

# A Comparative Study of China's Competition Law and Cameroon's Competition Law; With Specific Regards to Challenges in the Implementation of Competition Law in China and Cameroon

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## Abstract

This study aims to investigate and compare the competition laws of Cameroon and China, with a focus on the limitations and constraints of competition law implementation in Cameroon and China. By comparing the Competition Laws of China and Cameroon, the research intends to determine whether there are any limits in the implementation of Competition Law in Cameroon and China. To examine and get results for the research's many goals and objectives, this study uses qualitative data analysis. Competition legislation has had a considerable impact on China's economy in recent years, and it will eventually have an impact on trade policies that are directly tied to the international market. During our research, we discovered that competition law regulations have an impact on national and international trade in each country. And we realized that Cameroon's competitiveness policies are in some ways behind the times in the twenty-first century.

As a result, there is a growing need to look into the divergence between China's competition law and Cameroon's competition law in order to assist Cameroonian competition law authorities in updating and making structural changes to Cameroon's competition legislation. These revisions will improve Cameroon's national and international trade policies, but they will have a substantial influence on the country's current economy. There may be some takeaways for China's competitive law policymakers as well. There is no academic work of this kind after a vast range of research, and this will be a wonderful opportunity to introduce creative work to this academic sector. The Anti-Monopoly Law of China has greatly evolved in the past years and there has been amendments and structural adjustments in the past years, which is very great, because Competition Law plays a great role in the economic progress of each country. As a result, the purpose of this study is to identify any obstacles to the implementation of Cameroon's Competition Law (Law No.98/013 of 14 July 1998) and China's Anti-Monopoly Law (2008).

**Keywords:** competition law, Cameroon's Competition Law (Law No.98/013 of 14 July 1998), the People's Republic of China Anti-Monopoly Law (2008)

## 1. Introduction

China's economy is one of the world's fastest-growing economies, allowing them to engage in business connections with countries all over the world and Cameroon is one of these countries. According to Khan and Baye (2008), the China-Cameroon relationship has been marked by a number of official visits by high government officials from both countries. Although the partnership between China and Cameroon benefits both countries, it also poses certain obstacles for Cameroon, which has a weak economy. For example, the massive influx of low-cost manufactured items from China poses a major challenge to Cameroon's weak export manufacturers as well as SME's that only produce for the local market (Schiere & Walkenhorst, 2010). There's also the issue of China's technological and entrepreneurial advantages over Cameroon, which puts native enterprises' survival in both commercial and production activities in jeopardy. This reflects an unequal link between the economies of Cameroon and China, which can be remedied by enacting a strong competition law.

The study also discovered (via a literature search) that there is a scarcity of related literature to the current investigation. As a result of the literature search, it was discovered that there have been few studies comparing competition legislation in China and Cameroon. Even while some research has been done on the subject (Khan &

Baye, 2008; Bradford et al, 2019; Sama, 2013; Kronthaler, 2007), the studies have failed to look at the variables that influence competition law in both countries, as well as the major parallels and differences. There is a need to conduct a study on this identified gap because by exploring the factors that contribute to competition law in both countries and the major similarities and differences between the countries, the study will reveal some challenges encountered by China and Cameroon in implementing Competition law mechanisms. The study aims to explore by comparing China's Competition law and Cameroon's Competition law.

The study's findings will inform governments, stakeholders, and international business partners, as well as policymakers, about the factors that influence competition law in China and Cameroon, the differences and similarities between the two countries' competition laws, and the challenges that both countries face in enforcing the laws. Governments, politicians, economists, and stakeholders and partners in international firms will get a better understanding of the function of competition legislation as a result of these findings and will be better able to handle the difficulties outlined.

## 2. Literature Review

Anti-trust Law, which has now become a standard part of economic policy for both developed and developing countries, is one of the most commonly used instruments in regulating market processes. Competition law is described as a law that seeks to promote and maintain market competition by regulating anti-competitive activities of companies in an economy (Jones & Suffrin, 2011). Tsikata, Fenny and Aryeetey (2016) also describe competition law as a body of legislation that seeks to prevent market distortion that is caused by anti-competitive practices conducted by businesses in an economy. These definitions suggest that competition law seeks to promote fair business activities in an economy. In China and Russia, competition law is known as anti-monopoly law whereas in Canada, the European Union, and the United States of America, it is known as Anti-trust law. According to Horton (2015) competition law can be implemented through private and public enforcement.

