

Japan-ASEAN Integration Fund (JAIF)



**“Assessment of the Legal and Regulatory
Frameworks on Electronic Commerce in
Cambodia, Lao PDR, Myanmar, and Viet Nam”**

Assessment Report

March 2020

PREFACE

With increased internet connectivity, rising smartphone penetration, as well as growing availability of internet access and new payment options, electronic commerce (e-commerce) has been growing rapidly in ASEAN. This growth is coupled with the expansion of middle class and young population in the region. Between 2009 and 2014, the proportion of the ASEAN population using internet rose from 12.6% to 25.8%.

In the CLMV countries, development of e-commerce and internet usage is becoming more visible in the recent years. In 2018, the number of internet users in Viet Nam account for 67% of its population and 50% in Cambodia, while internet penetration in Lao PDR and Myanmar is at 35% and 34% of its population, respectively. In Cambodia, for example, there is around 15,000 consumers for most e-commerce ventures in the country. While in Viet Nam, the total market value of Viet Nam's e-commerce market is currently at US\$1.8 billion, with 35% e-commerce penetration in the country.

With a strong e-commerce growth potential in the region, government is expected to be able to respond to new and emerging challenges. One way to respond to these emerging challenges by e-commerce development is by having sound and relevant legal and regulatory frameworks that are implemented effectively. Patchy legal and regulatory frameworks in e-commerce could create unconstructive business environment, as well as lead to conservative actions by the private sector including conservative investment decisions by major players, and lower adoption rate by consumers.

Given these backgrounds, there seem to be some progress towards enabling legal environment for e-commerce, and modernizing e-commerce laws to reflect the recent developments also in the CLMV countries in line with regional commitment. The objective of this project therefore is to assess the legal and regulatory frameworks on e-commerce in the CLMV countries to identify the gaps, and provide recommendations to address the common gaps to modernize and/or implement updated legal and regulatory frameworks in each country to reflect on the current e-commerce developments, and to achieve their regional commitments.

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ABBREVIATIONS

ACCEC	ASEAN Coordinating Committee on E-Commerce
ADB	Asian Development Bank
AEC	ASEAN Economic Community
AEM	ASEAN Economic Ministers
AJCEP	ASEAN-Japan Comprehensive Economic Partnership
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASEC	ASEAN Secretariat
ASW	ASEAN Single Window
ATF-JCC	ASEAN Trade Facilitation-Joint Consultative Committee
BAC	Business Advisory Council
CBPR	Cross-Border Privacy Rules
CAGR	Composed average growth rate
CLMV	Cambodia, Lao PDR, Myanmar and Viet Nam
COD	Cash on delivery
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CTI	Committee on Trade and Investment
DFS	Digital financial services
EC	E-commerce
EU	European Union
FTA	Free Trade Agreement
GATT	The General Agreement on Tariffs and Trade
GDPR	General Data Protection Regulation
GIZ	The Deutsche Gesellschaft für Internationale Zusammenarbeit
JAIF	Japan ASEAN Integration Fund
ICT	Information and Communication Technologies
IP	Internet Protocol
ITU	International Telecommunication Union
MSMEs	Micro, Small and Medium Enterprises
OECD	The Organization for Economic Co-operation and Development
QR code	Quick Response code
PDPA	Personal Data Protection Act
RCEP	Regional Comprehensive Economic Partnership

SDGs	Sustainable Development Goals
SEOM	Senior Economic Officials Meeting
SNS	Social networking service
TA	Technical assistance
TELMIN	ASEAN Telecommunications and IT Ministers Meeting
TELSOM	ASEAN Telecommunications and Information Technology Senior Officials Meeting
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UDRP	Uniform Domain-Name Dispute Resolution Policy
UNCITRAL	The United Nations Commission on International Trade Law
USD	US Dollar
WTO	World Trade Organization

Cambodia

CCC	Cambodian Chamber of Commerce
FWCMS	Foreign Workers Centralized Management System
MOC	Ministry of Commerce
MOI	Ministry of Interior
MPTC	Ministry of Posts and Telecommunications
NBC	National Bank of Cambodia
RGC	Royal Government of Cambodia
SECC	Securities and Exchange Commission in Cambodia
TRC	Telecommunication Regulator of Cambodia

Lao PDR

BOL	Bank of the Lao PDR
MOIC	Ministry of Industry and Commerce
MOPT	Ministry of Posts and Telecommunications
NSEDP	National Socioeconomic Development Plan

Myanmar

DEDC	Digital Economy Development Committee
MHA	Ministry of Home Affairs

MOC	Ministry of Commerce
MOTC	Ministry of Transport and Communications
MFSPs	Mobile Financial Service Providers
UMFCCI	Union of Myanmar Federation of Chambers of Commerce and Industry

Viet Nam

MIC	Ministry of Information and Communications
MIT	Ministry of Industry and Trade
VND	Vietnamese Dong
VNNIC	Viet Nam Internet Network Information Center

EXECUTIVE SUMMARY

Digitalization of an economy has become one of the highest priorities for government in almost every country in the world. In particular, improved online connectivity together with the increase in penetration of mobile devices has widened many opportunities for the economy to develop and brought efficiencies to peoples' way of living regardless of physical location and time differences. E-commerce is considered one of the most beneficial businesses that connects transactions of products amongst business operators and consumers online, which has vast potential for economic growth.

With a momentum of such growth potential, ASEAN Member States have been promoting digital economy through various initiatives and programmes in line with the scheduled regional economic integration in achieving harmonic and sound economic community in the region. The recent ASEAN Agreement on Electronic Commerce is one of the few examples highlighting their interests in capturing the potential opportunities ahead not only as an individual country but also as a region for future prosperity.

However, the readiness of realizing such potential differs amongst ASEAN Member States including CLMV countries. While similar growth trends are expected to be followed, study and assessment conducted through this project proved that there are existing numbers of issues and challenges that need to be overcome in order to benefit from e-commerce in these countries. Nevertheless, together with effective national strategy that paves way forward towards digitalized economy, enhancement of legal and regulatory framework in CLMV countries is essential.

This report summarizes the current situation of legal and regulatory framework on e-commerce in CLMV and provides recommendations based on the assessment results. In addition, four probable Technical Assistance (TA) programmes for CLMV countries have been proposed. These TA programmes are expected to directly or indirectly support further enhancement of legal and regulatory framework on e-commerce in each country going forward.

Numbers of progress have been observed in relevance to legal and regulatory framework in all four countries. With a continuous support extended by the international donors, CLMV countries have been placing many efforts to draft and implement legislations in line with the regional agreement as well as global practices that embraces e-commerce businesses while protecting the consumers to shop online. On the other hand, however, there remain several issues that need to be focused to further enhance the legal and regulatory framework of e-commerce. Due to the differences in the development stage and readiness, CLM (Cambodia, Lao PDR, and Myanmar) and Viet Nam faces different kind of issues and challenges, which are summarized as follows:

CLM

- Relevant laws and regulations such as law on e-commerce, law on private data protection and law on consumer protection are missing or need improvements
- Mandates of the concerned parties need to be clearly defined and coordination should be strengthened
- Streamlining duplicate/conflicting provisions is necessary
- Skilled and knowledgeable IT and ICT professionals are lacking

Viet Nam

- Existing legal and regulatory framework need to be modified /improved
- New business including e-commerce and e-wallet ought to be clarified under existing rules and regulation
- The provision stipulating data transfers in Law on Cyber Security is unclear in respect of target organization and range of data.

Given these observed issues and challenges, this report provides several recommendations to further enhance the legal and regulatory framework of e-commerce for each country which can be summarized as follows:

CLM

- Construct e-commerce development plan
- Streamline the missing components of the legal and regulatory framework
- Improve payment scheme

- Scale up understanding of digital skills and competency

Viet Nam

- Streamline the missing components of the existing legal and regulatory framework
- Improve online consumer protection with effective fine and penalty schemes
- Scale up knowledge
- Improve payment scheme

Based on the above assessment result and series of discussions with relevant policy makers as well as beneficiaries in CLMV countries, this report provides three possible technical assistance (TA) programme designed to support recipient countries to further enhance the legal and regulatory framework on e-commerce as follows:

1. Establishing / implementing necessary legal and regulatory framework
2. Modifying / improving existing legal and regulatory framework
3. Enforcing actual operations and implementations

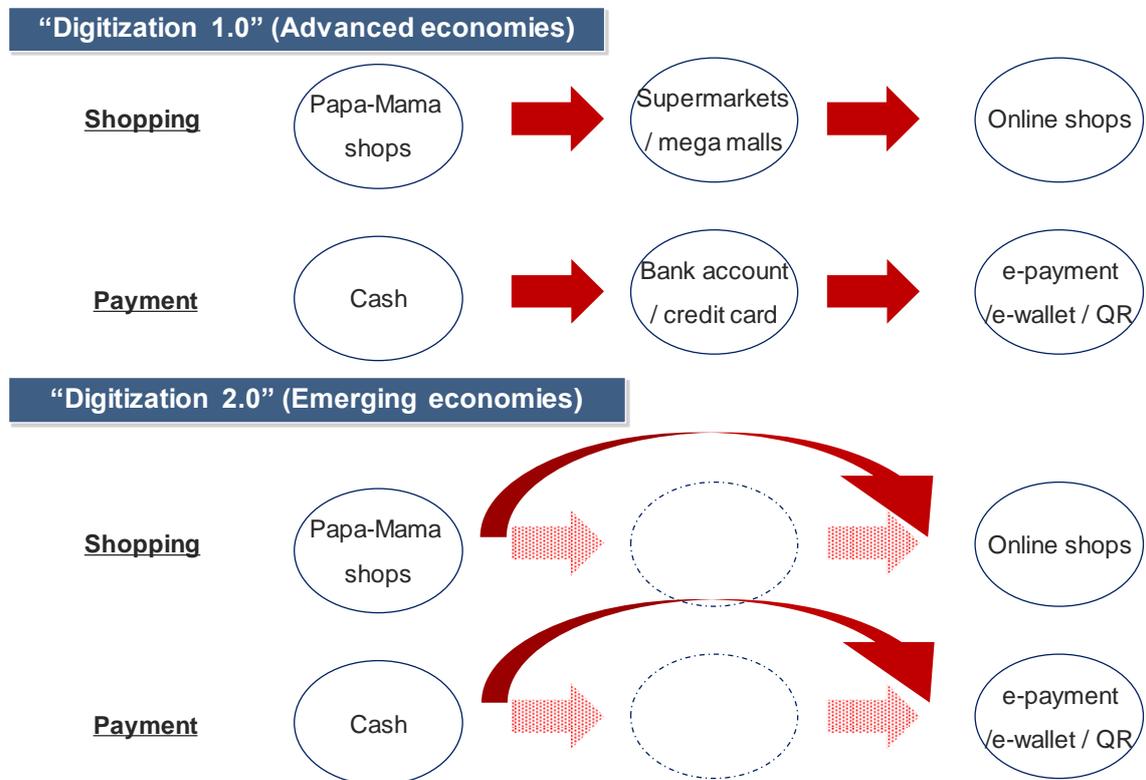
1. LEGAL AND REGULATORY FRAMEWORK ON E-COMMERCE IN CLMV

1.1. Regional Initiatives and Global Practices

1.1.1. Global Trends and Facts

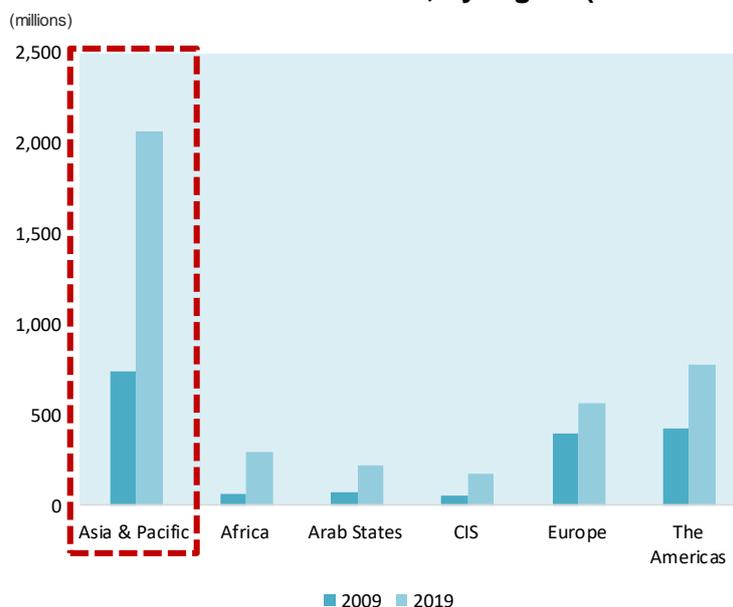
A “leap frog” effect has become a common explanation for a big hike of emerging economies advancing from former analog stage to a modern digitized stage all at once. Typical phenomenal example of such effect can also be observed in the field of e-commerce in emerging economies even with limited resources and insufficient infrastructure. Vast increase in penetration of mobile devices in the recent years has a significant impact on digitization in these countries where people are able to shop online rather than visiting distant retail stores with instant cashless payment using apps on their mobile phones. Digital payments allow unbanked people to make payment without the help of financial intermediaries and help solve financial inclusion issues in these countries.

Figure 1-1 A “leap frog” effect in emerging economies



Evidently, CLMV is expected to realize this effect due to high penetration rate of internet access backed by wide spread smart phones and mobile devices in the recent years.

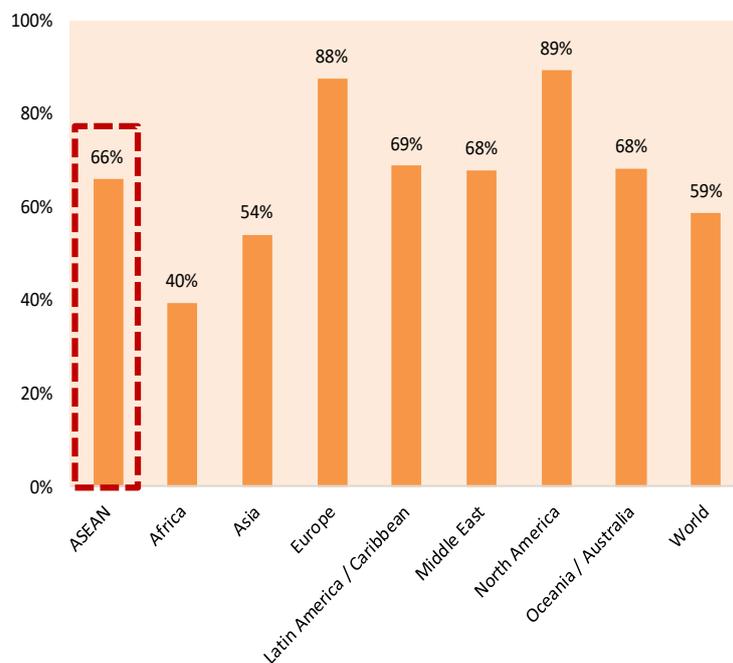
Figure 1-2 Number of internet users, by region (in 2009 and 2019)



Note: 2019 is an estimate figure

Source: International Telecommunication Union (ITU), Internet World Stats

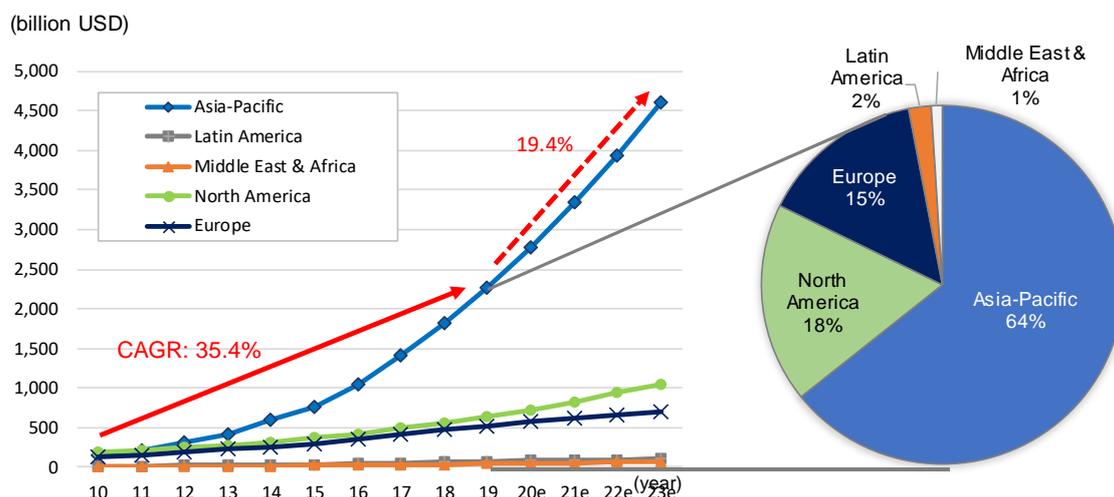
Figure 1-3 Number of internet users, by region (2019)



Source: Internet World Stats

In line with the increase of internet penetration as well as growth in numbers of mobile holders, the size of e-commerce market is expected to grow globally. The total global retail sales through e-commerce accounted over 3,534 billion USD in 2019 with composed average growth rate (CAGR) of above 25% since 2010. By region, the total e-commerce sales is particularly significant in Asia and Pacific accounting above 60% of the global sum as well as CAGR of above 35% which is an outstanding figure compared with other region. Contribution are not only from the big giants such as China, India and Japan in this region but the presence of ASEAN is also widening with higher growth rate of e-commerce sales than the preceding countries.

Figure 1-4 Retail e-commerce sales by region

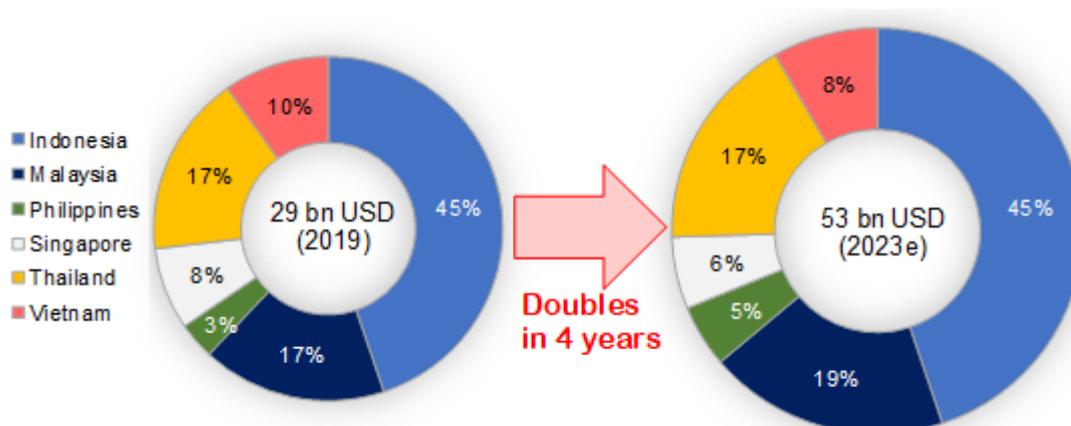


Source: eMarketer

E-commerce market size in ASEAN six countries¹, which amounted to almost USD 29 billion in 2017, is expected to double by 2021 with USD 53 billion. As can be seen from Figure 1-5, the highest contribution amongst the selected ASEAN Member States is expected from the most populous country Indonesia, nearing one third of the total population in ASEAN due to the increase of middle-income households and broadened accessibility to the internet through mobile devices.

¹ Six countries are Indonesia, Malaysia, Philippines, Singapore, Thailand, and Viet Nam.

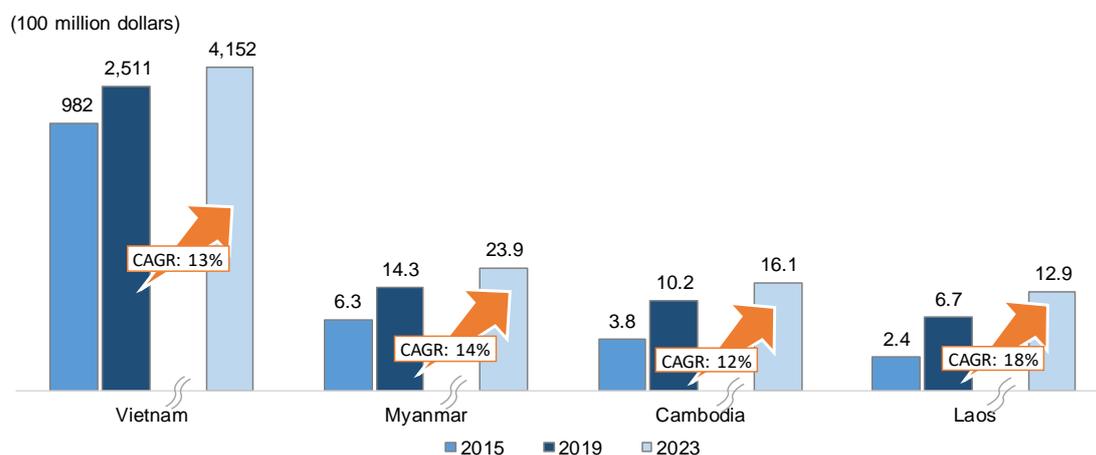
Figure 1-5 E-commerce market size in ASEAN



Source: eMarketer

Figure 1-6 provides estimated figures on e-commerce market in CLMV from another source. Although these figures are calibrated with estimated calculations based on the economic situation and investment climates in each country, this is the only available source of data for CLMV thus far.

