ASEAN), where adoption occurred mostly during the past 20 years, competition policy has been a key pillar of regional integration.³ Back in 2007, the ASEAN leaders adopted the ASEAN Economic Community (AEC) Blueprint 2015, which provides for action items to be undertaken and completed by each member state, including the adoption of competition law, toward the establishment of the AEC by 2015. The AEC Blueprint calls for the harmonization of competition law and policy in member states to effectively deal with cross-border commercial transactions. It does not mandate the establishment of a regional competition policy regime, however. Rather it gives maximum flexibility to the member states to develop their respective national competition policy, considering each state's socioeconomic and political landscapes, including legal systems and level of economic development.

³ Ravago et al. (2021b) discusses the evolution of competition law in ASEAN economies.



Sources: OECD CompStats database in the Asia-Pacific Region, OECD Asia-Pacific Competition Law Enforcement Trends (2021)

Figure 1. Introduction of competition law and establishment of competition authorities in the Asia-Pacific region

Apart from the country’s level of development and membership in regional associations, the global movement toward greater economic openness and political liberalization partly explained the widespread adoption of competition law after 1990 (Bradford et al., 2019; Hofmann, Osnago, & Ruta, 2017; Palim, 1998). This movement—sparked by the pro-market revolution in economics that co-evolved with the Reagan-Thatcher administrations—elevated trade liberalization and competition policy in the policy reform agenda, including those of multilateral organizations. The pressure from multilateral organizations, including the OECD, World Bank, the United Nations Conference on Trade and Development (UNCTAD), and the Asian Development Bank (ADB), helped catalyze the rapid spread of competition law in developing Asia and elsewhere (Ravago, Roumasset, & Balisacan, 2021a).

Adoption is one thing; the outcome of competition law and policy is another. For instance, competition laws and policies borrowed from Europe and the United States may be incompatible with developing Asia’s economic, institutional, and cultural contexts, including governance and legal systems. However, there is a dearth of understanding on the causal link between the adoption of competition law, on the one hand, and economic development outcomes, on the other, especially in the context of developing Asia. Such understanding would have to involve characterizing the nature of competition law and policy, establishing the competition agency’s enforcement intensity (e.g., number and size of penalties) and performance (i.e., effect on market power), and identifying the effects of competition policy in relation to other factors, including institutions and other policies, on consumer welfare and economic development (economic growth, productivity, income distribution, poverty).

Of particular interest is whether the adoption of competition policy considers the stylized characteristics of agriculture in Asia and whether such law provides the countervailing force for reducing market distortions inimical to farmers' total welfare and efficient rural transformation.

3. Agriculture in competition law and policy

The primary objective of competition law and policy is to make markets work for the common good by preventing anticompetitive agreements, conduct, restrictions, or behavior that stifle total welfare and economic development. Freeing markets of cartels and dominance abuse is key to enhancing total welfare. In developing countries where policy distortions and rent-seeking activities are rampant, an antitrust consideration that focuses on consumer welfare also enhances total welfare (see discussion in Section 4). From a general equilibrium perspective, where everyone in society is a consumer, what matters is the long-term improvement in consumer welfare. In practice, as discussed in Section 2, there may be other considerations, such as preventing excessive concentration of economic power to contain rising inequality or exempting small enterprises from certain market restrictions to enhance their bargaining power in the value chain.⁴

The recent economic history of many countries worldwide shows that the agriculture sector has enjoyed exemptions—albeit limited in many instances—from the ambit of competition law and policy. These exemptions appear to arise from farmers' weak bargaining power in both output and input markets, which, in turn, may have to do with the structural attributes of agricultural production. First, because farming involves biological and physical processes, including weather, agricultural production is seasonal, highly perishable, and susceptible to various production and marketing risks. Second, because of poor infrastructure in rural areas, some markets are missing or occur only in the later stages of development, such as insurance and formal financial intermediation (Binswanger & Rosenzweig, 1986; Barrett et al., 2020). High transaction costs arising from poor infrastructure also mean that agricultural markets are weakly integrated across space and over time. Thus, while demand is more evenly distributed throughout the year, supply and prices fluctuate considerably.⁵ Third, the sector comprises many small, geographically-dispersed farmers who face a highly concentrated marketing segment in the value chain. On the other hand, antitrust exemption facilitates cooperation among farmers, enabling them to improve their bargaining power. Moreover, such cooperation enables them to exploit scale economies in research and development, production, and marketing, which can be welfare-enhancing not just for farmers but also for the entire economy.