The Anti-monopoly Law of China is the country's first comprehensive competition law, codifying the existing body of competition-related policies and laws (Soomro & Wang, 2021). Similarly, monopolistic behavior such as misuse of a dominating position, mergers that destroy or restrict competition, and anti-competitive agreements between businesses are prohibited under the law. Companies and people, according to Larouche (2012), are authorized to file private actions against entities that engage in monopolistic behavior under the law. Bidding Law, Anti-Unfair Competition Law, Contract Law, Foreign Trade Law, and Price Law were among the existing statutes. In Cameroon, competition or antitrust law prohibits the abuse of dominance which includes refusing new competitors from assessing the market or price discriminations as well as anti-competitive agreements. According to Khan and Baye (2008), the law was not effectively implemented until 2005. The compensation law is in the same position as the legislation on dumping and the marketing of subsidized imports that are supposed to ensure compensation for any firm of unfair competition.

The background of China and Cameroon on competition law shows the relationship between developed and developing countries. This is further explained by Soomro and Wang (2021) who indicated that China's intensification of relations with developing countries like Cameroon is attributed to the need to secure raw materials for their booming economy and markets for manufacturers. As such, China insists on having a "sincere friendship" and "reciprocal benefit" with developing countries. In other words, it appears China is a more acceptable partner to African leaders. Therefore, the competition law is implemented in both developing and developed countries.

This is further supported by some studies. One such study was conducted by Lee (2015) who revealed that competition law is implemented among countries across the globe to boost international trade while managing competition with economies. Similarly, Ndlovu (2018) also revealed that competitive laws are as effective in the South African economy as in developed countries. Thus, engaging in international trade is effective as there are fair grounds to operate. In Ghana, Tsikata, Fenny and Aryeetey (2016) study revealed that both developing and developed countries implement competition law to ensure fair trade among countries. Based on this, the current study seeks to explore by comparing competition law between China and Cameroon with the focus on factors contributing to the law, the similarities, and differences as well as the challenges.

### 2.1 Research Objectives

The main aim of the study is to explore by comparing China's Competition law and Cameroon's Competition law. Thus, the study will specifically address

- i. To explore challenges in the implementation of Competition law in China and Cameroon

### 2.2 Methodology

This study will employ qualitative data analysis to explore, assess, and compare the obstacles that are faced in the

implementation of China's Anti-Monopoly Law (2008) and Cameroon's Competition Law (Law No.98/013 of 14 July 1998). While analyzing and merging the existing literature review, both primary and secondary sources are used and provided, these include; books, journal articles, official documents, and newspapers. A comparative legal method is used to analyze the “de lege lata” and “de lege feranda” situation in the topic’s scope.

### **3. The Framework of the China Anti-Monopoly (2008) and Cameroon’s Competition Law (Law No.98/013 of 14 July 1998)**

#### *3.1 The Framework of China’s Anti-Monopoly Law (2008)*

Anti-Monopoly Policy consists of competition law regulation aims, anti-monopoly enforcement agencies, and an anti-monopoly enforcement policy, all of which have the same purpose in mind: to preserve a healthy degree of competition in the actual world. According to Article 1 of the Chinese AML, the goal of anti-monopoly policy is to protect against or stop monopolistic behavior, as well as to maintain and promote the order of fair market competition. China's Anti-Monopoly Law (2008), which aims to improve economic efficiency, safeguard consumers' interests, defend the public interest, and, most significantly, promote the growth of the socialist market economy. Article 2 of China's Anti-Monopoly Law establishes a regulation that addresses anti-monopoly policy in terms of subject, territory, and action (2008).

#### 1) Subject

The Chinese anti-monopoly policy is applicable to a wide range of businesses. This covers any businesses that engage in economic operations, whether they are owned by the government, a cooperative, a private company, or a foreign investor.

#### 2) Territory

According to article 2 of China's Anti-Monopoly Law (2008) (AML), the Law applies to monopolies conduct in economic activities within the PRC's territory, as well as exploitative actions beyond the PRC that eliminates or restricts competition in the PRC's domestic market. Therefore, it signifies that the Chinese AML applies to monopolistic activity on two levels: within the PRC's territory and outside the PRC's territory, which destroys or restricts competition in the PRC's domestic market.

#### 3) Action

According to Article 3 bis(i), (ii), (iii) of China's Anti-Monopolistic Law (2008), the AML applies to three types of actions: monopoly agreements between undertakings, misuse of dominating market positions by undertakings that may have the impact of eliminating or restricting competition. Administrative power is sometimes abused to remove or restrict competition. In China, this phenomenon still continues in varied degrees.