Figure 1-6 E-commerce market in CLMV countries

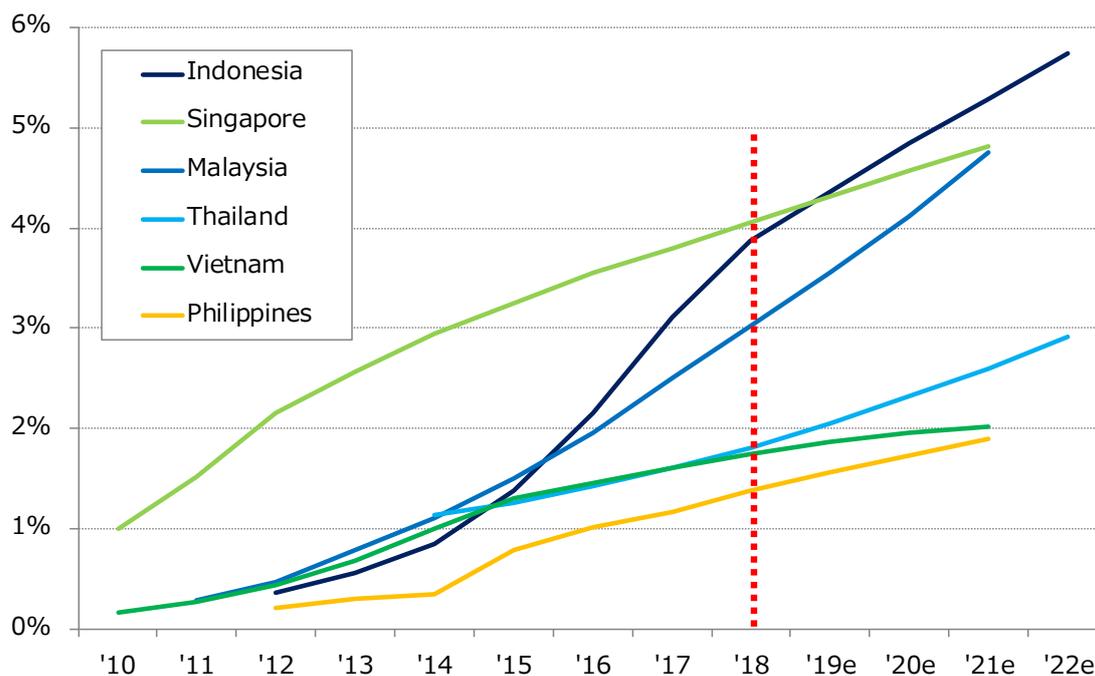


Source: Euromonitor International

Although e-commerce markets in CLM countries are much smaller than other preceding countries in ASEAN, there is no doubt that the contribution from CLM countries could also have a certain impact to the region going forward. Internet retailing market in CLM countries is expected to grow USD 52.9 million by 2023 with CAGR of above 14 % since

2019. In order to meet future expectations, feasible strategic national plan that envisions the growth path as well as appropriate legal and regulatory framework that supports the business environment and protects the beneficiaries ought to be enhanced.

Figure 1-7 Share of e-commerce against total retail sales of ASEAN Member States



(Source) eMarketer

The share of e-commerce against the total retail sales of selected ASEAN Member States is also expected to grow in the coming years as can be seen from figure 1-7. It is apparent that the total sales through e-commerce is on a constant rise in all countries already ranging 1.5% to 4.1% contribution out of the total retail sales and it is still on an increasing trend. Most of such retail sales through e-commerce are contributed by business-to-business (B2B) or business-to-consumers (B2C). Moreover, adequate regulatory framework that could promote and support relevant businesses and digital trade will be one of the key factors to successfully realizing sustainable development in e-commerce market.

Figure 1-8 Numbers of users of SNS in some ASEAN Member States (2018)

Facebook				Instagram			
	Countries	Users(millions)	Penetration		Countries	Users(millions)	Penetration
1	Indonesia	78.4	70.5%	1	Indonesia	48.4	43.5%
2	Philippines	53.0	93.5%	2	Malaysia	9.7	42.6%
3	Vietnam	47.3	88.6%	3	Philippines	8	14.2%
4	Thailand	33.9	88.6%	4	Singapore	2	40.4%
5	Malaysia	20.4	89.8%	5	Thailand	11.7	28.8%
6	Singapore	3.6	73.7%	6	Vietnam	5.7	10.6%
	Asia-Pacific	666.4	33.2%		Asia-Pacific	205	10.2%
	US	169.2	60.5%		US	100.5	35.9%
	India	217.9	48.0%		India	51.3	11.3%

(Source) eMarketer

Another growing factor in relevance to e-commerce is the increasing trends in the usage of social networking services (SNS). There are numbers of globally known SNS² such as Twitter, You Tube, Facebook, and Instagram in addition to locally popular ones such as WhatsApp, LINE, and WeChat widely used amongst younger population in several countries. It is apparent that even in some emerging economies without e-commerce platforms also tend to utilize these SNS as a trading platform especially at the consumer-to-consumer (C2C) level. Figure 1-8 illustrates penetration rates of selected ASEAN Member States of Facebook and Instagram. Both SNS with high penetration rates have become powerful communication tools including for commercial purposes in these countries and most likely similar trend will be also experienced by CLM countries soon.

1.1.2. Global and Regional Frameworks on E-Commerce

There are two main streams of initiatives in the global community that discuss intensively on policy-related issues on e-commerce and digital trade. WTO is the most active global organization leading the discussion since 1998 after the “Declaration on Global

² Rankings of such SNS are available in multiple sources. However, results usually differ by target population, country and region. In addition, since these services depend heavily on popularity and new brands evolve instantly, ranking varies widely every year.

Electronic Commerce” and commencement of “Work Programme on Electronic Commerce”³.

(1) WTO Work Programme on Electronic Commerce

This programme was adopted by the General Council in 1998. The Programme instructed (i) the Council for Trade in Services to examine and report on the treatment of electronic commerce in the GATS legal framework; (ii) the Council for Trade in Goods to examine and report on aspects of electronic commerce relevant to the provisions of GATT 1994, the multilateral trade agreements covered under Annex 1A of the WTO Agreement, and the approved work programme; (iii) the Council for TRIPS to examine and report on the intellectual property issues arising in connection with electronic commerce; (iv) the Committee on Trade and Development to examine and report on the development implications of electronic commerce, taking into account the economic, financial and development needs of developing countries.

The recent discussion is focused on following four areas: (a) the future of the Work Programme, (b) the moratorium⁴, (c) possible negotiations on e-commerce, and (d) the setting up of a working group or other institutional structure.

(2) Joint Statement on Electronic Commerce (Dec. 2017)

In 13 December 2017, 71 members that share the goal of advancing e-commerce work in the WTO issued a joint statement. Highlights of the joint statement and its initiative are as follows: (i) the members will initiate exploratory work together toward future WTO negotiations on trade-related aspects of e-commerce; (ii) participation is open to all WTO members; (iii) the first meeting to be held in the first quarter of 2018.

Latest meeting was held in Davos in January 2020 where Indonesia and Cameroon joined as new members. The joint statement mentioned that the coalition will “seek

³ WTO offers various resources and updates on the relevant meetings held through their website “Electronic Commerce Gateway”. (https://www.wto.org/english/tratop_e/ecom_e/ecom_e.htm)

⁴ E-commerce moratorium is “a decision taken by WTO members which entails that they should not impose customs duties on electronic transmissions”. (https://www.wto.org/english/thewto_e/minist_e/mc11_e/briefing_notes_e/bfecom_e.htm)

to achieve a high-standard outcome that builds on WTO agreements and frameworks” hence continue to encourage other WTO members to participate in the collation “in order to further enhance the benefits of electronic commerce for businesses, consumers and the global economy.”⁵

Figure 1-9 represents standpoints of selected countries and regions in factors related to e-commerce directly and non-directly according to the Joint Statement on E-commerce in 2017. EU weighs more importance on “Protection” such as online consumer protection and personal data protection. On the other hand, countries such as US and Japan support cross border free data flow, no requirement of data localization, and no requirement of access to source code. Apparently, there exists a gap of interests and focuses on the legal and regulatory context even amongst the countries and region in the global community.

Figure 1-9 Current standpoints of selected countries / region in WTO

		EU	Japan	US	China
Trade	Digital Trade		○		○
	No imposition customs duties on electronic transmissions	○	○	○	△
	Non-discrimination obligation		○	○	
<u>Factors that are related to E-Commerce</u>					
Transaction	Digital contract / authorization / signature	○	○		○
	Electronic payment		○		○
Protection	Online consumer protection	○	○		○
	Unsolicited e-mail	○	○		○
	Personal data protection	○			○
<u>Factors not directly related to EC</u>					
Data	Cross border free data flow		○	○	
	no requirement of data Localization	○	○	○	
	no requirement of access to source code	○	○	○	
ICT Environment	Internet connectivity	○	○	○	
	Market access	○	○	○	
Transparency / Cooperation	Publication of information	○	○		○
	Technical assistance / capacity building				○

Note: ○: included; △: partially included

Note: information as of end July 2019

Source: various reports, WTO

The second stream is initiated by the United Nations. In particular, the United Nations Commission on International Trade Law (UNCITRAL), which was established by the

⁵ WTO “Joint Statement on E-commerce, Davos meeting” remarks by DG Roberto Azevêdo (https://www.wto.org/english/news_e/spra_e/spra300_e.htm)

United Nations General Assembly resolution 2205 of 17 December 1966, plays an important role in developing improved legal framework for the facilitation of international trade and investment. In pursuance of its mandate to further the progressive harmonization and modernization of the law of international trade, UNCITRAL initiates various programme by preparing and promoting the use and adoption of legislative and non-legislative instruments in a number of key areas of commercial law. There are 6 working groups under UNCITRAL and e-commerce is discussed in Working Group IV. The following model law related to e-commerce are examples that are promoted as best practices agreed and applied amongst the member states.

(1) Model Law on Electronic Commerce (1996)

This model is aimed at removing legal obstacles and increasing legal predictability for e-commerce. It ensures that a document would not be denied legal effect, validity or enforceability solely on the grounds that it is in electronic form by providing equal treatment to paper-based and electronic information. Such equal treatment is essential for enabling the use of paperless communication, thus fostering efficiency in international trade. 72 countries including all ASEAN Member States except for Cambodia, Indonesia, and Myanmar have either adapted or being influenced by this model in their legislation.

(2) Model Law on Electronic Signature (2001)

This model aims to enable and facilitate the use of electronic signatures by establishing criteria of technical reliability for the equivalence between electronic and hand-written signatures. 33 countries including some ASEAN Member States such as Thailand and Viet Nam have either adapted or being influenced by this model in their legislation.

(3) Convention on the Use of Electronic Communications in International Contracts (2005)

This convention was adopted in 2005 for the purpose of “facilitating the use of electronic communications in international trade by assuring that contracts concluded and other communications exchanged electronically are as valid and

enforceable as their traditional paper-based equivalents⁶. 24 countries including some ASEAN Member States such as Singapore and Philippines have either signed or expressed accession to this treaty.

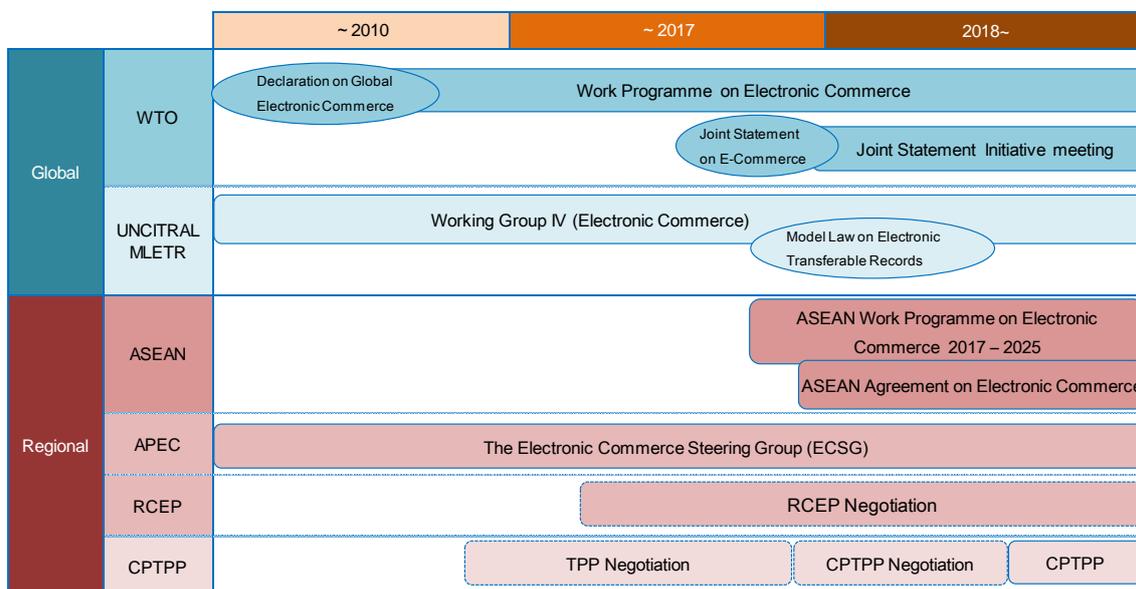
(4) Model Law on Electronic Transferable Records (2017)

This model (MLETR) aims to enable the legal use of electronic transferable records both domestically and across borders. The MLETR applies to electronic transferable records that are functionally equivalent to transferable documents or instruments. Transferable documents or instruments are paper-based documents or instruments that entitle the holder to claim the performance of the obligation indicated therein and that allow the transfer of the claim to that performance by transferring possession of the document or instrument. Transferable documents or instruments typically include bills of lading, bills of exchange, promissory notes and warehouse receipts.

The following represents some of the highlighted global and regional frameworks on e-commerce relevant to ASEAN Member States.

⁶ United Nations Commission on International Trade Law
(https://uncitral.un.org/en/texts/ecommerce/conventions/electronic_communications)

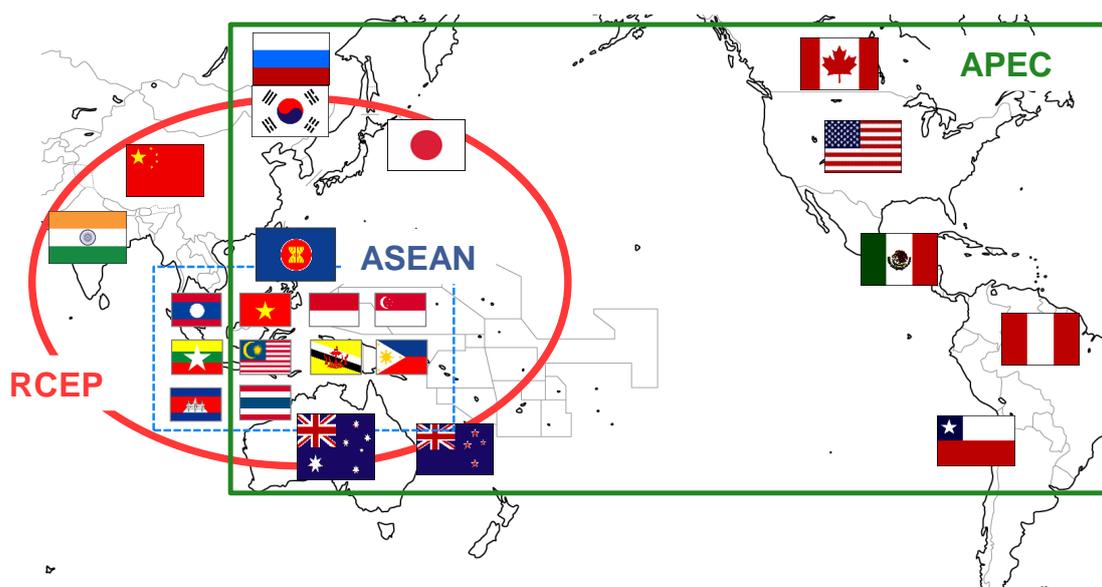
Figure 1-10 Global and regional framework on e-commerce



Source: Various reports, WTO, United Nations, ASEAN Secretariat, APEC, and EU

There are also other regional cooperation participated by ASEAN Member States that discuss e-commerce related issues in recent years, namely APEC and RCEP as introduced below.

Figure 1-11 APEC and RCEP member countries



(1) Asia-Pacific Economic Cooperation (APEC)

APEC is an inter-governmental forum of 21 economies of the Asian Pacific Rim including seven ASEAN Member States, promoting free trade and economic cooperation. Amongst various agenda, e-commerce has been relatively new but becoming more focused area of discussions in the recent years. APEC Cross-Border E-Commerce Facilitation Framework (2017) serves as a complement to on-going work related to the Roadmap for the Internet and Digital Economy, as well as to the on-going work related to digital trade under the Committee on Trade and Investment (CTI) in APEC. In regards to protection of privacy and personal data, the Cross-Border Privacy Rules (CBPR) agreed in 2011 provides a set of rules in regards to data transfer and some economies such as the US, Japan, Korea, Canada, Mexico, and Singapore participate in the discussions.

(2) Regional Comprehensive Economic Partnership (RCEP)

RCEP comprises of ASEAN Member States and the six ASEAN Free Trade Agreement (FTA) partners, namely Australia, China, Japan, Korea, India, and New Zealand. Under this partnership, 20 chapters⁷ related to economic partnership and trade issues such as trade in goods, trade in services, investment, rules of origin, intellectual property, and e-commerce were discussed. The provision on e-commerce aims to promote the use of e-commerce and cooperation among parties.

1.1.3. Regional Frameworks and Programme in ASEAN

ASEAN has been promoting various actions while realizing regional integration in the recent years. In relevance to digital related policies, having ASEAN Economic

⁷ “Joint Leaders’ Statement on the Regional Comprehensive Economic Partnership (RCEP) 4 November 2019, Bangkok, Thailand”, RCEP negotiations have been conducted for all 20 Chapters: 1) Initial Provisions and General Definitions; 2) Trade in Goods; 3) Rules of Origin, including Annex on Product Specific Rules; 4) Customs Procedures and Trade Facilitation; 5) Sanitary and Phytosanitary Measures; 6) Standards, Technical Regulations and Conformity Assessment Procedures; 7) Trade Remedies; 8) Trade in Services, including Annexes on Financial Services, Telecommunication Services, and Professional Services; 9) Movement of Natural Persons; 10) Investment; 11) Intellectual Property; 12) Electronic Commerce; 13) Competition; 14) Small and Medium Enterprises; 15) Economic and Technical Cooperation; 16) Government Procurement; 17) General Provisions and Exceptions; 18) Institutional Provisions; 19) Dispute Settlement; and 20) Final Provisions.
(<https://www.mofa.go.jp/mofaj/files/000534733.pdf>)

Community Blueprint 2025 being the regional strategy providing comprehensive action plans, various working programme and initiatives are set under specific issues including e-commerce to achieve harmonic policy frameworks in the region.

Figure 1-12 Digital related policy frameworks in Asia

	~2015	2016~
Regional Strategy	ASEAN Economic Community Blueprint 2015	ASEAN Economic Community Blueprint 2025
Electronic Commerce		ASEAN Work Programme on Electronic Commerce 2017-2025
		ASEAN Coordinating Committee on Electronic Commerce
		ASEAN Agreement on Electronic Commerce
		ASEAN Digital Integration Framework ASEAN Customs Transit System
	The Electronic Commerce Steering Group (APEC)	
		RCEP negotiation
Protection		ASEAN Framework on personal data protection
	APEC Privacy Framework	
		Cross-Border Privacy Rules (APEC)
Cyber Security		Cyber Capacity Programme
Data Governance		ASEAN Framework on Digital Data Governance
ICT Environment	ICT Masterplan 2015	ICT Masterplan 2020

Note: pink boxes: ASEAN frameworks / gray boxes: frameworks that some ASEAN Member States participated in.