The competition laws of both the EU and its member states provide broadly similar exemptions to the agriculture sector concerning permitted and prohibited market practices (Kachel & Finkelshtain, 2010; Velazquez et al. 2017). In clarifying the scope of antitrust exemptions afforded by the treaty founding the EC to agriculture, the European Council has included restrictive

⁴ Cross-country experiences suggest that non-efficiency considerations in competition enforcement have been few and far between (OECD 2016).

⁵ As demonstrated elsewhere (e.g., Williams & Wright, 1991), competitive markets stabilize but do not eliminate price fluctuations. Price movements would characterize a well-performing integrated market according to storage costs plus the effect of shocks.

agreements that form an integral part of a national market organization and those applying to cooperatives or farmers' associations (called the 'cooperative exemption').⁶ The cooperative exemption covers agreements, decisions, and practices that concern the production, processing, or marketing of agricultural products or the joint use of facilities. However, the exemption does not include restrictive arrangements involving the setting of identical prices (cartelistic behavior). Nor does it cover non-farmers in the agricultural and food value chain—that is, a restrictive arrangement includes only farmers, farmers' associations, or associations of such associations. While these exemptions tend to impair competition and permit farmers' organizations to exercise substantial market power, the evidence is mixed, and the economic relevance of agricultural exemptions is quite limited (Deconinck, 2021; Kachel & Finkelshtain, 2010).

Antitrust regulation in the United States does not exempt agriculture from prohibited market restrictions. Certain types of agreements prohibited by the Sherman Act, such as price-fixing and market allocation, are regarded as so anticompetitive that they are illegal per se (i.e., require no further investigation). This has created a problem for farmers organized as associations or cooperatives because their collective agreements on the marketing of their produce may be construed as agreements on prices, which are illegal per se. The Copper-Volstead Act was passed to provide the necessary statutory protection for farmers' associations. The statute allows farmers, organized as cooperatives, to agree on prices or terms of sale, coordinate with other agricultural cooperatives, and develop a dominant supply position in the market without violating antitrust law (Kachel & Finkelshtain, 2010). Moreover, it allows agricultural cooperatives to establish joint marketing agencies. There are conditions and limits to the exemption, however. First, the dominant position must not result from anticompetitive conduct vis-à-vis competing firms. Second, mergers with—or acquisitions by an agricultural cooperative of—non-cooperative firms are not exempt and are subject to merger supervision. Third, like in the EU's agricultural exemption, the Copper-Volstead Act also allows intervention by the secretary of agriculture or the courts to prevent abuse of the exemption, as when an agricultural cooperative exploits its market power to substantially enhance the price of an agricultural product.

Studies empirically assessing the effects of farmers' associations on their ability to exercise market power and raise the prices of agricultural products (or reduce the costs of agricultural inputs) are sparse and focused mainly on developed countries. Broadly, these studies suggest that farmers' associations bring benefits to farmers, enhance their bargaining power, and do not cause undue harm to consumers (Velazquez et al. 2017). While the laws enable far-reaching cooperation and market dominance without being challenged by competition authorities, certain mitigating factors constrain their ability to behave like cartels. For one, agricultural cooperatives are not immune from the free-rider problem, notwithstanding institutional arrangements such as 'marketing orders,' in which grower referendum and approval by a marketing parastatal are binding for all growers of a specific product in a geographic area.

Antitrust exemptions for agriculture are also seen in many jurisdictions in Asia. As noted in Sect. 2, these countries adopted competition laws amid major changes in the global trading order

⁶ See Article 2 of Regulation 26 on applying certain rules of competition to production of and trade in agricultural products (Official Journal of the European Communities, pp. 129–130).

associated with multilateralism and regional economic cooperation. Tables 1 and 2 present some of the scope and features of the ‘agricultural exemption’ for Northeast Asian countries (Japan, Korea, Taiwan, and China) and the four major emerging ASEAN economies (Indonesia, Malaysia, Philippines, and Thailand).