#### *3.2 The Framework of Competition/Antitrust Law in Cameroon (Law No.98/013 of 14 July 1998)*

Cameroon’s Competition or Antitrust Law was enacted 14 July 1998. This Law prohibits the abuse of dominant position which also includes refusing a new competitor’s access to the market and price discrimination. There are cases where an anti-competitive agreement may not be deemed illegal, but this is only in situations where the agreement makes a great contribution to economic efficiency and this economic contribution outweighs the anti-competitive effect, for example the reduction of prices and the improvement of the quality of products and services. The Law is only enforceable in Cameroon. The Cameroonian Competition Law authorities later on established a National Competition Commission (NCC), The NCC was created in 2005, the National Competition Commission is the main authority that enforces and takes care of anti-monopoly work in Cameroon. A new decree organizing this Commission was passed in the year 2013. The National Competition Commission has the responsibility of regulating and intervening to make sure that Competition laws are enforceable when anti-competitive practices have an anti-competitive effect in the market economy. Article 2 (1) of Competition Law in Cameroon. This Law is also applicable when the effects of anti-competitive practices caused by enterprises outside the country are felt at the domestic market subject to agreements, contracts, and treaties between Cameroon and the enterprises of the host country.

Moreover, the 1998 law on Competition Law in its section II prohibits anti-competition practices; it states in its article 3 "all practices that would effectively prevent, distort or restrict the performance of competition in the market significantly are prohibited." This article will be of great use to our research work because it gives a lot of details about the 1998 Competition Law of Cameroon and its scope of application. The legal background in this literature review will also focus on a brief explanation of the 1998 Law on Competition Law in Cameroon and the Anti-Monopoly Law of the People's Republic of China. These two legal frameworks (Chinese Anti-Monopoly law 2008 & 3. Cameroon’s Competition Law, Law No.98/013 of 14 July 1998) have the same goal: ensuring there is a

certain level of competition in the market to keep anti-competitive practices away from the real market. And curb these practices in one way or the other and promote fair competition, but in the course of implementing these Laws there are several challenges encountered.

#### **4. Challenges Faced in the Enforcement of the Chinese Anti-Monopoly Law (AML2008)**

##### *4.1 Anti-Monopoly Legislation Enforcement Agencies are not Self-Governing/ Self-Sufficient*

Anti-Monopoly legislation enforcement authorities (agencies) lack independence, they are unable to apply the Anti-Monopoly law on their own, which means their actions are continually hampered by other government departments. As a result, Wang (2018) claims that the Anti-Monopolistic law's independence is defined by the law's specificity, which prohibits monopoly agreements, prohibits market dominance abuse, and regulates large-scale mergers. The majority of cases handled by anti-monopoly enforcement authorities have a significant impact on society, affecting the entire market or industry, and market dominance abuse frequently involves huge state-owned firms and international corporations. If law enforcement authorities lack sufficient independence and power, the court and any other processes will undoubtedly be influenced by other government entities involved in the case.

According to World Bank research from 2002, to increase antitrust enforcement's independence, the chief of enforcement must be nominated by the national parliament assembly and have a separate budgetary budget. It is hard to establish an anti-monopoly law enforcement agency in China that is not directly associated with any government department; yet this does not rule out the possibility of countermeasures to strengthen anti-monopoly law enforcement agencies' independence in China. According to Wang (2018), following the implementation of the CPC Central Committee's Plan to Deepen the Reform of the Party and Government Agencies, the three Anti-Monopoly enforcement agencies under the National Development Reform Commission, the Ministry of Commerce, and the State Administration for Industry and Commerce were integrated into the State Administration for Market Regulation, effectively ending the situation of multiple enforcement authorities in Anti-Monopoly enforcement.

In addition, Wang (2018) claims that a collection of many enforcement organizations has a higher cost and lesser efficiency than a collection of single enforcement agency. When a case involves both pricing behavior and non-behavior, jurisdiction conflicts and other authority difficulties may arise between the National Development and Reform Commission and the state Administration for Industry and Commerce. As a result, the merger of the three antitrust enforcement organizations is a fantastic idea. Anti-monopoly law enforcement necessitates and involves a significant amount of law enforcement resources, which stems not only from the fact that anti-monopoly law applies to practically all businesses operating in China's market, but also from the fact that it has extraterritorial authority. Because China has such a wide area and the world's largest market, its anti-monopoly law enforcement resources should theoretically be comparable to those of any other country or region. Zhang (2011) contends that it is a dream to expect that AML alone can fund fundamental legal changes given the prevailing political ideology and market conditions in China. Give the stance of the current regime, the independence and impartiality of the Anti-Monopoly Commission cannot be guaranteed as it is subject to control by the administrative personnel and budgetary control of the central government.