Source: various reports, ASEAN Secretariat

Following are descriptions of some of the relevant initiatives and programmes under ASEAN with highlighted activities and achievements:

(1) AEC Blueprint 2025

Global e-commerce has become an increasingly vital element of the global economy as part of a retailer’s multi-channel strategy. In a globalized world interconnected through ICT, e-commerce plays a key role not only in cross-border trade, but also in facilitating foreign investment through the supply of intermediary services. E-commerce has significantly lowered barriers to entry and operating costs for businesses, and has been particularly beneficial for MSMEs.

Moreover, the Blueprint states that ASEAN shall intensify cooperation on e-commerce, with a view to develop an ASEAN Agreement on Electronic Commerce to facilitate cross-border e-Commerce transactions in ASEAN. It shows some strategic measures such as the following:

- i. Harmonised consumer rights and protection laws;
- ii. Harmonised legal framework for online dispute resolution, taking into account available international standards;
- iii. Inter-operable, mutually recognised, secure, reliable and userfriendly e-identification and authorisation (electronic signature) schemes; and
- iv. Coherent and comprehensive framework for personal data protection.

More recently, some of these strategic measures have tuned out to become actual framework and agreements to be implemented by the ASEAN Member States.

(2) ASEAN Work Programme on Electronic Commerce (AWPEC) 2017-2025

This programme is divided into eight segments (infrastructure, educational and technology competency, consumer protection, modernizing the legal framework, security of electronic transactions, competition, logistics and e-commerce framework), based on the different mandates of the relevant sectoral bodies and strategic measures under the AEC Blueprint 2025. The ASEAN Agreement on Electronic Commerce is one of the first steps towards enhancing e-commerce in AMS.

(3) ASEAN Coordinating Committee on Electronic Commerce (ACCEC)

ACCEC was established in 2017 to enable ASEAN Member States to develop and use e-commerce to drive economic growth and social development in the region, in coordination with the relevant ASEAN sectoral bodies. The ACCEC negotiated and finalised the “ASEAN Agreement on Electronic Commerce” which was signed by the ASEAN Economic Ministers in January 2019.

(4) ASEAN Agreement on Electronic Commerce

This Agreement was fully signed in January 2019. ASEAN member states recognised “the role of electronic commerce (e-commerce) in driving economic growth and social development in the ASEAN region.” Its objectives are to (a) facilitate cross-border e-commerce transactions in the ASEAN region; (b) contribute to creating an environment of trust and confidence in the use of e-commerce in the region; and (c) deepen cooperation among the ASEAN Member States to further develop and intensify the use of e-commerce to drive inclusive growth and narrow development gaps in the region.

It also highlights specific issues to facilitate cross-border e-commerce: (a) Paperless Trading, (b) Electronic Authentication and Electronic Signatures, (c) Online Consumer protection, (d) Cross-border Transfer of information by Electronic means, (e) Online Personal Information Protection, (f) Location of Computing Facilities. CLM countries has 5 year moratorium on (b) Electronic Authentication and Electronic Signatures, and (c) Consumer Protection.

(5) ASEAN Framework on Personal Data Protection (2016)

This Framework was adopted in November 2016 as an outcome of the ASEAN Telecommunications and IT Ministers Meeting (TELMIN). Its objectives are to strengthen the protection of personal data in ASEAN and to facilitate cooperation among the member states, with a view to contribute to the promotion and growth of regional and global trade and the flow of information.

It specifies the principles of personal data protection as follows: (a) Consent, Notification and Purpose, (b) Accuracy of Personal Data, (c) Security Safeguards, (d) Access and Correction, (e) Transfers to another Country or Territory, (f) Retention, (g) Accountability.

However, this framework serves only as a record of the ASEAN Member States' intentions and will not be deemed to create any legally binding commitment.

(6) ASEAN Framework on Digital Data Governance (2018)

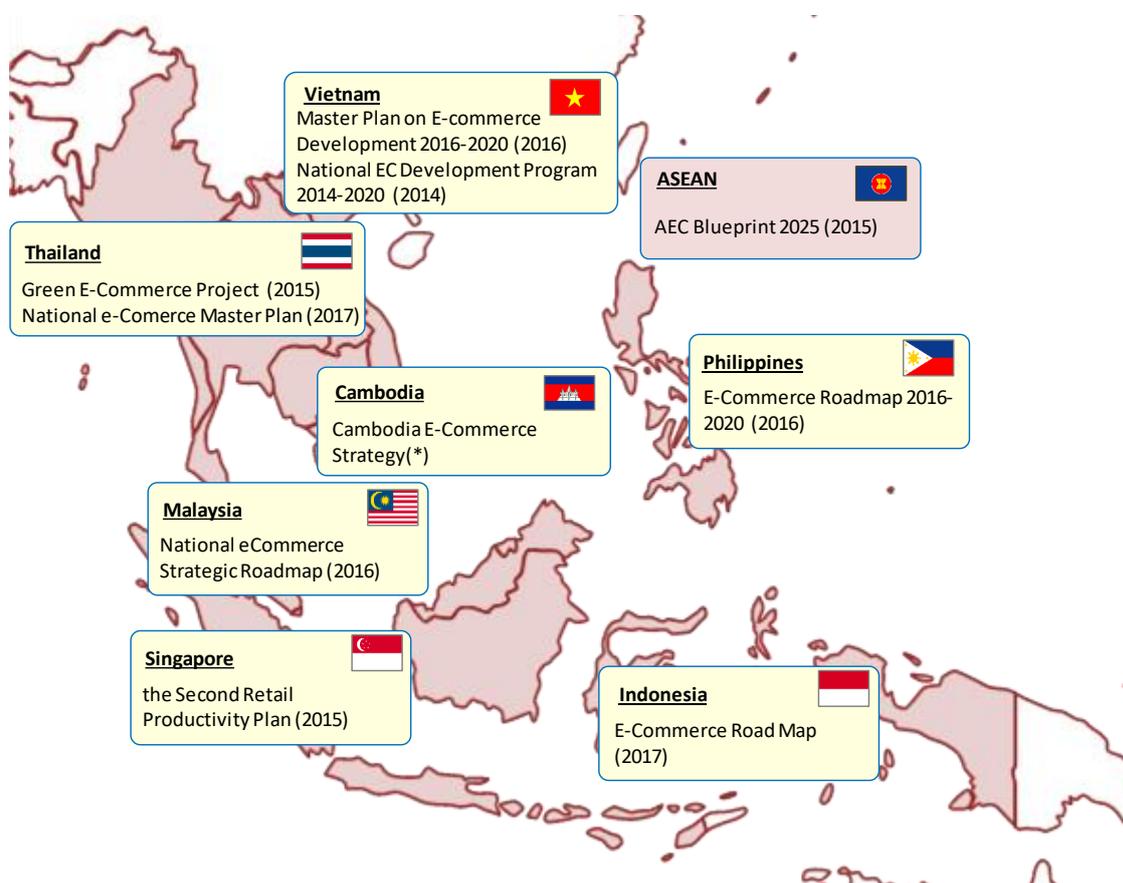
This Framework is intended to enhance data management, facilitate harmonization of data regulations among ASEAN Member States, and promote intra-ASEAN data flows. Priorities of digital data governance that support the ASEAN digital economy are as follows: (a) Data Life Cycle and Ecosystem; (b) Cross Border Data Flows; (c) Digitalization and Emerging Technologies; and (d) Legal Regulatory and Policy. This will not be deemed to create any legally binding commitment.

(7) ASEAN Digital Integration Framework (2019)

This Framework enables ASEAN Member States to prioritize existing policy actions that will deliver the full potential of digital integration. The following six priority areas are identified for the immediate term to address the critical barriers and accelerate existing ASEAN platforms and plans to realize digital integration: (a) Facilitate seamless trade; (b) Protect data while supporting digital trade and innovation; (c) Enable seamless digital payments; (d) Broaden digital talent base; (e) Foster entrepreneurship; and (f) Coordinate actions.

In line with these regional programmes and initiatives, each country has constructed its own national strategies on digitalization as well as e-commerce.

Figure 1-13 E-commerce related national strategies in selected AMS



Source: various reports

(*) "Cambodia E-Commerce Strategy" is being drafted by the Ministry of Commerce.

1.2. Legal and Regulatory Framework on E-Commerce in CLMV

In order to better understand the current situation surrounding legal framework on e-commerce, the study carefully examined ten areas that seem relevant in the context of enhancing the regulatory scopes as well as actual business practices in e-commerce⁸ as described in figure 1-14.

Figure 1-14 Study areas

Study Areas	
I	Electronic Transaction
II	Privacy and Personal Data Protection
III	Online Consumer Protection
IV	Cybersecurity and Cybercrime
V	Content Regulations
VI	Domain Names (**)
VII	Paperless
VIII	Spam
IX	Electronic Authentication and Signature
X	Data (**)

(**) While data is perceived as an important factor in relevance to e-commerce, a newly added "(X) Data" contains all data issues including those that covers "(VI) Domain names" since domain names is typically a matter of physical location of data

Note: These classifications are originally provided from the TOR of this project

Below are explanation of the ten issues studied over the course of this project. Importance of these issues and prioritization may vary depending on the level of development in each country. However, the study attempts to cover the issues that are relevant to enhance e-commerce and related businesses in any jurisdiction.

(i) **Electronic Transactions**

Legislations on electronic transactions generally facilitate both business operators and end-users in realizing e-commerce-related services by providing legal assurances to certain extent. Most countries enact different laws by different targets such as government body, private entity, and individual citizens and / or by types of

⁸ While taxation was also a keen issue for some countries, it was essentially omitted since taxation directly involves national interests and highly confidential.

businesses as well as instruments such as electronic communications, electronic records and electronic signatures.

Relevant laws are mostly designed to follow international and regional frameworks as well as best practices. The ASEAN Agreement on Electronic Commerce has become one of the regional standard to be followed by the member states.

(ii) Privacy and Personal Data Protection

Privacy may be defined as the claim of individuals to determine when, how and to what extent information about them is communicated to others. It relates to the right of individuals to control what happens with their personal information. Personal information usually needed to be protected includes address and contact information, financial information, not only for him or herself but also beyond family and relatives.

While many economic activities and businesses still rely on personal relationships and customs of sharing information with others including personal data in some occasions traditionally inherited commonly across many Asian countries, this issue is considered to be quite challenging. Similarly, ASEAN Member States are not an exception. Even a country with some legal framework in place, these protection measures are generally stipulated in various law sector-wide and the effectiveness of the enforcement is limited in most countries. Most countries are eager to promote digital economy in recent years and protection measures that may cause disruption to these growth stories tend to be dealt with a lower priority.

(iii) Online Consumer Protection

Legislation on consumer protection aims to protect interests of consumers that occur during transactions between consumers and business providers which involves government regulation. Protection measures could be applied through obligations to be followed by business providers together with penalty scheme for violations as well as ways to secure consumers when they are harmed. The issues cover a wide range of areas such as unfair business practices, liability of products and services, fraud and misconducts. Legal provisions also commonly set economic sanctions and

penalization schemes to be applied to those fraud acts and those that violate the rules.

Similar to privacy and personal data protection, consumer protection is also challenging for some countries in ASEAN. A balance between penalization and promotion of digital-related businesses is needed in order for a country to achieve a conducive business environment.

(iv) Cybersecurity and Cybercrime

Cybercrime is the use of computer as an instrument to illegal ends such as committing fraud, violating privacy and intellectual property. Most well-known types of such crime are internet cracking and viruses that are spread across software such as intranet and mobile apps as well as hardware such as computers and cell phones. High number of crimes are reported globally and the damage due to these crimes could be very harmful at the national level. Legislation on cybersecurity is therefore important to protect and prevent such cybercrime occurring at anytime anywhere.

Cybersecurity can be assured at certain extent to those who enroll and install detecting devices or software on top of usual cautious practices / habits by any users. Nevertheless, that is still insufficient to prevent and protect all kinds of criminal activities such as hacking and terrorism at the national level. Many countries usually have specific law for cybersecurity while others have law with additional provisions on the usual criminal code.

One of the key initiatives in the international community is initiated by the Council of Europe Convention on Cybercrime, which is also open for non-EU states to ratify. So far, no ASEAN Member State has joined the Convention but each country has been developing its own legislative measure for cybersecurity that is similar to the provisions in the Convention.

(v) Content Regulation

Legislation on content regulation online generally regulates the subject presented through online as well as the access to such subjects through the internet. Those controls and monitoring are conducted by the relevant government agencies with specific mandates cooperating together with other regulators when it comes to enforcement.

This issue has not necessarily been a focal issue compared with other issues with higher priority amongst ASEAN Member States. Some business operators doing business across borders in the region however have voiced concerns on the confusion and ambiguity of the existing regulations in some countries. Transparency of legislation should be improved to serve the consumers and business providers in these countries and region wide.

(vi) Domain Names

A domain name is an internet address that shows the name of a particular organization that address belongs to. IP address is a number that is given to each devices when it is connected to the network. Legislation on domain names generally specifies the standards and requirements for obtaining such names and addresses. Each country is assigned with a unique top-level domain name such as “.jp” for Japan by a global regulating body called Internet Corporation for Assigned Names and Numbers (ICANN).

Regulation of domain names are commonly implemented in the earlier stages of legislation of digital-related policies and framework in most countries by adopting global standards. These standards are backed by international practice for resolving disputes applying Uniform Domain-Name Dispute Resolution Policy⁹ (UDRP).

⁹ Policy framework and practices are shared by the Internet Corporation for Assigned Names and Numbers (ICANN). (<http://www.icann.org>)

(vii) Paperless

In line with the eco-friendly concept and various practices promoted under the Sustainable Development Goals¹⁰ (SDGs), paperless has become much familiar amongst global community. As part of paperless activities besides efforts in reduction of unnecessary printing and xeroxing of documents, private sector as well as the government agencies adopt digitalization of documents, files and application forms in many countries.

In the context of e-commerce and digital trade, technologies such as “cloud computing”, “blockchain technology” can promote the paperless transaction. Utilizing “cloud computing” has become an increasing trend to facilitate online transactions, which helps working environment as well as documentations to become paperless. Cloud computing is available worldwide regardless of physical location as long as stable internet access is assured. Common uses of cloud computing are to share common platforms of resources and information, data storage and applications. Using “blockchain technology”, companies, banks, and other stakeholders can issue, exchange, and sign encrypted documents. It can enhance the security and lead paperless and cutting cost and time. Legislation on realizing such technologies as well as implementation of necessary infrastructure are both important in pursuing paperless environment. In addition, policy frameworks for protecting online security, intellectual property rights and privacy are also needed since going paperless ultimately means managing documents digitally online.

This issue is relatively new in ASEAN and there is not yet a common direction at the moment. While some countries are cautious about promoting cloud computing due to potential threats to local businesses without adequate protection measures, each country is keen to implement relevant legal and regulatory frameworks for the benefit of the country to become paperless and efficient.

¹⁰ Adopted by the United Nations member states in 2015, SDGs provides a blueprint with 17 common goals for achieving sustainable development worldwide. (<https://sustainabledevelopment.un.org/>)

(viii) Spam

Spam is a type of unwanted, unsolicited digital texts that traverse online and usually sent out in a bulk in the form of short messages, emails, and chats. Anti-spam measures are generally implemented at different layers. While setting rules on software and application on computers and portable devices at the individual level could make a difference, most common layer is by the internet service providers through their filtering and scanning system.

Some sophisticated spams that contain viruses and hacking tools are detected worldwide on daily basis and could be harmful if there is no measure to block or prevent them. Many countries adopt anti-spam rules and regulations commonly stipulated together with cybersecurity and protection measures for cybercrime. So far, only Viet Nam amongst CLMV countries has implemented the law.

(ix) Electronic Authentication and Signature

Electronic authentication provides a level of assurance of someone, something or what it claims to be in a digital environment commonly associated with a signature for verification. This scheme is also strongly related to paperless or digitalization of documents which enables speedy and efficient operations of any kind. Many countries follow the guideline recommendations published by the Organization for Economic Cooperation and Development (OECD) in 2007¹¹.

By nature, this issue is often times correlated with the promotion of e-government in many countries. While there is an increasing trend of e-government in ASEAN Member States, only few have been able to construct a policy framework and initiative in reality. Others seem to have issues and constraints due to limited resources and financial capabilities¹².

¹¹ The OECD Council adopted this recommendation to encourage member states to establish compatible, technology-neutral approaches for effective domestic and cross-border authentication. (<https://www.oecd.org/sti/ieconomy/oecdrecommendationonelectronicauthenticationandguidanceforelectronicauthentication.htm>)

¹² Concerns on financial constraints and limited personnel had been addressed several times by the relevant ministries and government agencies during the national consultations and regional workshop.

(x) Data

While data is perceived as an important factor in relevance to e-commerce, a newly added "(X) Data" contains all data issues including those that cover "(VI) Domain names" since domain names is typically a matter of physical location of data.

Data varies from simple information to sophisticated ones and could become very valuable for those who utilize them to compete against other businesses.

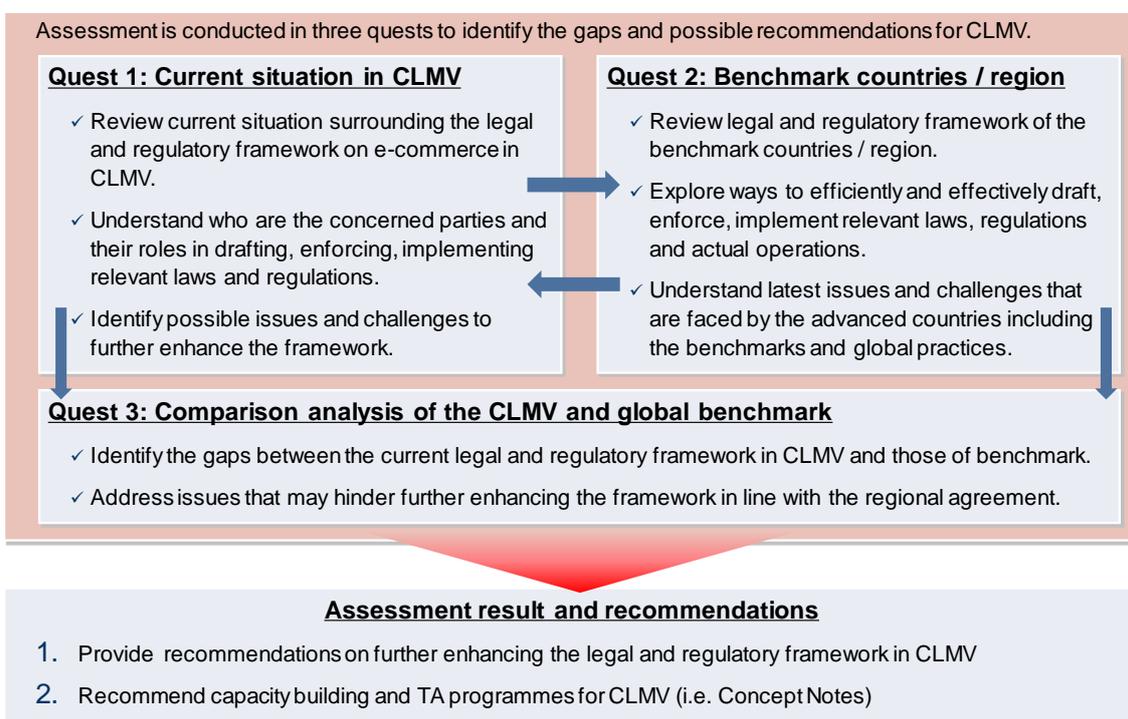
In particular, utilizing accumulated data or "big data" in the commercial area is drawing more attention globally. New services with value add could have a big impact in improving living standards amongst households and reducing operational costs amongst companies. Concept on open data usage is one approach that some governments and private companies take in order for their acquired data to be utilized for the benefit or improving the living standards, coming up with creative and profitable ideas through sharing the available data to public usually for minimal or free of charge.

While almost all data that are accumulated needs realignment and classifications in order for them to be utilized and/or analyzed, standardized data architecture is also becoming a global trend. Utilization of data could be efficient and easier with common data architecture.

1.3. Methodology of the Assessment

Consultants have conducted assessment over the period of four months to identify the possible gaps that CLMV countries face under current legal and regulatory framework in relevance to e-commerce. Figure 1-15 describes the approaches taken for the conducted assessment in three quests.

Figure 1-15 Assessment approaches



First quest is to understand the current situation surrounding each country including review of legal and regulatory framework on e-commerce as well as market conditions. These activities were conducted also with the help of local experts who have accessed directly to the ministries and relevant parties concerned to gather necessary information and legislative documents.

Second quest is to review global and regional frameworks on e-commerce mainly conducted through desk study and literature review. The study was also extended to benchmark countries and region, namely Singapore, Japan, ASEAN and EU to understand how those jurisdictions formulated policy frameworks to embrace national

strategies and digitalization with special focus on e-commerce. Such study enables to highlight some hints and lessons to be learned and applied to future enhancement of policy frameworks in CLMV countries.