Tables 1 and 2 show a broad commonality of competition laws and policies across Asia in providing exemptions to partnerships or associations—including federation of partnerships or associations—involving small-scale enterprises and farmers. As in the United States, the antitrust laws of Japan, Korea, and Taiwan do not specifically mention agricultural exemption, but other statutes carve out farmer associations from the scope of antitrust laws. In Japan’s case, the Agricultural Cooperative Law of 1947 provides—and remains—the basic framework of agricultural cooperatives (known as *Nokyo* or JA), including the exemption from the prohibitions of the antitrust law. However, unlike in the EU and North America, where the exemption applies to farmer members only and to farming-related activities (marketing of outputs and inputs), the exemption given to JA is wide-ranging since the cooperatives offer membership also to non-farmers and are likewise engaged in non-farming activities, including banking, insurance, and welfare-related needs of both farming and non-farming communities.⁷

The ASEAN member states, being relatively younger adopters of competition laws, have had the advantage of learning from the experiences of the more mature jurisdictions. Neither their national competition laws nor the AEC Blueprint provides a blanket exemption on agriculture. But both national laws and the AEC Blueprint affords special treatment to cooperatives and groups of small enterprises. Malaysia’s law has a provision for “individual or block exemption,” while the Philippines’ law permits “forbearance” from applying competition law to an entity or group of entities. On the other hand, Thailand’s law specifically excludes groups of farmers, cooperatives, or cooperative groups from applying competition law.

⁷ According to Kazuhito (2015), the JA (the national federation of agricultural cooperatives in Japan) has been a virtual monopoly in the rice market (more than 95% share in 1985); it has been also dominant in the fertilizer market (80% share) and in both pesticides and agricultural machinery markets (60% share). See Mulgan (2016) for a discussion on the institutional context of JA’s market power, particularly the dynamics of agricultural policy-making involving the executives of cooperatives, the Diet politicians, and the bureaucrats of the government’s agriculture ministry.

Table 1. Exemptions for agriculture in competition jurisdictions in Northeast Asia

Jurisdiction	Japan	Korea	Taiwan	China
Competition law	Antimonopoly Act (1947)	Monopoly Regulation and Fair Trade Act (1980)	Fair Trade Act (1992)	Anti-monopoly Law (2007)
Exemption features	<p>Article 22 states:</p> <p>The provisions of this Act <i>do not apply to acts by a partnership (including a federation of partnerships) ...</i> provided, however, that this does not apply if unfair trade practices are employed, or if competition in any particular field of trade is substantially restrained, resulting in unjust price increases...</p>	<p>Article 60 states:</p> <p>The provisions of this Act shall not apply to any acts of an association (including a federation of associations)... provided that this shall not apply to unfair business practices or price hikes by unfairly restricting competition...</p>	<p>The Fair Trade Act does not contain an exemption for agriculture. However, the Agricultural Products Market Transaction Act (1981) contains provisions on joint marketing.</p> <p>Chapter 2 on joint marketing, Article 7–11 of the Agricultural Products Market Transaction Act, states:</p> <p>Agricultural products marketing may be joint marketing performed by farmers' organizations, two forms as following:</p> <ol style="list-style-type: none"> 1. wholesales of supply and reselling or processing as purpose; 2. retails of supply to consumers as purpose... 	<p>Article 56 states:</p> <p>This Law is not applicable to the association or cooperation by agricultural producers or rural economic organizations in their business activities of production, processing, sale, transportation, storage of farm products, etc.</p>

Source: Information was obtained from the respective laws cited.

Note: Italics added.