##### *4.2 The Anti-Monopoly Law's Legal Liabilities are not Explicitly Stipulated/ Limited Legal Remedies*

The legal liabilities under the Anti-Monopoly statutes need to be changed right away. In some circumstances of anti-monopoly violations, more severe legal penalties are required. Articles 46 and 47 of the Chinese Anti-Monopoly Law of the People's Republic of China (2008) provide that business operators that implement monopoly agreements and abuse market dominance can be punished no less than 1% and no more than 10% of their previous year's sales turnover. Furthermore, because there is no direct stipulation about the concept of market sales turnover, it is not very obvious and explicit. Given the global nature of transnational organizations, the legislation must specify that sales turnover relates to the violator's sales turnover in the relevant market. In China, Chapter 7 of the AML specifies out three forms of legal obligations for violations: administrative liability, criminal liability, and civil liability.

#### **5. Challenges Encountered in the Implementation of Cameroon's Competition Law (Law No.98/013 of 14 July 1998)**

##### *5.1 Corruption, Government Intervention Hamper Effective Implementation of Competition Policies*

Most developing countries, including Cameroon face the challenge of high levels of government intervention in the economy, which is by default increased when a competition law is adopted and enforced. Waked (2016) contends that government intervention policies include; government monopolies, government-erected barriers to enter or exit markets, subsidies granted by governments to loss-making enterprises, and government politicization

of administrative authorities in force of applying the law. In Cameroon, the government plays a significant role in regulating and setting bureaucratic measures to be followed by firms to enter or exit the market, which leads to cronyism, corruption, and favoritism.

In Cameroon, adopting and implementing competition law has been a tool that provides disguised government control and hamper the growth of fragile private sector and small and medium sized enterprises. Large scale entrepreneurs can easily prevail and escape certain competition law sanctions, because they have a large capital to bribe themselves out of certain sanctions imposed by the competition law authorities. Government intervention comes in from several angles in Cameroon because Cameroon does not only depend on the Competition Law (Law No.98/013 of 14 July 1998), but also depends on the OHADA (Organization for the Harmonization of Business Laws in Africa) Uniform Act to impose criminal liabilities on business offences in Cameroon, especially regarding competition law offences.

### *5.2 Lack of Funds for the Operating Commission (National Competition Commission)*

The National Competition Commission (CNC) was established by Law No. 98/013 on 14 July 1998, related to competition law in Cameroon, and is overseen by the Ministry of Commerce. The National Competition Commission has an allocated budget as an operating budget for the CNC to carry out its missions, and the government has broadened its financial resources within the Decree of 13 December 2013 (“Decree 2013”) by including certain procedural costs, production costs, and product fee. According to (Njike 2014), the CNC requires firms to pay a filing fee that varies based on the size of the planned transaction. Most businesses object to the CNC's ruling since these costs are not specified in Order No.00003/MINCOMMERCE dated February 16, 2010.

Furthermore, these charges might be viewed as an impediment to the independence of the CNC members, who must provide an opinion on the proposed operation in exchange for the fees paid. Certain businesses complete this duty of fee payment, but others are increasingly hesitant to pay these expenses and publicly claim their rights before the competent authorities. The CNC's lack of an entire budget that allows the commission to function independently is already a significant impediment to the commission's ability to operate independently, as part of its budget is determined by the number of companies willing to pay a filing fee that varies depending on the amount of the contemplated transaction.

## **6. Conclusion**

Antitrust law, often known as anti-monopoly law, competition law, or antitrust law, varies by country. However, in Cameroon, it is known as antitrust law, while in China, it is known as anti-monopoly law. During this research, we discovered that China and Cameroon have adopted competition law policies, agencies, and commissions to control the market sector, ensure that market competition is balanced, and ensure that genuine and market competition is fair. Infrastructures, money, and all essential tactics have been stirred up to ensure that these laws are correctly executed to meet the scenarios and cases, although there have been some setbacks. However, each country faces restrictions and problems in the implementation of Competition Law, and this paper examines some of the issues that arise on ground.

Despite the fact that Cameroon and China have implemented competition law legislation and mechanisms to ensure fair competition in the market, the study found that both nations face challenges in implementing competition law policies. As a result, this study sheds light on some of the challenges that Cameroon and China have in enforcing competition legislation. Some challenges analyzed include; The enforcement officers of anti-monopoly policies are not self-governing/self-sufficient, the anti-monopoly law's legal liabilities are not explicitly stapled/limited legal remedies, and the anti-monopoly law's legal liabilities are not explicitly stapled/limited legal remedies are among the challenges identified, corruption and government intervention, and a lack of funds all impede the effective implementation of competition policies. These are some of the challenges encountered by Cameroon and China in the implementation of Antitrust laws.

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