Third quest is the actual analysis between the legal and regulatory frameworks in CLMV countries and those of benchmarks to identify the possible gaps and address issues that may hinder in the efforts to further enhance the framework in CLMV countries. As a result of this overall assessment, recommendations for further enhancement and proposal on possible technical assistance (TA) programme or Concept Notes could be expected.

1.3.1. Overview of the Assessments

Eager to catch up with other leading economies in ASEAN, CLMV countries have been very much focused on developing necessary legal and regulatory frameworks in the recent years. Although there are still several challenges to overcome and missing links to fulfill, implementing national strategies and enhancing coordination amongst the relevant parties will lead to stronger framework to embrace potential growth on e-commerce in the years to come.

Cambodia has been placing many efforts in implementing relevant laws in the recent years. Amongst them, E-Commerce Law and Consumer Protection Law were both promulgated in November 2019 and Law on Cybercrime, which is currently under draft, is expected to be enacted in 2020. Together with its national vision and strategy, i.e. Cambodia E-Commerce Strategy, which is also under draft at the moment.

Lao PDR is currently in the final stage of drafting the Decree on E-Commerce and could move to the next stage once it is enacted. Improvements in telecommunication infrastructure and digital payment scheme are also recognized and penetration rate of people accessing to internet is increasing significantly. Scaling up the knowledge and capacity of the stakeholders and beneficiaries could accelerate further development in the e-commerce market and digital economy.

Myanmar has been going under series of economic reform, which is helping the country to the next stage of much modern and digitalized society. Most of the existing laws need to be amended along the way. In particular, more emphasis on e-commerce related legislation will help Myanmar to accommodate potential businesses going forward.

Viet Nam seems to be positioned ahead compared to other countries in terms of its readiness of legal and regulatory framework. Yet, effectiveness in the actual enforcement still remain as a challenge but could be overcome by streamlining the issues at hand with stronger commitment and cooperation amongst the relevant ministries and government agencies.

1.3.2. Global Indices

Various studies have been conducted by international organizations and educational institutions. Below highlights some of the ratings of ASEAN Member States in terms of indices measuring digitalization and ICT developments. These indices have unique measurement depending on the nature and objective of the study but cross-country comparison of these results provide an idea of each country's position against the frontier country and within ASEAN.

Figure 1-16 Digital economy-related indices of ASEAN Member States

Digital Economy-related Indices	Year Issued	No. of States	ASEAN Member States									
			BRN	KHM	IDN	LAO	MYS	MMR	PHL	SGP	THA	VNM
Networked Readiness Index	2016	139	109	73	104	31	133	77	1	62	79	
Environment subindex	2016	139	119	62	93	21	133	89	1	54	86	
Readiness subindex	2016	139	100	81	107	73	118	92	16	62	82	
Usage subindex	2016	139	110	78	117	30	137	66	1	63	81	
Impact subindex	2016	139	117	78	104	30	135	62	1	65	76	
Global Competitiveness Index 4.0	2019	141	56	106	50	113	27	64	1	40	67	
ICT adoption pillar	2019	141	26	71	72	102	33	88	5	62	41	
ICT Development Index	2017	176	53	128	111	139	63	135	101	18	108	
World Digital Competitiveness Ranking	2019	63		56		26		55	2	40		
Digital economy rankings	2010	70		65		36		54	8	49	64	
Digital Evolution Index	2017	60		45				51	6	42	48	
IAC International Digital Government Rankings	2018	65		33		25		35	2	21	45	
E-Government Development Index	2018	193	59	145	107	162	48	157	75	7	73	88
E-Participation Index	2018	193	97	171	92	171	32	181	19	13	82	72

Note: The numbers in the table indicate the rankings for each index. Red represents higher rank, blue represents lower rank.

Source: various reports

Singapore has the highest ratings for most of the indices indicating that the country is advanced in digital economy and related policies frameworks. Viet Nam appears to have a similar range of ratings with other ASEAN Member States in several studies while CLM countries still have room for improvements. Enhancing necessary legal and regulatory framework could improve ratings in the future.

1.3.3. Reference to Previous Studies

Preceding study in relevance to e-commerce law harmonization in ASEAN had been conducted by the United Nations Conference on Trade and Development (UNCTAD) in 2013¹³.

Figure 1-17 and 1-18 summarizes the status of e-commerce law in each country by key areas in 2007 and 2013 and shows progress within ASEAN. Overall, legislation process

¹³ This study covers all ten ASEAN member states and provides proposals for accelerating the process of regional integration and harmonization as outlined in the ASEAN ICT Masterplan 2015. (https://unctad.org/es/paginas/newsdetails.aspx?OriginalVersionID=613&Sitemap_x0020_Taxonomy=UNCTAD%20Home;)

has advanced in most areas of electronic transactions laws, with nearly all ASEAN Member States now having electronic transactions legislation in place, and in the area of domain-names legislation with all the countries having some form of legislation.

Progress in other areas has been slower, although the majority of member countries have some form of cybercrime legislation in place, and three countries have recently enacted privacy legislation. As can be seen from these figures, the region has made progress towards the enactment of legislation in all of the key areas identified in this review. Progress in the enactment of privacy laws remains the weakest area, and this may have the potential to hinder e-commerce and cloud computing if it is not adequately addressed.

Figure 1-17 Status of e-commerce related law in CLMV and Singapore (2007)

	Cambodia	Lao PDR	Myanmar	Viet Nam	Singapore
Electronic Transactions	Draft	Draft	Enacted	Enacted	Enacted
Privacy	None	None	None	None	Enacted
Cybercrime	None	None	Enacted	Enacted	Enacted
Consumer Protection	None	None	None	None	None
Content Regulation	None	None	Enacted	None	Enacted
Domain Names	Enacted	None	None	Enacted	None

Source: “ASEAN e-Commerce Project”, ASEAN Secretariat and Galaxia, 2007

Figure 1-18 Status of e-commerce related law in CLMV and Singapore (2013)

	Cambodia	Lao PDR	Myanmar	Viet Nam	Singapore
Electronic Transactions	Draft	Enacted	Enacted	Enacted	Enacted
Privacy	None	None	None	Partial	Enacted
Cybercrime	Draft	None	Enacted	Enacted	Enacted
Consumer Protection	None	Draft	Enacted	Enacted	Enacted
Content Regulation	Draft	Enacted	Enacted	Enacted	Enacted
Domain Names	Enacted	Partial	None	Enacted	Enacted

Source: UNCTAD “Review of e-commerce legislation harmonization in ASEAN”, 2013

However, simply enacting laws is only one part of the development of effective legal infrastructure in the region. Even with a law in place, member countries may face challenges in implementing, enforcing and promoting the requirements of those laws. In addition, the harmonization of laws in the region depends on countries adopting similar approaches based on international best practice.

The country chapters contained in this report provide a more detailed picture of some of the challenges faced in implementing harmonized laws in each CLMV countries.

Figure 1-19 Status of e-commerce related law in CLMV and Singapore (2019)

	Cambodia	Lao PDR	Myanmar	Viet Nam	Singapore
Electronic Transactions	Enacted	Enacted	Enacted	Enacted	Enacted
Privacy	Draft	Draft	Draft	Enacted	Enacted
Cybercrime	Draft	Enacted	Partial	Enacted	Enacted
Consumer Protection	Enacted	Draft	Enacted	Enacted	Enacted
Content Regulation	Enacted	Enacted	Enacted	Enacted	Enacted
Domain Names	Enacted	Enacted	None	Enacted	Enacted

Based on the assessment conducted in this program, status of e-commerce related law in CLMV has improved in all countries. In particular, Cambodia has recently promulgated E-Commerce Law and Consumer Protection Law in November 2019 and Cybercrime Law is expected to be officially enacted in 2020. In addition, relevant law on privacy and personal data protection are currently under draft in Cambodia, Lao PDR and Myanmar. It is worth noting that the existing Cybercrime Law in Myanmar may not fully cover all potential services available online; therefore, the assessment on this area is marked “partial”.

Further developments in line with the regional agreement and global practices in the years to come are indeed encouraging.

2. ASSESSMENT RESULT

2.1. Cambodia

2.1.1. Current Situation

E-commerce in Cambodia is still in an infant stage where there is no particular platform that provides digital transaction of various products and services. However, with nearly 60% of the population below the age of 25 and increasing numbers of IT-literate urban middle class emerging in the recent years¹⁴, the potential for e-commerce development is significant. While consumers generally prefer physically accessible markets and retail stores, some consumers are utilizing global SNSs such as Facebook or Instagram to trade mainly products that customers cannot find through regular retail outlets and imported goods. According to a local study, such emerging online C2C market has more than 15,000 users operating either individually or as commercial entity. However, payment method is very much limited to cash and major transaction are subject to cash-on-delivery (COD), even though they are emerging via C2C market mentioned above.

Given such trends, however, several issues that hinder growth in e-commerce such as a relatively small market size that are skewed towards big cities including the capital Phnom Penh and low broadband internet penetration (especially in suburban areas), payment issues and poor logistics networks are observed through series of interviews with relevant parties. While QR code payment is rapidly developing especially in urban area, there is no QR code payment regulation. Also, a heavy traffic in Phnom Penh causes delayed delivery of products. Evidently, e-commerce in Cambodia ranked only 119 out of 137 in the UNCTAD's "B2C e-commerce index 2016" and remains limited compared to other ASEAN Member States.

Cambodia government is keen on advancing digitalization of the society and implementing digital economy related policies in the recent years. Together with improvements in internet accessibility through mobile devices, the government promises

¹⁴ Cambodia's ICT Development Index published by International Telecommunication Union (ITU) had increased from 2.30 in 2012 to 3.04 in 2017. (<https://www.itu.int/net4/ITU-D/idi/2017/index.html>, https://www.itu.int/en/ITU-D/Statistics/Documents/publications/mis2013/MIS2013_without_Annex_4.pdf)

to transform its economy into a digitalized economy that could provide new jobs and improve financial inclusion as well as contributing to improved lives and livelihoods. One of the responsible ministry-in-charge, the Ministry of Posts and Telecommunications (MPTC), expects the number of citizens with regular internet access to almost double to 9.5 million by 2020 (60% of the population). In order to realize digitalization and accommodate new businesses, the government is currently preparing important policies as well as legal framework. In addition, National Bank of Cambodia (NBC) and Securities and Exchange Commission in Cambodia (SECC) held the public seminar related to finance and digitalization to raise public awareness.

Figure 2-1 Government and related organization in Cambodia

No.	Corresponding responsible agency	Laws and Regulations	Area
1	Ministry of Commerce (MOC) General Dept of International Trade General Dept of CAMcontrol Department of Asia Pacific Department of Legal Affair	Law on E Commerce(2019) Law on Consumer Protection(2019) Law on Unfair Competition(2002) Law on Management of Quality and Safety of Products and Services	Electronic Transaction Privacy Online Consumer Protection Content Regulation
2	Ministry of Posts and Telecommunication (MPTC) Department of Policy, Technology, Communication and Information National Institute of Posts, Telecommunications and Information Communication Technology (NIPCT)	Law on Telecommunication Law on Cybercrime (DRAFT) Regulations on Registration of Domain Names for Internet under the Top Level "kh" (1999) Sub-decree No. 246 on Digital Signature	Domain names Cybercrime Electronic authentication and signature
3	Ministry Economic and Finance (MEF)	Law on Insurance Law on Customs	Taxation Custom Clearance
4	National Bank of Cambodia (NBC)	Prakas on Third Party Processor Prakas on Management of Payment Service	Financial transaction E-payment
5	The General Department of Taxation	Law on Taxation	Taxation

The Law on E-Commerce, which was drafted by Ministry of Commerce (MOC) and promulgated in November 2019, not only promotes the e-commerce market and business operators to do their business, but also regulates the market as well as relevant operations that are related to electronic transactions. Meanwhile, the Law on Cybercrime that prohibits illegal acts online and protect the citizens is currently being drafted by the Ministry of Interior (MOI). MPTC, who is also responsible for implementing necessary infrastructure, has been also focusing on improving the online connectivity in the recent years. On top of other preceding related laws and regulations¹⁵, together with enhanced

¹⁵ More detailed list of relevant law and regulations on e-commerce are found in the Appendix attached at the end of this report.

connectivity, once these legal frameworks is set, Cambodia could significantly enjoy the potential benefits through e-commerce that could contribute to economic growth and sustainable development over the coming years.

Figure 2-2 E-commerce related laws and regulations in Cambodia

	Study Areas	Country/Region			
		CA	LA	MM	VN
	Laws and regulations				
I	Electronic transaction				
	Online transaction	○	△	△	○
	Electronic payment system				
	Domestic	○	○	○	○
	Cross-border	x	○	x	x
	E-money, crypto currency	○*	○*	○*	○*
	FDI regulations				
	Incentive mechanism	○	○	○	○
	Free trade zones	○	○	○	○
	Preferential tariff (like under EPA)	○	○	○	○
	Insurance and settlement for custom clearance	○	○	○	○
II	Privacy and personal data protection				
	Personal data protection	△	△	△	○
III	Online consumer protection				
	Consumer protection	○	△	△	○
	Standard for safety of products, law on labeling	○	○	△	○
IV	Cybersecurity and cybercrime				
	Cyber security	△	○	△	○
	Penalty	△	○	△	○
V	Content regulations				
	IP rights	○	○	○	○
	Liability regarding product and service	○	○	○	○
	Geo-blocking	x	x	x	△
VI	Domain names **				
VII	Paperless				
	Promotion of e-government	x	x	x	○
VIII	Spam				
	Anti-spam	x	x	x	○
IX	Electronic Authentication and signature				
	e-signature	○	○	○	○
X	Data (**)				
	Data transfer				
	Domestic	x	x	○	○
	Cross Border	x	○	x	x
	Location of server and data center	x	△	x	○
	Disclosure of source code	x	x	x	x
	Use of open data	x	x	x	x

(*) There is no specific law regulating crypto currency.

(**) While data is perceived as an important factor in relevance to e-commerce, a newly added "(X) Data" contains all data issues including those that covers "(VI) Domain names" since domain names is typically a matter of physical location of data

Note: CA: Cambodia, LA: Lao PDR, MM: Myanmar, VN: Viet Nam, SG: Singapore, ASEAN: ASEAN Agreement on E-Commerce

Note: O: existence/ implementation of law/regulations; △ : law/regulations on the draft/planning stage/ relevant regulations are existed; X: no existence of law/regulations

Note: information as of November 2019

(i) Electronic Transactions

The Law on E-Commerce, which has been drafted since 2012 with the support of World Bank and ADB, was promulgated in November 2019. This law consists of 12 Chapters (67 Articles) providing comprehensive provisions on e-commerce which focuses on the following areas: (1) validity of electronic communications (including e-signatures, electronic records, electronic contracts, etc.) and security procedures for electronic records and electronic signatures; (2) electronic communications process and the admissibility of electronic evidences; (3) intermediaries and electronic commerce service providers; (4) consumer protection and personal data protection; (5) electronic payments and/or electronic funds transfers (e-payment); (6) government activities and transactions via electronic system (e-government); (7) competency authorities, complaint, and administrative and fine procedures; and (8) offence against information system and data, and penalties.

Other relevant legislation such as the Law on Telecommunication instructs internet service business and telecommunication services providers to obtain permit from the Telecommunication Regulator of Cambodia (TRC). The Cambodian market currently has six mobile telecommunication service providers.

Currently, many banks provide internet/mobile banking and many non-banks provide mobile payment services in Cambodia, meanwhile QR code payment is also introduced by individual institution as a payment channel to the retail merchants. Banking, financial institutions, and payment service institutions are able to provide to both domestic and cross-border fund transfer. In 2017, the National Bank of Cambodia (NBC) adopted the Prakas on Management of Payment Service Institution to support and promote the use of electronic payment and cross-border payment. Furthermore, cryptocurrency for payment is not legally recognized in Cambodia, and payment transaction related to cryptocurrency is prohibited. Regulations on payment service and electronic payment are regulated by the NBC. Prakas (Regulation) on Third Party Processor is applied to the remittance service provider, while Prakas on Management of Payment Service

Institution is applied to any transactions related to domestic and international payment services.

(ii) Privacy and Personal Data Protection

Though there is no comprehensive legislation for privacy protection, several laws have provisions referring to privacy and personal data protection¹⁶. The Civil Code states the basic concept of privacy protection. The Law on Telecommunication briefly stipulates the subscribers' privacy protection. The Criminal Code provides penalty on violation of privacy. Law on E-Commerce provides a protection of consumer privacy online. For the actual enforcement, this matter is under the responsibility of the Ministry of Interior if the infringement of personal information constitutes a crime, and the Ministry of Posts and Telecommunications if there is something to deal with domain name and licenses for providing platform for e-commerce service. In addition, any violation stipulated under the Law on E-Commerce will be responsible by the Ministry of Commerce.

(iii) Online Consumer Protection

The Law on Consumer Protection promulgated in November 2019 covers comprehensive protection on consumer protection including online transactions. Besides, the Civil Code, the Law on Unfair Competition, and the Law on Management of Quality and Safety of Products provide several rules related to consumer protection, which are not intended to cover online transactions. The Law on E-Commerce also provides consumer protection in relevance to e-commerce.

Consumer protection is under responsibility of the Cambodia Import-Export Inspection and Fraud Repression Directorate-General (CAMCONTROL). However, the effectiveness could be challenging when it comes to the actual enforcement and inspection of imported products especially through online purchases. Evidently, the products are not subject to recourse due to the absence of returning policies at the moment. Law on Management of Quality and Safety of Products and Services also provides an administrative framework for the RGC to inspect and prevent the production of hazardous products and the provision of hazardous services.

¹⁶ For instance, latest promulgated Law on E-Commerce also includes provision on personal data protection.

(iv) Cybersecurity and Cybercrime

There is currently no comprehensive law specific to cybersecurity and cybercrime; however, the Law on Cybercrime is currently under drafting process and expected to cover a comprehensive regulatory framework. Yet, the Law on E-Commerce provides punishment against infringement of cybersecurity. Furthermore, the Law on E-Commerce provides restrictions and punishment against holding a counterfeit credit card or debit card, and also prohibits access to an electronic system, introduction of contaminated or malicious code to electronic system, destruction of electronic data system, interruption to electronic system, etc.

This matter is under the responsibility of the Ministry of Interior, in close cooperation with the Ministry of Commerce and the Ministry of Posts and Telecommunications. The draft Law on Cybercrime¹⁷ is expected to apply to not only offense committed inside Cambodia but also offense committed outside Cambodia having effect to legal and natural person or interest of Cambodia.

(v) Content Regulation

Law on Unfair Competition and Sub-decree on Implementation of Law on Unfair Competition contains provisions to IP rights including trademark, registered mark, patents and protection measures together with penalty. On the other hand, Law on Copyright grants protection against this law including works of the authors, performers, phonograms, and broadcasts through the broadcasting organizations.

(vi) Domain Names

There is no specific legislation on location of server and data center. Regarding domain name, on 30 January 2015, the Telecommunication Regulator of Cambodia (TRC) issued an instruction on Application for Domain Name Registration.

There is no specific legislation on disclosure of source codes.

¹⁷ Ministry of Interior is currently drafting the law as of the end of August 2019 and could not estimate when the law would complete. No development partner or international organization assists the drafting process.

(vii) Paperless

Promotion of digitalizing government functions is becoming the basis of paperless in Cambodia. For instance, MOC offers online business registration since 2015, online application for foreign employee's quota and foreign work permit at the Foreign Workers Centralized Management System (FWCMS) of the Ministry of Labor and Vocational Training since 2016, e-Visa by the Ministry of Foreign Affairs and International Cooperation since 2006, and e-Tax Service by the General Department of Taxation.

(viii) Spam

There is a sub-decree prohibiting spams and other unsolicited messages under the telecommunication sector, namely "Sub-decree on Transactional Fines for Offences in Telecommunications". In addition, Law on E-Commerce has provisions that prohibit spam activities related to e-commerce and online transactions.

(ix) Electronic Authentication and Signature

Sub-decree No. 246 on Digital Signature states that MPTC is the authority institution to manage digital signature and provides specific certificates that certifies the authorized digital signature to those applied ministries, institutions, and national level authorities as well as lower national level authorities. On the other hand, Law on E-Commerce provides requirements for electronic signature to be treated in a secure manner.

(x) Data

There is no specific legislation on the use of open data.