Table 2. Exemptions for agriculture in competition jurisdictions in Southeast Asia

Jurisdiction	Indonesia	Malaysia	Philippines	Thailand
Competition law	Law Number 5 Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (1999)	Competition Act and Competition Commission Act (2010)	Philippine Competition Act (2015)	Trade Competition Act (2017)
Exemption features	<p>Article 50 states:</p> <p><i>Excluded from the provisions of this law shall be the following:</i></p> <p>...</p> <p>h. <i>business actors of the small-scale group</i>; or</p> <p>i. <i>activities of cooperatives with the specific aim of serving their members.</i></p>	<p>The Competition Act does not contain an exemption specific for agriculture. However, sections of the law <i>allow for individual or block exemptions.</i></p> <p>Under Part II, Anti-Competitive Practices, Chapter 1 (Anti-competitive agreement):</p> <p>Individual exemption 6. (1) An enterprise may apply... for an exemption with respect to a particular agreement from the prohibition under section 4.</p> <p>Block exemption 8. (1) If agreements which fall within a particular category of agreements are... likely to be agreements to which section 5 applies, the Commission may... grant an exemption to the particular category of agreements.</p>	<p>The Philippine Competition Act does not contain an exemption for agriculture. However, Section 28 of the law allows for the possibility of forbearance for an entity or group of entities. It states:</p> <p>The Commission <i>may forebear from applying the provisions of this Act... on an entity or group of entities</i>, if in its determination:</p> <p>(a) Enforcement is not necessary to the attainment of the policy objectives of this Act;</p> <p>(b) Forbearance will neither impede competition in the market where the entity or group of entities seeking exemption operates nor in related markets; and</p> <p>(c) Forbearance is consistent with public interest and the benefit and welfare of the consumers.</p>	<p>Section 4 states:</p> <p>This Act <i>shall not apply</i> to the operation of the followings:</p> <p>...</p> <p>(3) <i>groups of farmers, cooperatives, or cooperative groups</i> recognized under the law and having the aim in their business operations to benefit the vocation of farming.</p>

Source: Information was obtained from the respective laws cited.

Note: Italics added.

Like in Japan and Korea, agricultural population densities in the ASEAN member states are high relative to their Western counterparts, as indicated by rural population per agricultural land area. Average farm sizes were already small in the 1970s, ranging from 1 hectare in Indonesia and Japan to 2 hectares in the Philippines and 3 hectares in Thailand, in contrast to the averages for high-income economies in Europe and North America where more than 100 hectares of operational farm sizes were quite common (Yamauchi, Huang, & Otsuka 2021). However, in most ASEAN member states, stark farm-size heterogeneity across crops and each country's administrative subdivisions is not uncommon. As discussed in the next section, this feature of the agrarian structure, combined with other factors, including technological change and external developments, has influenced the political dynamics of agricultural policy and possibly the standard of competition law and policy.

4. Political economy, agricultural policy, and antitrust

Section 3 has noted the weak bargaining power of unorganized farmers in the marketing chain as a justification for the exemption of farmers' associations from the prohibitions of antitrust law. If organized, they can enhance their negotiating position in the marketplace, including the prices they receive for their produce and the prices they pay for production inputs. But there is a broader context to this exemption, involving public-interest considerations and the political economy of agricultural policy in the development process.⁸

A stylized pattern of agricultural policy is that developed countries tend to subsidize agriculture while developing countries tend to tax it.⁹ That is, the policy regime of developed countries tends to create incentives effectively subsidizing the domestic production of agricultural products, making the returns to domestic agricultural production higher than otherwise would be the case. In contrast, the comparable regime for developing countries tends to make those economic incentives discriminate adversely against farmers, effectively making returns to agricultural production lower than otherwise would be the case. The observation aptly referred to as 'development paradox' generally shows up in comparison of countries at different levels of development (cross-section data) and in the recent history of newly industrializing and developed countries (time-series data). However, this pattern has weakened in the past three decades due to several factors, including multilateral trade liberalization and the information technology revolution (Anderson & Martin, 2021).

Why governments do what they do in relation to public policies, including agricultural and food policies, has been a fertile ground of inquiry by serious students of development. In particular, the stylized facts of agricultural policy have spawned studies aiming to understand the forces that shape agricultural protection over time periods, the dispersion of rates of assistance to agriculture across countries and across industries within the agriculture sector, the choices of policy

⁸ No attempt is made here to review the extensive literature on the political economy of agricultural and food policy. For such a review covering the past 50 years, see Swinnen (2021).