2.1.2. Issues and Challenges

Cambodia is going through a transitional period to become a modernized society in the recent years. The penetration rate of digital devices such as smartphones and tablets is rapidly rising and the market size on e-commerce in Cambodia is developing in these days. However, Cambodia's e-commerce business market size is merely USD 10.2 million in 2019. To develop the market and become a modernized society, there still exist issues and challenges to overcome in terms of laws and regulatory framework on e-commerce and digital transaction. Some of the major issues are listed as follows:

(a) Law on e-commerce

A comprehensive legislation on e-commerce is covered by the Law on E-Commerce promulgated in November 2019. Being the initiator, Ministry of Commerce has coordinated with concerned ministries such as Ministry of Post and Telecommunications, Ministry of Economy and Finance, and National Bank of Cambodia, during the drafting process together with a continuous assistance by the international donors.

What makes this law unique compared to other countries is that it requires e-commerce providers to be registered for the purpose of protecting consumers as well as collecting tax. The government believes that this registration process enables regulators to easily reach those who violate the law and to collect tax adequately with the information obtained. While this process could be ideal to identify e-commerce related business providers, possible issues on additional costs as well as time and documentation inefficiencies in the registration process, amongst others, may hinder the overall promotion of e-commerce businesses since potential applicants may hesitate.

(b) Electronic payment

Overall, the electronic payment methods are improving and the possibilities are widening to be utilized by the beneficiaries based on series of regulations and promotional measures developed by the central bank. The NBC currently issued payment service institution license to non-bank to provide services utilizing electronic payment methods.

At present, NBC is in the process of developing standard QR code payment for the banking and financial industry and intends to develop a standard guideline for QR code payment regulation to be introduced in few years. In order for the standard codes to be beneficial to the users, NBC can communicate more with private sector to provide the relevant knowledge of electronic payment and raise public awareness by providing socialization and networking programme as well as expanding scopes of financial education.

(c) Private data protection

The comprehensive law on private data protection is missing. There are provisions on private data protection in Law on E-Commerce specify private data protection as follows:

- Article 25: Liability/Responsibility of Information or Event
- Article 32: Data Protection

However, there are no provisions to protect private data for consumers.

The implementation of the provisions relating to private data protection mainly relies on the provision in Criminal Code. However, to regulate this provision effectively, it requires more concrete support from other regulations, particularly the Law on Data Protection. The enforcement of the Law on E-Commerce will pose some challenges as there are several authorities whose responsibilities include matters related to product and service quality that needs to be clarified more specifically.

(d) Online consumer protection

The Law on Consumer Protection has been promulgated in November 2019. There could be some misalignment between the Law on E-Commerce and other existing laws, which will undermine the authority of the new commission¹⁸ who governs consumer protection nationwide.

Some provisions of the existing rules and regulations (e.g. Law on Unfair Competition, Law on Management of Quality and Safety of Products and Services) have duplications

¹⁸ Cambodian government is considering establishing a new commission concerning consumer protection by the Law on Consumer Protection consisting of the representatives from relevant ministries /institutions.

with that of the new law. Therefore, there may be some difficulties in defining clear responsibilities and coordination amongst the relevant ministries.

(e) Lack of skillful and knowledgeable professionals

Some business operators mentioned that one of the issues of slower development of e-commerce in Cambodia is due to lack of skilled IT and ICT professionals. Some leading companies in this field together with the industry associations such as Cambodian Chamber of Commerce (CCC) are formulating sharing knowledge and training events but they still find it insufficient. More trainings will be needed across educational institutions and at the industry level to develop skilled personnel and entrepreneurs who could lead new types of online businesses in the country.

2.1.3. Recommendations

(a) Construct e-commerce development plan

- Developing an e-commerce strategy for Cambodia spearheaded by the Ministry of Commerce with strong private sector involvement¹⁹ will accelerate development of e-commerce in Cambodia.
- Forward-looking plan is expected to provide clearer directions and will help reduce any unnecessary initiatives developed by both the government and the private sector alike.

(b) Streamline the missing links

- The review on existing and still missing ICT and cybersecurity law with e-commerce related laws will be necessary to minimize risks and tackle any possibilities that may jeopardize the e-commerce businesses and protection of consumers and private data.
- Provisions on private data and consumer protection in the existing legislations needed to be improved to avoid confusion and weaknesses at the actual

¹⁹ The Chambers of Commerce and Industry of Cambodia (CCC) could play an important role for connecting the private sector and the government. CCC established an internal working committee on digital businesses that also covers e-commerce and it provides trainings to members aiming to improve IT literacy and building awareness.

enforcement. This includes streamlining of the duplicating / overlapping and unclear provisions.

(c) Improve payment scheme

- Cash economy culture is making it hard for mobile payments and cashless solutions to be launched. Cash relying society can be also due to the absence of a comprehensive e-payment gateway. Implementing a digital payment scheme that covers all possible payments and simultaneously raising public awareness could lead to speedy transformation to cashless society without inefficiencies and confusion.
- There are increasing number of companies, both banks and non-banks who are trying to introduce mobile payment services to their customers. Encouraging the development of industry-wide solutions and promoting acceptance of mobile payments solutions among consumers and merchants alike would also be beneficial. Central bank could take a leading role in promoting online payment schemes while companies could further introduce mobile payment services that will provide their customers conveniences.

(d) Scale up understandings of digital skills and competency

- Innovative micro-entrepreneurs “learning by doing” approach compensates for the absence of dedicated e-commerce curriculum in universities or professional training courses for the private sector. Empower and strengthen cross-sector associations in the areas of ICT and e-commerce to bridge the gaps between MSMEs needs and current education and training offered on ICT and e-commerce.
- This could be achieved by the efforts not only through educational institutions providing digital-related curriculum but also training digital savvy professionals industry-wide making sure that they themselves become the trainers/educators at schools.

2.2. Lao PDR

2.2.1. Current Situation

The understanding towards e-commerce and its benefits is still relatively new for Lao PDR. Similar to its neighboring countries, consumers familiar to e-commerce usually shop products online available through global SNS such as Facebook and Instagram. Payment method is very much limited to cash and major transactions are subject to cash-on-delivery (COD). The improvement of physical barriers and payment infrastructure through mobile apps however are expected to contribute to the significant development in e-commerce. Apparently, active online shoppers even have channels to receive products outside of the country due to the improvement of these constraints. Moreover, the adoption of e-commerce by both firms and consumers has been limited and challenges still remain for the country to take-off and move on to the next stage.

Solid progress has been made on telecommunications infrastructure, internet penetration in 2018 reached 35.4%²⁰. However, more efforts are needed in these key areas to accommodate growing interest on e-commerce in Lao PDR. Low rate of formal banking and limited knowledge towards ICT and benefits are still probable bottlenecks for consumers. Besides the significant growth of mobile connectivity in recent years, the internet service needs to be strengthened to help people use digital financial services (DFS). In a country where more than 80% of the population own a mobile phone and only 40% have access to banks, implementation of DFS could bring significant change.

²⁰ Internet World Stats, Asia internet use, population data and facebook statistics - June 30, 2019

Figure 2-3 Government and related organization in Lao PDR

No.	Corresponding responsible agency	Laws and Regulations	Area
1	Ministry of Industry and Commerce (MOIC) Department of Foreign Trade Policy Internal Trade Department Department of Enterprises Registration Enterprise Registration Database Centre, Department of Enterprise Registration and Management	Decree on E-Commerce (DRAFT) Law on Consumer Protection Law on Business Competition Law on Enterprises	Electronic transaction Online consumer protection Unfair and anti-competitive behaviors Business registration
2	Ministry of Science and Technology Department of Digital Technology Promotion and Development Division, Department of Digital Technology, Policy Division, Department of Digital Technology	Law on Electronic Transactions (2012) Law Intellectual Property	Electronic transaction Content regulation
3	Ministry of Finance Department of Tax Department of Planning and International Cooperation Customs Department,	Law on Payment System (being amended)	Payment
4	Ministry of Post, and Telecommunications Department of Information Technology	Law on Telecommunication (Amended) (2011) Law on Prevention and Combating with Cyber Crime Law on Electronic Signature	Cybercrime Domain names Electronic authentication and signature
5	The Lao National Internet Committee (under the Prime Minister's Office)	Ministry of Information and Culture, Special Provisions (416/IC) Decree No: 327 on Information Management on the Internet (2014)	Content regulation
6	Bank of Lao PDR Payment System Department	Law on Payment System (being amended) Regulation on Important Payment System Regulation on Systematically Important Payment System Notice on Using and Investing Cryptocurrencies in Lao PDR Notice on Termination of GIWI Company on the Payment System through QR Code of Alipay	Financial transaction E-payment
7	Ministry of Planning and Investment Special Economic Zone Office (SEZO)	Law on Investment Promotion (2016)	Investment policy

The Lao Government passed a Law on Electronic Transactions in 2012, paving the way for future growth in e-commerce. It has also enacted the Law on Prevention and Combating of Cyber Crime in 2016. A new law creating a National Payment System passed in 2018 provides much needed DFS regulations²¹. The regulatory framework needed to enable interbank payments is being developed. On top of these, Decree on E-Commerce is currently under drafting process by the Ministry of Industry and Commerce (MOIC), which is expected to regulate e-commerce related businesses and promotion. Another important legislation on privacy is yet to be completely implemented.

²¹ More detailed list of relevant law and regulations on e-commerce are found in the Appendix attached at the end of this report.

Law on Electronic Data Protection indicates some articles in relevance to personal data protection, but definitions, management and use of personal information are ambiguous.

Needs for technical assistance are well perceived and were expressed at different occasions during interviews conducted for this assessment. Some of the priority actions this assessment recommends include, in priority order: creating awareness about e-commerce not only targeting the policy makers but also beneficiaries including the private sector and ordinary people; developing a national vision and coordinating framework by MOIC; adopting less restrictive regulations in the banking and telecom sectors that hinders adopting new technologies to offer better and affordable e-commerce services to customers; and recognizing the value and potential of the tech start-ups in Lao PDR.

Figure 2-4 E-commerce related laws and regulations in Lao PDR

Study Areas		Country/Region			
		CA	LA	MM	VN
I Electronic transaction					
Online transaction		○	△	△	○
Electronic payment system	Domestic	○	○	○	○
	Cross-border	x	○	x	x
E-money, crypto currency		○*	○*	○*	○*
FDI regulations	Incentive mechanism	○	○	○	○
	Free trade zones	○	○	○	○
	Preferential tariff (like under EPA)	○	○	○	○
	Insurance and settlement for custom clearance	○	○	○	○
II Privacy and personal data protection					
Personal data protection		△	△	△	○
III Online consumer protection					
Consumer protection		○	△	△	○
Standard for safety of products, law on labeling		○	○	△	○
IV Cybersecurity and cybercrime					
Cyber security		△	○	△	○
	Penalty	△	○	△	○
V Content regulations					
IP rights		○	○	○	○
Liability regarding product and service		○	○	○	○
Geo-blocking		x	x	x	△
VI Domain names **					
VII Paperless					
Promotion of e-government		x	x	x	○
VIII Spam					
Anti-spam		x	x	x	○
IX Electronic Authentication and signature					
e-signature		○	○	○	○
X Data (**)					
Data transfer	Domestic	x	x	○	○
	Cross Border	x	○	x	x
Location of server and data center		x	△	x	○
Disclosure of source code		x	x	x	x
Use of open data		x	x	x	x

(*) There is no specific law regulating crypto currency.

(**) While data is perceived as an important factor in relevance to e-commerce, a newly added "(X) Data" contains all data issues including those that covers "(VI) Domain names" since domain names is typically a matter of physical location of data

Note: CA: Cambodia, LA: Lao PDR, MM: Myanmar, VN: Viet Nam, SG: Singapore, ASEAN: ASEAN Agreement on E-Commerce

Note: O: existence/ implementation of law/regulations; △ : law/regulations on the draft/planning stage/ relevant regulations are existed; X: no existence of law/regulations

Note: information as of November 2019

(i) Electronic Transactions

Legislation on e-commerce is not yet in place. The MOIC is currently drafting the Prime Minister's Decree on Electronic Commerce with close collaboration with relevant ministries and private sectors, and with the extended support from the German Government (GIZ). There is no banking regulations on new financial technology, which is necessary to capture rapidly growing Fintech to offer mobile payments, and promotion of the use of international debit and credit cards.

The Law on Electronic Transactions defines the principles, regulations and measures for formation, use, recognition, management and inspection of electronic transactions to create reliability and confidence in electronic transactions aiming at protecting the legitimate rights and interests of business providers including those that are related to e-commerce.

As for the payment, the Law on Payment System defines principles, regulations and measures on the management and monitor / oversight payment system activities in order to make relevant operations conducted in more convenient, swift, safe, transparent, modernized and effective ways. The law aims at stabilizing the financial and monetary status, ensuring the promotion of trade, services, investment as well as access to financial services enabling the paths towards regional integration and coping with international practices. Recent developments using advanced technology includes the adoption of QR codes for payment, which is expected to be introduced to the market in the coming years.

Through the issuance of Notification on using and investing cryptocurrencies in Lao PDR (2018), Bank of the Lao PDR has warned commercial banks, businesses and members of the public not to buy, sell or use cryptocurrency for money transactions as this practice is illegal.

(ii) Privacy and Personal Data Protection

There is no regulation on privacy in Lao PDR, but the Law on Electronic Data Protection indicates some articles relate to personal data protection. The law defines the principle,

regulation and standard on management, monitoring, implementation and protection of transaction of electronic data to secure the collection, accessibility, application and disclosure of data in order to protect the right and benefit of the public, right and benefit of person, corporation or organization. This law also provides definition on the distinction between general data and specific data as well as restrictions on sending and transferring such data.

(iii) Online Consumer Protection

The Law on Consumer Protection defines the principles and measures to organize, administrate, and inspect and monitor the activities of consumer protection in order to strengthen these activities ensuring the legitimate interests. The MOIC is the key agency responsible for online consumer protection, however, currently it does not have clear mandate on the level of enforcement by the ministry. However, other regulations such as standard for safety of products, access to information, and necessary contracts stipulated in the same law could support overall scopes on customer protection.

(iv) Cybersecurity and Cybercrime

Law on Prevention and Combating with Cyber Crime that was amended in 2015 defines principles, regulation, and measures on the managing, monitoring inspecting the campaign of preventing, and combating cybercrime to make it efficient aimed at preventing, combating curbing and eliminating crime, protecting data base system computer data and information. It also contains provisions on prevention measures as well as terms for penalty against illegal acts.

(v) Content Regulation

Law on Intellectual Property determines the principles, regulations and measures relating to the promotion of inventions, creativities, knowledge-based economy, management and protection of intellectual property rights, in order to ensure the legitimate interests of the owner of intellectual property and the interests of state, society, encourage the research and develop science and technology, the transfer of technology within the country and from abroad, effectively aiming to promote trade, investment and the competitiveness for the national economy. This law also supports copyrights and

other related rights to be protected for the national interests such as artistic domain, literary domain, and scientific domain including computer programs exhibited through the works of performers, producers of phonograms and broadcasting organization, etc. At the moment, Custom Law is applied for protection measures at the time of violation of the above law.

(vi) Domain Names

Lao PDR does not impose significant restrictions on cross-border flows of data. The ability to transfer data across borders is not only essential for e-commerce, but is also an increasingly important pillar of economic competitiveness. Although there is no broad requirement in Lao PDR to localize data, Lao PDR does require securities companies to store all their data in domestic IT systems.

The government promotes and encourages individuals, legal entities, and organizations, both Lao nationals and expats, who live and work in the Lao PDR, to use information through the internet for their work by improving the telecom infrastructure and establishing national servers opened for various users, especially in the education sector, public health sector, and research on science and technology, in order to increase efficiency and the quality of life and to improving the standard of living of residents of the Lao PDR.

(vii) Paperless

There is no law on e-government in Lao PDR. Significant progress has been made on trade facilitation; however, more efforts are needed towards paperless on actual trade and relevant documentations. These include not only realizing digitalized documents and application forms but also achieving electronic management of relevant documents that are yet offered manually. Yet, there are growing numbers of government organizations and ministries such as Ministry of Foreign Affairs (Visa online application), Ministry of Finance (Value Added Tax), transforming physical documentation and application to serve online that could not only achieve paperless but also speed up processing relevant documents.

(viii) Spam

There is no specific legislation for anti-spam and geo-blocking.

(ix) Electronic Authentication and Signature

Law on Electronic Signature defines principles, legal and regulation on management, follow up and monitoring electronic signature in order to improve integrity, standard, up-to-date, safety and promptness with attention to protect the rights and benefits of public, private, corporation and organization, and to secure the national security. This law also covers principles of authorized electronic signature.

(x) Data

There is no specific legislation on standardized data architecture, use of open data, and disclosure of source code at this moment.

2.2.2. Issues and Challenges

Lao PDR has been developing mainly in urban areas and digital devices have been dramatically penetrating amongst citizens in recent years. However, the e-commerce market size is USD 6.7 million ²² in 2019, much smaller than neighboring countries. The reasons are that e-commerce is still a new concept in Lao PDR, consumers prefer traditional markets and brick-and-mortar stores, and financial market still relies on cash. To accelerate e-commerce market development, there exist issues and challenges to overcome. Not only enhancing legal and regulatory framework on e-commerce, but also strengthening cooperation with related ministries and agencies is an urgent issue. There are some inconsistencies with laws and sub-laws developed by other ministries, causing confusion among private companies. In addition, since the concept and the technologies regarding e-commerce is new to the private companies in Lao PDR, it is necessary to share the relevant knowledge with them, especially MSMEs. Some of the major specific issues are addressed as follows:

²² Euromonitor international

(a) Law on e-commerce

There is no comprehensive laws to regulate e-commerce activities in Lao PDR. Decree on E-Commerce is currently being drafted by the Ministry of Industry and Commerce. As of January 2020, the drafting process was 90% completed and is expected to finish by the first half of 2020. There are a number of stakeholders involved such as Ministry of Industry and Commerce, Ministry of Post and Telecommunications, Ministry of Finance, Ministry of Science and Technology, Bank of the Lao PDR, Ministry of Education and Sports, Ministry of Justice, Prime Minister's Office, Lao National Chamber of Commerce and Industry and National University of Laos, which may prolong the efforts and time required for coordination. Private sector especially start-up should be also involved in the drafting process for the benefit of the e-commerce related businesses.

(b) Online Consumer protection

Although the Lao Government passed Law on Consumer Protection in 2010, the law needs to be improved to protect consumers not only off-line but also online transactions including e-commerce. Moreover, there is no provisions allowing consumers to cancel the purchase contract, or take a legal action against business providers in case of conflict. Such provisions could help build consumer confidence in e-commerce transactions. Simultaneously, public awareness of consumer rights and obligations of business providers need to be raised.

(c) Electronic payment

Law on Payment System stipulates new types of payment schemes such as QR code payment. Banque pour le Commerce Exterieur Lao Public (BCEL) and some banks offer e-payment services. Although many non-banks are providing e-payment and they take an important role of the rapid growth of the e-payment market in neighboring countries, there are few non-banks e-payment providers in Lao PDR. Telecom operators in association with banks have developed mobile payment mechanisms but have not rolled them out yet. According to the interview to BOL, there were many cases that non-bank applicants did not meet the requirements of Article 28 of Law on Payment System due to a lack of understanding of the law or the strict conditions.

While there are lower incentives for business providers to introduce electronic payment schemes, series of knowledge sharing and awareness building programmes with a special focus on MSMEs could realize further utilization of electronic payments. Telecom operators in association with banks have developed mobile payment mechanisms but have not rolled them out yet.

(d) E-commerce strategy

Increased interest among government entities for coordination of efforts and development of a conducive framework for e-commerce in the recent years are stemming from negotiations, commitments and increasing pressure from the private sector to stimulate industry-wide potential and derive new opportunities of businesses and revenue from it. The challenge lies however that e-commerce is not considered yet as a potential source of exports in areas that still practice old-fashioned business operations by MSMEs without ICT and mobile devices, for instance agricultural commodities, handicrafts and garments.

(e) Legal and regulatory framework

A careful regulatory and legal framework development has ensured that Lao PDR meets some of its commitments under the e-ASEAN framework. Still, legal instruments are not being used fully, in particular for data privacy and protection of consumers online. Growing concerns on online consumer protection arise from increased unregulated border-trade where not all imported products are being inspected.

(f) E-commerce skills development

Despite several isolated initiatives, e-commerce skills and know-how are still very limited, even within the tech start-up community, delaying much needed investment in education, training, and mentorship and coaching. In-company training and recruitment of foreign talents have compensated for the lack of ICT-related curriculum in the public education institutions.

Moreover, policy makers currently have limited opportunities to catch up the knowledge of e-commerce and digital technology as well as the latest trends in the development of

legal systems in other countries. In order for the digital economy to grow steadily, it is necessary that policy makers upgrade their knowledge and skill.

2.2.3. Recommendations

(a) Decree on E-commerce

- MOIC should try to minimize missing links between drafting Decree on E-commerce and the existing laws such as Law on Electronic Transactions and Consumer Protection Law.
- After the decree is promulgated, MOIC should prepare guidelines / manuals for effective enforcement / monitoring to be shared amongst concerned parties such as Ministry of Post and Telecommunications, Ministry of Finance, Ministry of Science and Technology, Bank of the Lao PDR. On top of that, Lao PDR government should enhance dialogue with leading domestic and foreign chambers of commerce and business associations' dedicated committee.

(b) Law on Consumer Protection

- To encourage consumers to use e-commerce, the government should amend Consumer Protection Law to cover the online transactions including e-commerce. Moreover, they should add provisions on cancellation of contract in case a consumer accidentally clicks to confirm their purchases or any equivalent actions as such.
- The government should strengthen the enforcement of the law on fraud and other illegal activities related to e-commerce.
- Online Dispute Resolution (ODR) mechanisms should be developed especially for cross-border e-commerce. ODR mechanisms can be established by domestic authorities or applied international initiatives such as the International Consumer Protection and Enforcement Network (ICPEN).

(c) Law on Payment System

- BOL should provide easy-to-understand explanations of the law to non-bank institutions to increase market participants. Moreover, they may discuss the relaxing conditions of Article 28 because strict regulations can hinder market growth.
- Utilize existing payment schemes for taxation to be extended to other channels for digital payment to pave ways for people to get accustomed to modern payment.

(d) E-commerce strategy

- Accelerate empowerment of MOIC by improving institutional capacity as well as capacity of the individuals to draft and implement necessary strategy, legislation and regulation as the lead entity for e-commerce development in Lao PDR.
- Encourage the development of a single strategy for e-commerce development, using existing sectoral strategies, supporting National Socioeconomic Development Plan (NSED) vision for a digital economy.

(e) E-commerce skills development

- Public (donor) and private support for upgrading co-working space and business groups into proper incubators and business accelerators could help bridge the gaps between the commerce players' needs and the insufficient ICT-related tertiary education curricula.

2.3. Myanmar

2.3.1. Current Situation

Myanmar is currently going through various transitions aiming to catch up with other leading countries within ASEAN as well as global community. Such economic reform is also extended towards not only modernization and digitalization of government operations but also revisions of the existing relatively older-fashioned legislations in order to further promote digital economy. Simultaneously, rapid improvements can be seen in online / offline connectivity through installing necessary ICT infrastructure as well as implementing modern trade facilitation in line with the global practices and what has been scheduled in the ASEAN Economic Community (AEC). These significant changes are expected to bring various opportunities also in the context of e-commerce.

After the liberalization of its telecommunications market in 2014, the country has seen a leap-frogging effect jumping from hardly no physical communication tools to mobile phones and smart apps. After several years, the penetration rate of the mobile devices is already nearing 100% with smartphone penetration surpassing 80%. While digital transaction is still scarce due to absence of e-commerce platform, emerging digital services initiated by start-ups and digital payment supported by the financial institutions mainly through smart apps have brought phenomenal changes towards cashless society and increasing usage of e-commerce.

Figure 2-5 Government and related organizations in Myanmar

No.	Corresponding responsible agency	Laws and Regulations	Area
1	Ministry of Transport and Communications The Central Body of Electronic Transactions under the Electronic Transaction Law Ministry of Home Affairs	Electronic Transaction Law The Telecommunications Law Law Protecting the Privacy and Security of Citizens	Electronic Transaction Cybercrime Privacy Electronic authentication and signature
2	Ministry of Commerce	Consumer Protection Law(2019) Competition Law (2014) Reform bill of Trade Law Notification No. 1/2019 dated 17-1-2019 Trademark Law	Online Consumer Protection
3	Central Bank of Myanmar	Regulations on Mobile Financial Services (FIL/01/03-2016) Directive on Electronic Card (2/2012) Financial Institution Law (2016)	Electronic Transaction E-Payment
4	Customs	The Sea Customs Act (1878, amended in 2018)	Custom
5	Ministry Of Justice	Penal Code	Cybercrime Privacy

Yet, there still remain number of challenges ahead in order to realize the e-commerce development in Myanmar. While the government is eager to improve necessary legal framework through various initiatives under the Economic Policy for ICT²³ in 2016 utilizing available financial and technical aids from donor countries and international organization, concerned ministries and relevant parties ought to cooperate more in order to come up with comprehensive framework on e-commerce as there exists lack of knowledge, experiences and capacity amongst those in charge. Not only implementing new laws but also updating some of the existing legislations²⁴ that seem outdated reflecting changes in technical advancement and businesses in digital era are expected to realize harmonic and consistent legal base. Ministry of Transport and Communications (MOTC) is one of the key ministries in charge of electronic transaction and regulation on ICT issues including data and privacy protection while Ministry of Commerce (MOC) is responsible for consumer protection and regulation on actual trade and trade facilitation.

Three policy issues require improvements to enhance e-commerce in Myanmar:

- (1) Improving and updating the legislative and regulatory framework for e-commerce is of paramount importance especially the legislations on electronic transaction,

²³ The policy reflects one of the national objectives announced in August 2016 and led by Digital Economy Development Committee (DEDC) in realizing digitalization of society and promoting digital economy.

²⁴ More detailed list of relevant law and regulations on e-commerce are found in the Appendix attached at the end of this report.

electronic payment, personal data protection and consumer protection. E-commerce needs a suitable environment to grow; it also needs the government's support in establishing and optimizing such environment, especially in areas where the market mechanism fails to allocate resources. The government's role is to set up rules, regulations, and legislation in both the physical and virtual parts of the market to ensure the security and stability of e-commerce growth. In line with recommendations from international donors, improvements of existing laws and regulations, including taking advantage of international legal instruments such as the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific are essential for addressing consumer protection (including recourse), privacy, security of transactions, cybercrime, and other concerns.

- (2) Since only 6% of the population have an active bank account, bank transfers are not enabled and the use of credit cards is rare. Trust in electronic payment is still a long way down the road and will probably rely on acceptance of newly launched agent-based mobile wallets. Online banking services are only used by 2% of mobile owners and the preferred way of payment is COD, accounting for around 95% of all e-commerce transactions. Banks need to invest in technology and know-how so that their systems are ready for online payments.
- (3) Lack of digital literacy, ICT skills and knowledge slows down e-commerce adoption. Besides the lack of customization of platforms for content in Burmese local language and the limited command of English among the population, business and government included, it is important to educate merchants and consumers on the benefits and pitfalls of digital work and of e-commerce. Government has a role to play in educating the population on digital products, as well as in making sure that educational institutions incorporate digital literacy in their curriculum. The same goes for ensuring that tertiary institutions contribute to reducing the ICT skills gaps.

Companies involved in the internet economy, mostly MSMEs, can also educate and encourage consumers to engage more online, including shopping and paying digitally. It is hard to get people to use digital products other than Facebook. Retailers can do their

part for growth by relying more on other platforms such as shop.com.mm²⁵ and RGO47²⁶ who are more actively conducive in e-commerce.

With such robust growth and clear demand to go digital, Myanmar is attracting the attention of business accelerators and venture capitalists, fueling the booming tech start-ups industry. In the long run, more investors and incubators will be needed, complementing assistance from the government and banks to create the ecosystem needed for e-commerce to take off in Myanmar.

Myanmar could tap into the steady amount of support it receives annually from its development partners, some of them starting to show an interest in the digital economy. They could for instance support Myanmar's quest to better integrate e-commerce in its trade and development agenda. Myanmar joined the Joint Statement on Electronic Commerce 2017 issued at the closure of the WTO 11th Ministerial Conference of the World Trade Organization (WTO) in December 2017.

Myanmar will also explore potential benefits from a new initiative designed to drive public-private dialogue on e-commerce that was launched by the WTO, the World Economic Forum and the Electronic World Trade Platform.

²⁵ The site is operated by Daraz group acquired by Alibaba in 2018.

²⁶ RGO47 is a local start-up established in 2013.

Figure 2-6 E-commerce related laws and regulations in Myanmar

Study Areas		Country/Region			
		CA	LA	MM	VN
I Laws and regulations					
Electronic transaction					
Online transaction		○	△	△	○
Electronic payment system	Domestic	○	○	○	○
	Cross-border	×	○	×	×
E-money, crypto currency		○*	○*	○*	○*
FDI regulations	Incentive mechanism	○	○	○	○
	Free trade zones	○	○	○	○
	Preferential tariff (like under EPA)	○	○	○	○
	Insurance and settlement for custom clearance	○	○	○	○
II Privacy and personal data protection					
Personal data protection		△	△	△	○
III Online consumer protection					
Consumer protection		○	△	△	○
Standard for safety of products, law on labeling		○	○	△	○
IV Cybersecurity and cybercrime					
Cyber security		△	○	△	○
	Penalty	△	○	△	○
V Content regulations					
IP rights		○	○	○	○
Liability regarding product and service		○	○	○	○
Geo-blocking		×	×	×	△
VI Domain names **					
VII Paperless					
Promotion of e-government		×	×	×	○
VIII Spam					
Anti-spam		×	×	×	○
IX Electronic Authentication and signature					
e-signature		○	○	○	○
X Data (**)					
Data transfer	Domestic	×	×	○	○
	Cross Border	×	○	×	×
Location of server and data center		×	△	×	○
Disclosure of source code		×	×	×	×
Use of open data		×	×	×	×

(*) There is no specific law regulating crypto currency.

(**) While data is perceived as an important factor in relevance to e-commerce, a newly added "(X) Data" contains all data issues including those that covers "(VI) Domain names" since domain names is typically a matter of physical location of data

Note: CA: Cambodia, LA: Lao PDR, MM: Myanmar, VN: Viet Nam, SG: Singapore, ASEAN: ASEAN Agreement on E-Commerce

Note: O: existence/ implementation of law/regulations; △ : law/regulations on the draft/planning stage/ relevant regulations are existed; X: no existence of law/regulations

Note: information as of November 2019

(i) Electronic Transaction

Contract Act 1872 generally applies to a contractual relationship between private parties, but the Act does not address any specific issue regarding electronic transaction. For an

international transaction, there is no specific laws regarding conflict of laws at this moment, either.

E-commerce supportive laws and regulations are not yet in place, though slightly outdated cybersecurity and e-transaction regulations were passed more than 10 years ago. Banking regulations are outdated due partly to the sanctions and restrictions that affected Myanmar until 2012, limiting the use of international debit and credit cards. Business friendly laws, acts and regulations have been enacted in the past two years, reassuring investors, with a positive impact on the development of a supportive legal and regulatory framework for e-commerce.

(ii) Privacy and Private Information Protection

While section 357 of the Constitution of the Republic of the Union of Myanmar 2008 provides that the Union must protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of the Constitution, Myanmar does not currently have specific data protection laws.

The Telecommunications Law 2012 contains provisions which refer to the protection of personal data, but applies only to persons, departments, and organizations within Myanmar, and Myanmar citizens living locally and abroad. The Law Protecting the Privacy and Security of Citizens 2017, which was enacted and promulgated into law on 8 March 2017, is focused on the protection of citizens' freedom of movement, residence and speech, as well as private affairs.

Electronic Transactions Law was enacted on 30 April 2004, and the provisions contained in this law shall apply to any kind of electronic record and electronic data message used in the context of commercial and non-commercial activities including domestic and international dealings, transactions, arrangements, agreements, contracts and exchanges and storage of information.

(iii) Online Consumer Protection

Consumer Protection Law 2019 (enacted on 15 March 2019) consists of 25 chapters and 84 articles, which defines consumer and stipulates their rights and responsibilities. It also provides restrictions toward unfair practices and misleading information disseminations. Provisions on warranty for goods and services may not be clear as to whether such warranty are mandatory in some occasion as well as who owns such obligation (for instance manufacturer, wholesaler, and/or retailer). Requirement for labelling initially stipulated in former Consumer Protection Law has been replaced with a Notification (No.1/2019; 17 January 2019) which requires wide variety of consumer goods to obtain labelling in Myanmar language. However, it is uncertain whether this notification is still effective under the new law while it seems that similar notification is currently under preparation.

In line with this law, there are new developments for the purpose of consumer protection. According to Myanmar Business Today (dated 19 June 2019), the MOC and the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) will be forming a new organization called the Digital Economy Association and its purpose will be to handle disputes over products sold online. So far, it is aimed to cover domestic transactions but cross-border transaction is also expected to be covered in the future.

(iv) Cybersecurity and Cybercrime

There is no specific cybercrime /cybersecurity law in Myanmar.

(v) Content Regulations

In Myanmar, the following had been relevant laws for protection of IP rights especially in trademark, before enacting Trademark Law 2019, Copyright Law 2019, Patent Law 2019 and Industrial Law 2019.

- The Code of Civil Procedure, 1908
- The Penal Code, 1860
- The Specific Relief Act, 1877
- The Sea Customs Act, 1878
- The Myanmar Merchandise Marks Act, 1889

- The Code of Criminal Procedure, 1898
- Registration of Deeds Law, 2018
- The Myanmar Copyright Act, 1914
- The Land Customs Act; 1924
- The Myanmar Patents and Designs (Emergency Provisions) Act, 1946

Since the specific IP Laws above have been enacted very recently, any person who would like to protect IP rights in Myanmar shall rely on such specific laws regarding intellectual property. The following are the brief explanation of Trademark Law and Copyright Law. In regards to the content regulations of IP rights, the new Trademark Law and the new Copyright Law have been enacted in order to comply with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement of WTO.

There are many government ministries and private sector organizations that monitor and implement specific product safety measures in Myanmar. Under the aegis of the MOC, the Consumer Protection Law also seeks generally to secure safe products and services. This law imposes prison sentences on those who break the law, for instance acts of misleading and deceiving consumers by selling or buying goods or services while stating incorrectly that these goods and services meet the prescribed standard and quality.

(vi) Domain Names

There is no specific legislation of “location of server and data center” or “disclosure of source code” in Myanmar at this moment.

(vii) Paperless

In 2013, the government officially formed an interministerial committee which includes some private sector representatives, national and international IT and legal experts to work on drafting the new e-commerce law. Nevertheless, progress on e-commerce law formulation has been very limited. The MOC is currently receiving support from the World Bank to reinitiate drafting of an e-commerce law, but no draft was available yet at the time of production of this report.

Separately, the government, using the thrust of the e-Governance Master Plan 2016-2020, has started to work on drafting an ICT law with the support of the World Bank. It acknowledged that, despite the development of ICT and application of computer technology in government administrative mechanism in existing law, the principal tools to support the development of e-government system are not yet included in the existing laws. Therefore, the government through relevant ministries vowed to revise and include the clear definition of the characteristic and purpose of e-government in the existing laws or to constitute new legislation.

(viii) Spam

There is no specific legislation on anti-spam and geo-blocking.

(ix) Electronic Authentication and Signature

Under Electronic Transaction Law, “Electronic signature” means any symbol or mark arranged personally or on his behalf by electronic technology or any other similar technologies to verify the authenticity of the source of the electronic record and the absence of amendment or substitution. In addition, Amendment of Evidence Act suggests that any record generated, sent, received or stored by means of electronic, magnetic, optical or any other similar technologies in an information system or for transmission from one information system to another may be submitted to the Court as an evidence.

(x) Data

There is no specific legislation on standardized data architecture and the use of open data in Myanmar at this moment.

2.3.2. Issues and challenges

After liberalizing its telecommunications market in 2014, the country jumped straight to a high mobile phone adoption. The mobile penetration rate is closed to 100% and smartphone penetration rate is above 80%.

The market size on e-commerce in Myanmar is developing in these days. However, Myanmar's e-commerce business market size is merely USD 14.3 million in 2019 and the purchase price per capita through e-commerce is the smallest in CLMV countries. There are still substantial obstacles preventing tech start-ups and merchants from scaling up their businesses and an uptake of e-commerce in the country. Some of the major issues are addressed as follows:

(a) Electronic transaction

- Electronic Transaction Law (2004)

There is no e-commerce law in Myanmar. Although Ministry of Commerce announced the plan to draft the e-commerce law in 2018, the schedule of the enforcement is unclear. At present, Electronic Transaction Law (2004) covers the e-commerce transactions. The law specifies some of the e-commerce relevant concepts including e-signature and electronic record, but these concepts are very general and need to be updated.

The Electronic Transactions Control Board and the Central Body of Electronic Transactions specified as a law enforcement organization by Electronic Transaction Law are not fully functioning and needs improvements. For instance, enforcement of the law is conducted by the Posts and Telecommunication Department under MOTC but specification on roles and responsibilities and coordination with other concerned ministries are yet unclear. Moreover, all illegal acts acknowledged by the Control Board and the Central Body will be handed over to the police for further investigation, but there is a lack of knowledge, experiences, and capacity amongst those in charge of detecting violations and investigation activities.

(b) Privacy and Personal data protection

- Law on Protecting the Privacy and Security of Citizens (2017)

There is no specific personal data protection law in Myanmar. Existing Law on Protecting the Privacy and Security of Citizens (2017) is under the purview of the Ministry of Home Affairs (MHA). While the MOTC is monitoring personal data protection, the roles and responsibilities between MHA and MOTC are unclear. It is also unclear what needs to be protected in Myanmar especially privacy data, hence defining the scopes will be necessary for actual operations.

(c) Electronic payments

- Financial Institution Law (2016)
- Directive on usage of electronic payment cards (2/2012)
- Regulations on Mobile Financial Services (2016)

There are several laws and regulations such as Financial Institution Law (2016), Directive on usage of electronic payment cards (2/2012) and regulations on Mobile Financial Services (2016). They regulate specific payments and services but are not comprehensive and missing some provisions such as usage of prepaid card and QR code payment. Currently only 3 private telecom companies (Telenor, Ooredoo, Mytel) and 1 national telecom company (MPT) are registered as Mobile Financial Service Providers (MFSPs) and provide services accordingly. The use of e-payments remains very limited still, due to low banking literacy, lack of trust in cashless transactions and the lack of bank interoperability.

In addition, although Chapter 18 under the Financial Institution Law specifies that CBM would issue necessary regulations and guidelines regarding E-Money, E-Banking and Mobile Banking, these regulations have been yet drafted.

(d) Cybersecurity and Cybercrime

There is no specific law on cybercrime/cybersecurity. The MOTC is currently drafting the base law of digital policies in Myanmar as of the end of August 2019²⁷. This law is expected to provide provisions on cyber security, e-government, e-commerce, privacy data protection, etc. As global cybercrimes are threatening emerging countries including Myanmar, developing the regulatory framework on cybercrime/cybersecurity is an urgent issue. However, the schedule of drafting and implementing the law, as well as the responsible ministry to initiate the drafting of provisions on e-commerce is unclear.

²⁷ The drafting support is outsourced to experts since October 2018.

(e) Skill up of knowledge

As the policy makers need to understand the business trend on e-commerce to catch up with the current environment, they may need to enhance their knowledge and skills on e-commerce.

Universities and training providers are not able to provide much needed e-commerce skills (web development, application development, content manager, digital products development)²⁸.

Tech start-ups are importing skills from Burmese diaspora living in Singapore, complemented by on-the-job training and support by a growing number of business incubators and business accelerators.

2.3.3. Recommendations

(a) Law on e-commerce

- To keep up with emerging business trend, Myanmar needs to develop a comprehensive law to regulate e-commerce activities. MOC, the initiating ministry of e-commerce law, should build a concrete schedule to draft and enact the law. The drafting process of the law can be supported by third-party consultants in an efficient and effective manner.
- In addition, Myanmar should prepare guidelines / manuals for effective enforcement / monitoring to be shared amongst concerned parties.
- On top of that, Myanmar government should assess current e-commerce and ICT skill gaps to accelerate the development of ICT related curricula in line with e-commerce industry's needs. They should also enhance dialogue with leading domestic and foreign chambers of commerce and business associations' dedicated committees.

²⁸ According to National Education Strategic Plan 2016-23 (Ministry of Education), the government is planning to improve the "basic education curriculum with focus on 21st century skills including information, media and technology skills". Myanmar government can enhance the curriculum with e-commerce related skills.

(b) Privacy and Personal data protection

- Law on Protection the Privacy and Security of Citizens (2017)
- MHA should clearly define what personal data needs to be protected in the laws. As MOTC is monitoring the personal data protection, MHA and MOTC should reach common ground about the definition of personal data to be protected.
- In addition, there should be clear roles and responsibilities between MHA and MOTC in the actual enforcement and operation.

(c) Electronic payments

- Financial Institution Law (2016)
- Directive on usage of electronic payment cards (2/2012)
- Regulations on Mobile Financial Services (2016)
- CBM should specify the missing provisions such as the usage of prepaid card and QR code payments in appropriate regulations. Additionally, CBM should issue the necessary sub-laws / regulations and guidelines regarding E-Money, E-Banking, and Mobile Banking with the support from third-party consultants.
- CBM can take initiatives to develop and roll out massive awareness campaigns with the public and merchants on the benefits, ease of use of e-payment methods and the cost of handling cash.
- CBM can also support upgrade of domestic bank e-payment services, including national payment gateway, possibly using the existing Myanmar Payment Union (MPU) infrastructure by providing series of training and knowledge-sharing programme.
- Finally, Myanmar government should accelerate the development of solutions enabling use of electronic payment for import and export procedures, including payment for taxes, duties, fees and charges by installing modern IT system and utilizing mobile applications.