⁹ An early attempt to formalize the stylized fact as regression is by Balisacan and Roumasset (1987). See Binswanger and Deininger (1997) for an early review of the patterns and explanations of agricultural policies and Anderson and Martin (2021) on recent trends and policy developments.

instruments to achieve redistributive goals, and governments' responses to economic shocks, including structural adjustment programs. This is not the place for an exhaustive review of the literature explaining public policies in agriculture. Rather, this section focuses the political economy lens on the changing costs and benefits of collective action for agricultural protection during structural transformation and economic development.

Governments' assistance (income transfers) to agriculture can be usefully viewed as the outcome of the relative influence exerted by various groups in society—the proponents and opponents of transfers—as well as other factors, including governance structures, information and communication technology, and external shocks (e.g., sharp swings in terms of trade). Each group's ability to exert influence on government depends on the costs and benefits of its collective action. In the agriculture-protection game, farmers mobilize influence to gain pro-agricultural policies and assistance programs, while consumers, especially urban consumers, seek to oppose increases in agricultural prices arising from these policies.

In developing countries, or in the early stage of development, farmers tend to have a low political influence on agricultural policies relative to urban consumers and industrialists. On the cost side, farmers are numerous and dispersed geographically, making it costly to organize and coordinate them for collective action. This is accentuated by poor transport and information costs in rural areas. On the benefit side, small farm sizes and low farm productivity in farming means that farmers have a low market surplus, muting their incentives to contribute efforts in collective action for a pro-farmer agricultural policy. The low productivity in agriculture is partly due to farmers' lack of access to productivity-enhancing technologies and working capital. Binswanger and Rosenzweig (1986) elaborated that formal financial intermediation tends to develop in rural areas only later in the development process due to the high unit cost of lending to small farms and the high risks attendant on farming.

On the other hand, urban consumers have relatively favorable conditions for collective action against agricultural protection. Geographic concentration and the relatively favorable transport and communication infrastructure in urban areas make collective action less costly. On the benefit side, the purchasing power of their incomes is sensitive to agricultural prices since, at low per capita incomes, food constitutes a very high share of their consumption spending. Because workers' wages are sensitive to changes in food prices and since profits are sensitive to wage costs, industrialists are likewise supportive of the consumers' cause, thereby tending to oppose agricultural protection. Thus, at the early stage of development, the balance of political pressure tilts in favor of policies and programs that tax agriculture.

However, as development proceeds, rising incomes (and falling food share in total consumption spending) make urban consumers increasingly less sensitive to agricultural policy. Industrial production also becomes more capital-intensive, effectively reducing the sensitivity of profits to wages and food prices. As market surplus increases, farmers' real incomes become increasingly sensitive to agricultural prices. Coalition costs fall as the number of farmers declines, and rural infrastructure improves. Over time, farmers' pressure for pro-farm agricultural and food policy eventually dominates those of consumers and industrialists on the taxation of agriculture.

Balisacan and Roumasset (1987) provide empirical support to the stylized depiction of agricultural and food policies above. But the costs and benefits of collective action are by no means the only determinants of agricultural policy, especially in recent decades. Indeed, as shown by Anderson and Martin (2021), the distortions to agricultural incentives in both developed and developing countries have substantially declined—not risen—in the past three decades as rapid urbanization, structural transformation, and industrialization proceeded in Asia and beyond. There is, however, wide dispersal of agricultural assistance even for countries of comparable income levels and across industry segments of agriculture. Swinnen (2021) reviews the evidence on the other key factors, including the role of information technology, accession to the World Trade Organization and other trading agreements, and the rise of global agri-food value chains in shaping policy reforms in the late twentieth and early twenty-first centuries.

The spread of global agri-food value chains in recent decades is noteworthy. Facilitated by transport and information technology revolutions, the integration of domestic and foreign companies in the global value chains has blurred the lines between domestic and foreign interests. For example, domestic companies supplying inputs to the production process of foreign companies in the value chain are not likely to benefit from a collective action that imposes barriers to entry of the foreign final product. Thus, the integration of economies and companies in the value chain is expected to weaken the incentives for protectionist policies.