(d) Cybersecurity and Cybercrime

- MOTC can accelerate the drafting process of base law on cyber policies with support from third-party consultants. MOTC and MOC should clarify which ministry would initiate e-commerce-related provisions in the law on cyber policies.

(e) Improving Statistics

- Reliable and up-to-date statistics on e-commerce is desired to capture the current situation and forecasting future developments. These statistics could also help identify issues at hand and able to respond faster to challenges if any.

2.4. Viet Nam

2.4.1. Current Situation

Viet Nam is a country with high potential growth in the e-commerce market due to its high internet penetration rate (ranked 17th in the world²⁹) and climbing smartphone penetration rates driven by young population. Millennials are considered as the target population of e-commerce accounting for more than 40% of Vietnam's population, approximately 40 million people in 2018³⁰. The penetration of internet is projected to increase steadily, with the percentage of internet users set to reach 65% in 2022³¹.

Internet services first appeared in Viet Nam in 1997. During the first three years however, the internet usage rate remained insignificant with a 0.2% penetration. Given the improvements in telecommunication infrastructure and wide spread of mobile devices, the situation changed drastically especially in the recent years. By 2017, approximately 50 million Vietnamese, or half of the population, were connected to the internet. Despite its late start, Viet Nam's penetration rate of 70.3% in 2019 is now higher than the world average of 58.7%.

Following its accession to the WTO in 2007, Viet Nam has allowed foreign investors to establish 100% foreign-owned companies. This has attracted many foreign investors including e-commerce platformers. As e-commerce is expected to soon become an important part of Viet Nam's trade sector, currently, big names such as Lazada (Alibaba), Shopee (Sea Limited) and more recently, Amazon, market have seized the opportunity and entered Viet Nam. According to eMarketer, from 2010 to 2019, the Southeast Asian e-commerce market was growing at 35.4% per year. Viet Nam ranks 4th for online shopping in the ASEAN Member States and is expected to continue booming in the coming years, with sales estimated to reach USD 4.34 billion in 2023³².

²⁹ Internet World Stats (<https://www.internetworldstats.com/stats.htm>)

³⁰ Viet Nam White Book on E-commerce 2019

³¹ "Vietnam – Huge Potential in one of Southeast Asia's Sleeping Giants", Accenture Insights

³² eMarketer "Retail & Ecommerce Sales"

Figure 2-7 Government and related organization in Viet Nam

	Corresponding responsible agency	Laws and Regulations	Area
1	Ministry of Information and Communications Department of Planning and Finance (Vietnam Internet Network Information Centre (administrator for domain names) The Viet Nam Computer Emergency Response Teams (VNCERT)	Law on E-transactions (2005) Law on Technology information (2006) Law on telecommunications (2009) Law on Cyberinformation security (2015) (amended November 2018) The Decree on information technology application in state agencies' operation (No 64/2007/ND-CP)	Electronic transaction Privacy Domain Names Electronic authentication and signature
2	Ministry of Industry and Trade E-commerce and Digital Economy Agency Vietnam Trade Promotion Agency	Decree on E-commerce No 52/2013/ND-CP Law on E-transactions (2005) Law on protection of consumer's rights Competition law No.27/2004/QH11 Decree No 185/2013/ND-CP (amended and supplemented by the Decree No 124/2015/ND-CP)	Electronic transaction Privacy Online Consumer Protection Paperless
3	Ministry of Finance	Decree No.119/2018/ND-CP on E-invoices Decree No 185/2013/ND-CP (amended and supplemented by the Decree No 124/2015/ND-CP) Decree No 165/2018/ND-CP on E-transactions in financial operations	Electronic transaction Privacy
4	Ministry of Public Security	Law on cybersecurity (2018)	Cybersecurity Privacy
5	Ministry of Science and Technology	Law on intellectual property rights	Content regulation
6	The State bank of Vietnam	Circular No.35/2016/TT-NHNN (amended by Circular No 35/2018/TT-NHNN) Decree No 101/2012/ND-CP on non-cash payment	E-Payment Privacy

Ministry of Industry and Trade (MOIT) is in-charge of actual trade and trading facilitation and as one of the key government bodies in charge of electronic transactions that are regulated through Decree on E-commerce. Ministry of Information and Communications (MIC) is in-charge of ICT related issues, Law on Cyber Information Security and relevant decrees that cover wide scopes. There are also a number of other ministries and government organizations that play responsible roles in promoting e-commerce and protecting properties, data and private information³³. Overall, given a decade long efforts, Viet Nam has already entering to a phase where the legal and regulatory framework is constructed in a comprehensive manner in line with regional agreement and global best practices.

³³ More detailed list of relevant law and regulations on e-commerce are found in the Appendix attached at the end of this report.

Figure 2-8 E-commerce related laws and regulations in Viet Nam

Study Areas		Country/Region			
		CA	LA	MM	VN
I Laws and regulations					
Electronic transaction					
Online transaction		○	△	△	○
Electronic payment system	Domestic	○	○	○	○
	Cross-border	×	○	×	×
E-money, crypto currency		○*	○*	○*	○*
FDI regulations	Incentive mechanism	○	○	○	○
	Free trade zones	○	○	○	○
	Preferential tariff (like under EPA)	○	○	○	○
	Insurance and settlement for custom clearance	○	○	○	○
II Privacy and personal data protection					
Personal data protection		△	△	△	○
III Online consumer protection					
Consumer protection		○	△	△	○
Standard for safety of products, law on labeling		○	○	△	○
IV Cybersecurity and cybercrime					
Cyber security		△	○	△	○
	Penalty	△	○	△	○
V Content regulations					
IP rights		○	○	○	○
Liability regarding product and service		○	○	○	○
Geo-blocking		×	×	×	△
VI Domain names **					
VII Paperless					
Promotion of e-government		×	×	×	○
VIII Spam					
Anti-spam		×	×	×	○
IX Electronic Authentication and signature					
e-signature		○	○	○	○
X Data (**)					
Data transfer	Domestic	×	×	○	○
	Cross Border	×	○	×	×
Location of server and data center		×	△	×	○
Disclosure of source code		×	×	×	×
Use of open data		×	×	×	×

(*) There is no specific law regulating crypto currency.

(**) While data is perceived as an important factor in relevance to e-commerce, a newly added "(X) Data" contains all data issues including those that covers "(VI) Domain names" since domain names is typically a matter of physical location of data

Note: CA: Cambodia, LA: Lao PDR, MM: Myanmar, VN: Viet Nam, SG: Singapore, ASEAN: ASEAN Agreement on E-Commerce

Note: O: existence/ implementation of law/regulations; △ : law/regulations on the draft/planning stage/ relevant regulations are existed; X: no existence of law/regulations

Note: information as of November 2019

(i) Electronic Transactions

In 2005, Viet Nam National Assembly enacted Civil Code No.36/2005/QH11 on 24 November ("Civil Code"), Law No.91/2015/QH13 on Commercial ("Law on Commerce"),

and Law on E-Transactions No.51/2005/QH11 (“Law on E-Transactions”), recognizing the legal value of data messages in civil and commercial transactions. Up to now, Viet Nam regulations on e-transaction have become clearer and more detailed, however the regulations that regulate the principles of using data messages in e-transactions remain unclear. Law on E-Transactions sets out recognition of validity of electronic communication and data message. The law adopted a media – neutral approach in regulating e-transactions include data messages; electronic signatures; certification of e-signatures, electronic contracts and security, safety, protection, confidentiality in e-transactions. This law recognizes the validity of data message, being as valid as written documents, original copy and evidence. Besides, the law particularly regulates originator of a data message; time and place of sending a data message; receipt, time and place of receiving a data message as well as automatic sending and receipt of data messages that helps to create a contract through electronic means.

(ii) Privacy and Personal Data Protection

Personal data is one of basic objects to be protected by the laws. It is regulated in many laws from The Constitution in general to Laws on Cyber Information Security, Law on Technology Information, Law on E-Transaction, Law on Cyber Security and Law on Telecommunication in particular. The Constitution states the basis of what constitutes the country, regulating everyone has the right to inviolability of private life, personal secrets and family secrets and that the security of information about private life, personal secrets or family secrets shall be guaranteed by law. Meanwhile, Civil Code defines indirectly about private data protection that protection of private life, personal secrets and family secrets is a basic right of everyone.

Rights of personal information protection are regulated in the Law on Consumers’ Rights Protection. In essence, consumers’ information shall be kept safe and confidential when they participate in transactions, use of goods or services, except where competent state agencies require the information. Besides, when collecting, using and transferring consumers’ information, the organizations or individuals trading goods and/or services must obey rules set out in this law. Law on Cyber Information Security prohibits illegal collecting, utilizing, spreading or trading of personal information of others and abusing

weaknesses of information systems to collect or exploit personal information. Several series of decree and guidance of above laws were also issued to regulate some of the specific issues and misconducts of private data and information transacted online.

(iii) Online Consumer Protection

Law on Protection of Consumers' Rights governs consumer rights and obligations issues; responsibilities of business organizations and individuals to consumers and state management in order to protect consumers' interests as well as settle disputes. While this law has created more rights for consumers, it has correspondingly increased responsibilities for traders such as prohibited conduct, contracts between traders and consumers and general trading conditions, extent of warranty, liability for defective products, and litigation. Another Law on Competition amended in July 2019 focuses on competition restraining agreements, market dominance, economic concentration, and unfair practices. In order to protect consumer interest, this law regulates the exemption from prohibition on anti-competitive agreements; accordingly, some anti-competitive agreements that are prohibited shall be granted exemption for a definite term depending on the stated conditions.

(iv) Cybersecurity and Cybercrime

Law on Cybersecurity intends to provide protection of national security and public order in cyberspace by stipulating responsibilities of participants including relevant organizations and individuals. While giving priority to assurance of cybersecurity for prioritized national interests, the law aims to maintain healthy cyberspace by without jeopardizing national security, public order or the lawful rights and interests of any organization or individual. The law also encourages and enable organizations and individuals to participate in cybersecurity protection, handle cybersecurity threats utilizing cybersecurity protection technologies, products, services and applications.

(v) Content Regulation

Content regulation is covered in various laws in Viet Nam but the common basis is to protect the rights related to copyright in computer program and data collection, trademark rights, trade names etc. as well as online content. Specific details are covered mainly in

in the Law on Intellectual Property, Law on Technology Information, and the Law on Cybersecurity. According to the Law on Intellectual Property, three major IP rights are protected: copyright and related rights, industrial property rights, and rights in various agri-products. Law on Technology Information provides measures to ensure information technology application and development, and rights and obligations of agencies, organizations and individuals engaged in information technology application and development activities, particularly protection of intellectual property rights in the information technology domain is regulated in this law.

(vi) Domain Names

Law on Technology Information provides standards related to domain names to be used for entities and individuals in Viet Nam. Officially, users are encouraged to use “.vn” as the domain name when establishing their websites however, the registration process at the Ministry of Post and Telematics can be waived except for some cases also stipulated in the law where the ministry has to be informed prior to the establishment. This law also stipulates the protection of the national domain names ending in “.vn”. Illegal operation and acts of national domain-name servers as well as creating illegal links to domain names are considered illegal.

(vii) Paperless

Paperless is one of the solutions applied in Viet Nam to step up administrative reform to curtail the process, reduce the number and simplify, standardize the content of documents, reduce the time and cost of implementing administrative reform. In order to implement this policy, the government implemented measures to improve three key areas, namely online public service indicators, telecommunications infrastructure, and human resources.

(viii) Spam

According to the anti-spam measures stipulated in the Law on Technology Information, supplying, exchanging, transmitting, storing or using digital information for the purposes of opposing the State of Viet Nam or undermining the all-people unity bloc; exciting violence, propagating wars of aggression; sowing hatred among nations and peoples,

exciting obscene, depravation, crime, social evils or superstition; undermining the nation's fine traditions and customs; revealing state secrets, military, security, economic, external relation or other secrets provided for by law; distorting, slandering, or offending the prestige of organizations or the honor, dignity or prestige of citizens; advertising for or propagating goods or services banned by law are prohibited. This law also stipulates the prevention of spam that organizations and individuals may not hide their names or impersonate other organizations or individuals; shall assure consumers' ability to reject when sending advertisement information in the network environment; and may not continue sending the advertisement information if the latter notify their refusal to receive them.

(ix) Electronic Authentication and Signature

Electronic signatures are an indispensable demand for use in the age of technology development today; the current legal provisions are stipulated in many different legal documents. For instance, Law on E-Transactions provides definition, principles of usage, and specification to certification of authorized signature. There are also several decrees that refer to the electronic authentication by targeted entity and types of businesses. Decree No. 130/2018/NĐ-CP shall apply to entities managing and providing digital signature authentication and entities using digital signatures, digital certificates and digital signature certification services in electronic transactions.

Usage of foreign digital certificates is also regulated that the digital certificate must be still valid and it is licensed by the MIC for use in Viet Nam and accepted in international transactions. If a foreign digital certificate is used for servers and software, no license is required. Validity period of license to use foreign digital certificate in Viet Nam is 5 years but not exceeding validity period of the digital certificate.

(x) Data

Law on Network Information Security regulates issues relating information security on the Internet including privacy issues. In 2018, Law on Cyber Security also concerns on this issue with the aim to creating a healthy environment for both business and

consumers on the Internet. The Decree guiding for Cyber Security Law is being drafted to support for its implementation.

2.4.2. Issues and challenges

Viet Nam is the most advanced country among CLMV countries. The market size of retail e-commerce business in Viet Nam is USD 2.88 billion in 2019³⁴, much bigger than that of each CLM country and combined. Legal and regulatory framework on e-commerce is also well developed compared to the other countries. However, there exists several issues that need to be addressed to further enhance the legal and regulatory framework on e-commerce in Viet Nam. Some of the major issues and challenges addressed are as follows:

(a) Electronic transaction

- Decree No.27/2018/QD-TTg

Currently, there are no specific regulations to accommodate e-commerce businesses including the nature of specialized areas such as health, education, tourism, transport, finance, and real estate etc. Although Decree No. 27/2018/QD-TTg specifies the standard industrial classification in Viet Nam, the absence of industry code for e-commerce may cause concerns for both government on identification of companies' numbers and companies on registration and taxation..

In addition, there are some questions as to how to regulate websites/app providers who are operating outside of Viet Nam due to the geographical location and time lag.

(b) Electronic payment

- Decree No.101/2012/ND-CP

Despite its growing e-commerce market, Viet Nam is still a cash-based society and Viet Nameese consumers generally distrust financial institutions when it comes to securing, saving and transferring their money. For that reason, credit are not widely used. From the perspective of e-commerce operators, cash on delivery (COD) is the main payment method.

³⁴ e-Marketer, as of the end of January 2020

Although Decree No.101/2012/ND-CP regulates the non-cash payment services and payment intermediary services, the decree needs to be updated to keep up with the current needs of business trend³⁵. For example, the decree does not define the new type of non-cash services such as e-payment gateway services, e-wallet services, and e-clearing services. The State Bank of Viet Nam is working to revise these legal documents to accommodate current development.

(c) Privacy and Personal data protection

- The Constitution
- Laws on Cyber Information Security (2015)
- Law on Technology Information (2006)
- Law on E-Transaction (2005)
- Law on Cyber Security (2018)
- Law on Telecommunication (2009)
- Decree No. 124/2015/ND-CP
- Decree No.52/2013/ND-CP

While personal data protection is secured under the Constitution in a broad sense, specific provisions are stipulated in multiple existing laws such as Laws on Cyber Information Security, Law on Technology Information, Law on E-Transaction, Law on Cyber Security, and Law on Telecommunication. While there is no comprehensive law, it is unclear which laws should apply for some specific cases. Also, the definition, guidelines and manuals as well as corresponding agencies of personal data protection differ depending on the laws.

In addition, there are some opinions that maximum penalty amount of 50 million VND stipulated in Decree No.124/2015/ND-CP is relatively low (for individual but for organisations, the penalty amount will be doubled).

³⁵ SBV announced the draft decree amending Decree No.101/2012/ND/CP on non-cash payments on 6 November 2019.

Understanding the importance of protecting personal data is not well disseminated. Along with the improvement of the government's enforcement, it is necessary to foster awareness of personal information protection for citizens and companies.

(d) Online consumer protection

- Law on Protection of Consumers' Rights
- Law on Technology Information (2006)

Basically, current legal framework functions adequately in respect to consumer protection in Viet Nam. However, there are some cases that the actual status of information verification before posting on electronic media may not be covered by the law to protect consumer rights.

Although Law on Technology Information stipulates the termination of e-commerce contracts in case a customer enters a wrong information to buy products on a website, there is no guideline / manuals to process the contract termination for the actual enforcement as of August 2019.

(e) Data Transfer

Article 26.3 of the Law on Cyber Security requires certain entities to have data of Vietnamese consumers within the territory of Viet Nam and have local representative. Data stored in the territory of Viet Nam can be the copied data. This regulation will help Viet Nam authorities to protect the consumer benefits in disputes if necessary. This requirement applies to both domestic and foreign enterprises which break some certain serious regulations in Law on Cyber Security and threaten to the national security. The Decree guiding the Law on Cyber Security will provide detailed guidance on this matter.

(f) Intellectual property rights

New non-traditional trademarks should be regulated in the next few years as Viet Nam is a member of CPTPP. CPTPP has a slightly higher requirement in trademark.

There seems to be a mismatch between legislation and practical implementation. Although there are many competent authorities, there is no unified coordination among these agencies in dealing with cases of infringement of IP rights.

The sanction of IP rights violations currently mainly stops at the level of administrative sanctions and the fines are not enough to deter the violators. Many businesses or IP representatives have come to the court. However, most of IP infringement cases are complicated which makes competent authorities, especially courts, hesitate and unresponsive in handling the cases. Intellectual property rights infringement is very difficult to control in cyberspace and there are technical issues.

2.4.3. Recommendations

(a) Electronic transaction

- Decree No. 52/2013/ND-CP
- Viet Nam should consider to revise Decree No.52/2013/ND-CP on e-commerce to regulate emerging issues for online transaction. The rapid development of new platforms requires Viet Nam to have update to accommodate with trends of e-commerce in the coming time.

(b) Electronic payment

- Decree No.101/2012/ND-CP
- As SBV is currently drafting an updated version of Decree No.101/2015/ND-CP as of January 2020, they are proceeding in the right direction. For the next step, SBV can take into consideration to prepare for the guidelines / manuals of electronic payments to be shared amongst concerned parties for efficient and effective operations.

(c) Privacy and Personal data protection

- The Constitution
- Laws on Cyber Information Security (2015)
- Law on Technology Information (2006)
- Law on E-Transaction (2005)
- Law on Cyber Security (2018)
- Law on Telecommunication (2009)

- Viet Nam can consider constructing a comprehensive regulatory framework on personal data protection by referring to the global practices such as GDPR and CBPR as well as regional agreement on personal data protection provisions.
- In addition, the penalty amount to breach personal data protection may be reconsidered reflecting the economic conditions to enhance the effectiveness of data protection.

3. DESIRED TECHNICAL ASSISTANCE PROGRAMME IN CLMV

3.1. Proposal for the Future Technical Assistance Programme for CLMV

Evidently, CLMV countries will be paving their way towards enhancing the legal and regulatory framework on e-commerce going forward. These efforts could be realized effectively and efficiently together with continuous support and advices from donors and experts in this field³⁶. Based on series of discussions with the recipient countries (i.e. Cambodia, Lao PDR, Myanmar and Viet Nam), consultants have designed four possible technical assistance (TA) programme that would directly or indirectly support further enhancement of legal and regulatory framework on e-commerce in each countries. This set of concept is also designated as one of the output of this project.