On the other hand, in jurisdictions with significant external trade barriers, the interests of agribusiness and food-processing companies tend to align with those of farmers. Some evidence suggests that the growth of agricultural protection has been associated with the growth and concentration of these companies (Barrett et al. 2020).

Further, the growing concentration in the wholesale-retail segment of the food supply chain and the emergence of the preferred supplier systems can also potentially affect agricultural and food policies. Such concentration may entail a substantial rise in market power, which the wholesaler-retailer can exercise against farmers (monopsonization) or consumers (monopolization), or both. As discussed above, at the early stage of development, cost-benefit considerations tend to make consumers (and industrialists) relatively more able than farmers to generate political influence that shapes food policy. Moreover, for reasons discussed in Sect. 3, wholesalers-retailers tend to have greater bargaining power over farmers than they do over consumers concentrated in urban areas. That is, with or without rising concentration in the wholesale-retail segment, the relatively high cost of collective action by farmers may give rise to low investment in a countervailing force for more favorable terms of trade.

Balisacan (2019) makes a case for an independent competition authority acting on behalf of consumers—as a countervailing force—to make markets work better by effectively removing barriers to competition and other business conduct that substantially hinder, prevent, or lessen competition. These barriers, anticompetitive conduct, and economically wasteful influence-peddling activities push the economy down from its potential growth (i.e., inside the production possibility frontier). The consequences are lower long-term growth, higher poverty, and higher income inequality than otherwise would be the case. Society becomes less fair: the numerically

large losers are the consumers, and the numerically small gainers are the highly concentrated (non-agricultural) producers and traders.

The observation in Section 3 that jurisdictions in Asia tend to exempt associations of numerically large, small farmers from the ambit of antitrust law can thus be seen as an effort to address the imbalance between bargaining power and impediments to competition in agricultural and food markets. From this view, an independent competition authority provides the countervailing force to achieve fairer, welfare-enhancing market outcomes. The positive effects of competition policy in food markets on household welfare, economic growth, and other dimensions of development, including equity, have been demonstrated empirically.¹⁰

5. Concluding remarks

Modern competition law has become part of the institutional architecture for growth and economic development in Asia. The challenge for many of the region's developing economies is to design and implement the law in ways that are respectful of, or consistent with, their legal systems, culture, governance structures, and level of economic development. If framed and enforced effectively, competition policy complements other policies, including agricultural policy, in promoting consumer welfare and sustainable economic development.

Political economy considerations may explain the observed exemption of agriculture from the prohibitions of antitrust law, at least in the early stage of development. The numerically large small farmers tend to lack bargaining power in relation to the more concentrated wholesale-retail segments of the marketing chain. Left alone, they are less able to prevent collusive conduct or abuse of dominance. This disadvantage reduces their welfare, possibly amplifying the adverse effects of their weak position vis-à-vis urban consumers and industrialists in collective action on agricultural and food policy. The exemption removes the risk that farmers' collective action that may have the object or effect of influencing prices or terms of trade runs afoul with antitrust law. Further, in preventing or reversing harm to competition in agriculture, the independent competition authority serves as a countervailing force to achieve fairer market outcomes and promote economic development.

Nevertheless, caution must be exercised in carving out agriculture from antitrust enforcement, as the agriculture sector in developing countries is far from homogenous. Farms vary substantially in size, physical attributes, crops, and organization, partly reflecting national policies, institutional legacies, and geography. Indeed, it is not uncommon to find small farm holdings (peasant agriculture) coexisting with large commercial farms (corporate plantations), where the costs and benefits of collective action for political influence tend to favor the latter. Excessive protection of highly concentrated farming segments inhibits efficient resource allocation and structural transformation. Extending the exemption to these segments may be counterproductive to the objective of enhancing efficiency and consumer welfare. Moreover, as modernization proceeds and farms become bigger (numerically smaller number of farmers), as seen in East Asia's experience, the political influence of farmers' associations tends to rise, enabling them to exert

¹⁰ World Bank (2017) provides evidence for a number of country cases.

substantial market power. Again, in this case, it is unlikely that the continuing exemption of agriculture helps advance consumer welfare and sustainable economic development.

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