Figure 3-1 Possible technical assistance programme

Technical Assistance Programme (Concept notes)		Country			
		CA	LA	MM	VN
	Objective and expected outcomes				
1	Establishing / implementing necessary legal and regulatory framework	B	A	A	B
	✓ Support in drafting and implementing necessary laws and regulations that are either missing or under preparation				
	✓ The drafting process is carefully done in line with the regional framework and global practices				
2	Modification / improvement of existing legal and regulatory framework	A	B	C	A
	✓ Support in enhancing existing framework by drafting amendments and / or additional necessary provisions				
	✓ The drafting process is carefully done in line with the regional framework and global practices				
3	Enforcing actual operations and implementations	B	A	A	B
	✓ Support in drafting guideline / manual to be shared amongst concerned parties for efficient and effective operations of the existing legal and regulatory framework				
	✓ Establishing inter-ministerial framework to enhance the operation through stronger coordination and dialogs				

Note: A: highly desired and appropriate; B: moderately desired and partially appropriate; C: less desired yet appropriate

In the short-run, establishing the basic fundamental framework will be important for promoting e-commerce businesses in these countries associated with relevant protection schemes in place (concept 1). On the other hand, enhancing the existing legislation to accommodate changes in the business practices and new services together

³⁶ Apparently, past TA programme offered by donors had some difficulties in inheriting some of the works between the assigned advisors and the beneficiaries which had spoiled the legislation process for some period of time in some countries. Lessons should be learned to make sure that the TA programme is constructed in a way that will not affect the scheduled drafting and implementation process.

with effective enforcement measures would be ideal in the mid to long term perspective (concept 2 and 3). Simultaneously, scaling up the knowledge and skills of individuals as well as strengthening the institutional capacity could make significant changes in the coming years.

3.2. Description of Technical Assistance Programme and Expected Outcome

Detailed description and expected outcome for each concept mentioned above are summarized as follows.

Concept 1: Establishing / implementing necessary legal and regulatory framework

Figure 3-2 Description for concept 1

<p>Background and justification</p>	<p>Relevant laws and regulations to promote and/ or regulate the e-commerce are either missing or currently under preparation. Establishing / implementing relevant laws and regulations encourage private sector in CLMV to start or expand e-commerce related businesses and help public sector in CLMV regulate e-commerce related businesses effectively and efficiently.</p> <p>In Cambodia, Law on E-Commerce and Law on Consumer Protection are recently promulgated however, coordination amongst the concerned parties should be strengthened. In addition, several issues related to data such as data usage, transfer and protection ought to be defined.</p> <p>In Lao PDR, Decree on E-Commerce is currently in the drafting stage. Also, there is no law on protection of personal data and privacy. Actual businesses are affected due to lack of necessary legal framework and promotion policies. Mandates of the concerned parties need to be clearly defined and coordination should be strengthened.</p> <p>In Myanmar, the base law of digital policies including cybersecurity is yet to be prepared. Mandates of the concerned parties need to be clearly defined and coordination should be strengthened. Several issues related to data such as data usage, transfer and protection need to be also clearly defined.</p> <p>In Viet Nam, relevant laws and regulations are relatively well developed; however, legislation on cross-border electronic payment system /data transfer and use of open data do not exist. To realize this concept, initiating ministry and other relevant government agencies of each country should work closely to draft and implement necessary strategies, legal and regulatory framework in line with the regional agreement and global best practices.</p>
<p>Objective</p>	<p>This aims to support the recipient countries to establish and implement necessary laws and regulations in relevance to e-commerce that are currently either missing or under preparation. The drafting process is carefully done in line with the regional framework and global practices.</p>
<p>Expected outcomes</p>	<ul style="list-style-type: none"> ✓ Complete drafting of the necessary provisions, rules and regulations in the relevant laws, sub-laws or decrees (especially in Cambodia, Lao PDR, and Myanmar). ✓ Structure implementation framework of the above legislation through establishment of relevant bodies to implement actual operations such as enforcement, supervision, regulatory and monitoring actions.

Activities (by consultants)	<ul style="list-style-type: none"> ✓ Provide support in reviewing process of the missing provisions of the existing laws and regulations. ✓ Provide advisory and / or suggestions to develop amendments to the existing legislative framework and / or drafting a new legislation. ✓ Organize and facilitate workshops targeting stakeholders such as from the relevant ministries, government agencies, private sectors and other experts to discuss relevant issues and pertaining challenges such as ways to promote, regulate, and implementation of necessary framework on e-commerce.
Duration	15 – 20 months

Figure 3-3 Regulation and target countries of concept 1

Scopes	Countries	Stakeholders
Electronic transaction	Lao PDR	Ministry of Industry and Commerce
	Myanmar	Ministry of Transport and Communications, Ministry of Commerce
Personal data protection	Cambodia	Ministry of Commerce
	Lao PDR	Ministry of Industry and Commerce
	Myanmar	Ministry of Transport and Communications
	Viet Nam	Ministry of Information and Communications, Ministry of Industry and Trade, and Ministry of Public Security, etc.
Cybersecurity	Myanmar	Ministry of Transport and Communications

Concept 2: Modification / improvement of existing legal and regulatory framework

Figure 3-4 Description for concept 2

<p>Background and justification</p>	<p>Relevant bylaws / sub-decree to promote and / or eliminate obstructive factors for e-commerce are missing or need improvements to support the existing legal framework.</p> <p>In Lao PDR, new electronic payment schemes and other related systematic schemes due to technological advancement are not well presented in the existing law. Also, Law on Consumer Protection amended in 2010 does not specify online transaction including e-commerce. Specification of new electronic payment schemes lead to develop favourable business environment for e-commerce market and improvement of consumer protection help to further protect the consumers.</p> <p>In Viet Nam, new types of businesses emerged including e-commerce ought to be incorporated under existing rules and regulations. Provision against / for non-residential and /or foreign business providers is also unclear. Moreover, taxation scheme should be defined either types of businesses / codes or by types of products online.</p> <p>To realize this concept, initiating ministry and other relevant government agencies should work together to streamline the missing components of the existing legal and regulatory framework and draft necessary amendments / bylaws to enhance the framework.</p>
<p>Objective</p>	<p>This aims to support the recipient countries to enhance existing framework through drafting amendments, additional provisions, rules and regulations.</p> <p>The drafting process is carefully done in line with the regional framework and global practices.</p>
<p>Expected outcomes</p>	<ul style="list-style-type: none"> ✓ Propose amendments of provisions, rules and regulations in the relevant laws, sub-laws or decrees (in Lao PDR and Viet Nam). ✓ Restructure implementation framework of the above legislation through establishment of relevant bodies to implement actual operations such as enforcement, supervision, regulatory and monitoring actions.
<p>Activities (by consultants)</p>	<ul style="list-style-type: none"> ✓ Provide support in reviewing process of the missing provisions of the existing laws and regulations as well as current issues in relevance to actual enforcement and related operations that need improvements. ✓ Provide advisory and / or suggestions to develop amendments to the existing legislative framework for enhancement, discussing ways to improve enforcement operations. ✓ Organize and facilitate workshops targeting stakeholders such as from the relevant ministries, government agencies, private sectors and other experts to discuss relevant issues in improving ways to enhance, promote, regulate, and implementation of necessary framework on e-commerce.
<p>Duration</p>	<p>10 – 15 months</p>

Figure 3-5 Regulation and target countries of concept 2

Scopes	Countries	Stakeholders
Online consumer protection	Cambodia	Ministry of Commerce
	Lao PDR	Ministry of Industry and Commerce
	Myanmar	Ministry of Transport and Communications, Ministry of Commerce
	Viet Nam	Ministry of Industry and Trade
Electronic payment	Cambodia	National Bank of Cambodia
	Lao PDR	Bank of Lao PDR
	Myanmar	Central Bank of Myanmar
	Viet Nam	State bank of Viet Nam

Concept 3: Enforcing actual operations and implementations

Figure 3-6 Description for concept 3

Background and justification	<p>Enforcement of laws and regulations, or coordination amongst the relevant enforcers / regulators needs improvements.</p> <p>In order for the e-commerce related businesses to be developed, relevant regulations and guidelines to follow ought to be straightforward and reliable. Likewise, the monitoring procedures and operations should be constructed in a non-sophisticated way without any distractions due to clearance and approvals across relevant departments and ministries concerned.</p> <p>Commonly in CLMV, some provisions / enforcement actions are unclear as to which line ministries will take initiative role and associated responsibilities. In addition, several existing provisions / regulations duplicate and /or conflict with other provisions. Furthermore, there is room for further effective and efficient operations amongst the concerned parties and for further coordination amongst relevant enforcers / monitors.</p> <p>To realize this concept, initiating ministry and other relevant ministries should strengthen coordination scheme between concerned parties including private sectors and prepare guideline / manual for effective enforcement / monitoring to be shared amongst parties. Desired TA programme help enforce actual operation and monitoring.</p>
Objective	<p>This aims to support the recipient countries to further enhance the actual operations such as enforcement, supervision, regulatory and monitoring actions.</p>
Expected outcomes	<ul style="list-style-type: none"> ✓ Draft necessary guidelines and manuals to be shared amongst the relevant ministries and government agencies to fully implement actual operations effectively. ✓ Establish necessary inter-ministerial coordination network amongst the relevant parties to enhance the actual operations efficiently.
Activities (by consultants)	<ul style="list-style-type: none"> ✓ Provide support in the reviewing process in actual enforcement and related operations including administrative procedures, sanctions and penalty imposed, coordination schemes between stakeholders that need improvements. ✓ Provide advisory and / or suggestions to discussing ways to improve enforcement operations and develop effective and efficient coordination scheme amongst stakeholders. ✓ Organize and facilitate workshops targeting stakeholders such as from the relevant ministries, government agencies, private sectors and other experts to discuss relevant issues in improving ways to enhance, promote, regulate, and implementation of necessary framework on e-commerce.
Duration	10 – 15 months

Figure 3-7 Target countries and beneficiaries of concept 3

Scopes	Countries	Stakeholders
Electronic transaction	Cambodia	Ministry of Commerce
	Lao PDR	Ministry of Industry and Commerce
Electronic payment	Cambodia	National Bank of Cambodia
	Lao PDR	Bank of Lao PDR
	Myanmar	Central Bank of Myanmar
	Viet Nam	State Bank of Viet Nam
Online Consumer Protection	Cambodia	Ministry of Commerce
	Lao PDR	Ministry of Industry and Commerce
	Myanmar	Ministry of Transport and Communications
	Viet Nam	Ministry of Industry and Trade

end

APPENDIX

Appendix 1

Reference

- ASEAN, “ASEAN Digital Integration Framework”, 2019
- ASEAN, “ASEAN Agreement on Electronic Commerce”, January 2019
- ASEAN, “ASEAN Framework on Digital Data Governance”, 2018
- ASEAN, “ASEAN Work Programme on Electronic Commerce 2017-2025”, September 2017
- ASEAN, “The ASEAN ICT Masterplan 2020”, 2016
- ASEAN, “ASEAN Framework on Personal Data Protection”, 2016
- ASEAN, “ASEAN Economic Community Blueprint 2025”, November 2015
- ASEAN Secretariat and Galaxia, “ASEAN e-Commerce Project”, 2007
- APEC, “The Electronic Commerce Steering Group”
- UNCTAD “Review of e-commerce legislation harmonization in ASEAN”, 2013
- WEF, “Global Competitive Index 4.0”, 2019
- WEF, INSEAD, Cornell University, “Networked Readiness Index”, 2016
- International Telecommunication Union, “ICT Development Index”, 2017
- IMD, “World Digital Competitive Ranking”, 2019
- Economic Intelligence Unit, IBM, “Digital economy rankings”, 2010
- Tufts University, Mastercard, “Digital Evolution Index”, 2017
- Waseda University, “IAC International Digital Government Rankings”, 2018
- United Nations, “E-Government Development Index”, 2018
- United Nations, “E-Participation Index”, 2018

Appendix 2

List of Related Legislation and Corresponding Government Ministries-in-Charge

<Cambodia>

No		Laws and regulations	Corresponding responsible agency
I	ELECTRONIC TRANSACTION	Law on E-Commerce	Ministry of Commerce
		Law on Telecommunication	Ministry of Post and Telecommunication
		Law on Investment	The Council for Development of Cambodia
		Sub-decree No. 148 on on the Establishment and Management of the Special Economic Zone	The Council for Development of Cambodia
		Prakas on Third Party Processor	National Bank of Cambodia
		Prakas on Management of Payment Service Provider	National Bank of Cambodia
		Law on Taxation	Ministry of Economy and Finance
		Law on Insurance	Ministry of Economy and Finance
		Law on Customs	Ministry of Economy and Finance
II	PRIVACY	Civil Code	Ministry of Justice
		Law on Telecommunication	Ministry of Post and Telecommunication
		Criminal Code	Ministry of Justice
		Law on E-Commerce	Ministry of Commerce
III	ONLINE CONSUMER PROTECTION	Law on E-Commerce	Ministry of Commerce
		Civil Code	Ministry of Justice
		Law on Unfair Competition	Ministry of Commerce
		Law on Management of Quality and Safety of Products and Services	Ministry of Commerce
		Law on Consumer Protection	Ministry of Commerce
		Law on Competition (DRAFT)	Minister of Commerce
		Law on Standard in Cambodia and Law on Amendment of Law on Standard in Cambodia	Ministry of Industry and Handicraft
		Prakas on Cambodian Standard CS 001-2000 Labelling of Food Product	Ministry of Industry, Mines and Energy
		Prakas on Amendment on Prakas 047 MOC/SM 2013 on Price Tag on All Types of Products and Services	Minister of Commerce
IV	CYBERCRIME	Law on Cybercrime (DRAFT)	Ministry of Post and Telecommunication
		Law on E-Commerce	Ministry of Commerce
V	CONTENT REGULATION	Law on Unfair Competition and Sub-decree on Implementation of Law on Unfair Competition	Ministry of Commerce
		Law on Copyright and Related Rights	Ministry of Culture and Fine Arts
		Law on the Patents, Utility Model Certificates, and Industrial Design	Minister of Industry, Mines and Energy
		Prakas on Publish Management on website and social media on internet in Cambodia	Ministry of Post and Telecommunication
VI	DOMAIN NAME	Regulations on Registration of Domain Names for Internet under the Top Level “kh”	Ministry of Post and Telecommunication
VII	PAPERLESS	Law on E-Commerce	Ministry of Commerce
VIII	SPAM	(None)	
IX	ELECTRONIC AUTHENTICATION AND SIGNATURE	Sub-decree No. 246 on Digital Signature	Ministry of Post and Telecommunication
		Law on E-Commerce	Ministry of Commerce

<Lao PDR>

No		Laws and regulations	Corresponding responsible agency
I	ELECTRONIC TRANSACTION	Decree on E-Commerce (DRAFT)	Ministry of Industry and Commerce
		Law on Electronic Transaction	Ministry of Science and Technology
		Law on Payment System	Bank of Lao PDR Ministry of Finance
		Law on Investment Promotion	Ministry of Planning and Investment
		Decree on Special Economic Zone	Ministry of Planning and Investment
		Law on Insurance	Ministry of Finance
		Custom Law	Ministry of Finance
		Regulation on Retail Payment System	Bank of Lao PDR
		Regulation on systematically important payment system	Bank of Lao PDR
		Notice on Using and Investing Cryptocurrencies in Lao PDR	Bank of Lao PDR
		Notice on Termination of GIWI Company on the Payment System through QR Code of Alipay	Bank of Lao PDR
II	PRIVACY	Decree on E-Commerce (DRAFT)	Ministry of Industry and Commerce
		Law on Electronic Data Protection	Ministry of Post and Telecommunication
III	ONLINE CONSUMER PROTECTION	Decree on E-Commerce (DRAFT)	Ministry of Industry and Commerce
		Law on Consumer Protection	Ministry of Industry and Commerce
IV	CYBERCRIME	Law on Prevention and Combating with Cyber Crime	Ministry of Post and Telecommunication
V	CONTENT REGULATION	Law Intellectual Property	Ministry of Science and Technology
		Custom Law	Ministry of Finance
VI	DOMAIN NAME	Decree on Information Management on the Internet	Ministry of Post and Telecommunication
VII	PAPERLESS	(None)	
VIII	SPAM	(None)	
IX	ELECTRONIC AUTHENTICATION AND SIGNATURE	Law on Electronic Signature	Ministry of Post and Telecommunication
		Law on Telecommunication	Ministry of Post and Telecommunication

<Myanmar>

No		Laws and regulations	Corresponding responsible agency
I	ELECTRONIC TRANSACTION	Electronic Transaction Law	Ministry of Transport and Communications
		Reform bill of Trade Law	Ministry of Commerce
		Regulations on Mobile Financial Services	Central Bank of Myanmar
		Financial Institution Law	Central Bank of Myanmar
		Directive on Electronic Card (2/2012)	Central Bank of Myanmar
		Directive on Mobile Banking (4/2013)	Central Bank of Myanmar
		Myanmar Special Economic Zone Law	Ministry of National Planning and Economic Development
II	PRIVACY	Telecommunications Law	Ministry of Transport and Communications
		Law Protecting the Privacy and Security of Citizens	Ministry of Home Affairs
III	ONLINE CONSUMER PROTECTION	Consumer Protection Law	Ministry of Commerce
		Competition Law	Ministry of Commerce
		Contract Act	The Supreme Court of the Union
		Sales of Goods Act	Ministry of Commerce
		Specific Relief Act	The Supreme Court of the Union
		Telecommunications Law	Ministry of Transport and Communications
		Notification No. 1/2019 dated 17-1-2019	Ministry of Commerce
IV	CYBERCRIME	Electronic Transaction Law	Ministry of Transport and Communications
		Telecommunications Law	Ministry of Transport and Communications
V	CONTENT REGULATION	Trademark Law	Ministry of Commerce
		Copyright Law (DRAFT)	Ministry of Education
VI	DOMAIN NAME	(None)	
VII	PAPERLESS	(None)	
VIII	SPAM	(None)	
IX	ELECTRONIC AUTHENTICATION AND SIGNATURE	Electronic Transaction Law	Ministry of Transport and Communications

<Viet Nam>

No		Laws and regulations	Corresponding responsible agency
I	ELECTRONIC TRANSACTION	Law on E-Transactions No. 51/2005/QH11	Ministry of Information and Communications
		Law on Technology Information No.67/2006/QH11	Ministry of Information and Communications
		Decree on E-Commerce No.52/2013/ND-CP	Ministry of Industry and Trade
		Decree No.101/2012/ND-CP	The State Bank of Viet Nam
		Circular No 37/2016/TT – NHNN	
		Circular No.39/2014/TT-NHNN	
		Official Letter No. 4486/UBCK-GSDC On July 20, 2018.	State Securities Commission of Vietnam
		Decree No. 119/2018/ND-CP on E – invoices	Ministry of Finance
		Decree No.124/2015/ND-CP	
		Law on Investment No. 67/2014/QH13	Ministry of Planning and Investment
II	PRIVACY	Civil Code 2015	
		Law on Cyberinformation Security (2015) (amended November 2018)	1. Ministry of Information and Communications 2. Ministry of National Defense 3. Ministry of Public Security 4. Government Cipher Committee
		Law on Technology Information No.67/2006/QH11	Ministry of Information and Communications
		Law on E-transactions	Ministry of Information and Communications
		The Decree on Information Technology Application in State Agencies' Operations (No 64/2007/ND-CP)	1. Ministry of Information and Communications 2. Ministry of Public Security
		Law on Protection of Consumers' Rights	Ministry of Industry and Trade
II	PRIVACY	Circular No. 25/2010/TT-BTTTT	1. Ministry of Information and Communications 2. Vietnam Computer Emergency Response Team (VNCERT)
		Decree No 185/2013/ND-CP (amended and supplemented by The Decree No 124/2015/ND-CP)	1. Ministry of Industry and Trade 2. Ministry of Finance
		Law on Telecommunications (2009)	Ministry of Information and Communications
		Decree No: 72/2013/ND-CP (Amended by No 27/2018/ND-CP)	Ministry of Information and Communications
		Circular No. 35/2016/TT-NHNN (amended by Circular No. 35/2018/TT-NHNN)	The State Bank of Viet Nam
		Decree No 101/2012/ND-CP on non-cash payment	The State Bank of Viet Nam
		Criminal Code 2015 (amended and supplemented in 2017)	
III	ONLINE CONSUMER PROTECTION	Law on Protecting Consumer's Right	Ministry of Industry and Trade
		Law on Technology Information	Ministry of Information and Communications
		Competition Law No. 27/2004/QH11	Ministry of Industry and Trade
		Decree on E-commerce No.52/2013/ND-CP	Ministry of Industry and Trade
		Decree No. 99/2011/ND-CP	Ministry of Home Affairs
		Decree No.81/2018/ND-CP in trade promotion	Vietnam trade Promotion Agency (The ministry of Industry and Trade)
		Decision No.02/2012/QD-TTg	Ministry of Finance
		Decree No. 185/2013/ND-CP	Ministry of Industry and Trade

No		Laws and regulations	Corresponding responsible agency
IV	CYBERCRIME	Penal Code	
		Decree No.73/2013/ND – CP	Ministry of Public Security
		Law on Technology Information No.67/2006/QH11	Ministry of Information and Communications
		Law on Cybersecurity	1. Ministry of Information and Communications 2. Ministry of National Defense 3. Ministry of Public Security 4. Government Cipher Committee
V	CONTENT REGULATION	Law on Intellectual Property	1. Ministry of Science and Technology
		Decree No.22/2018/ND-CP.	The Ministry of Culture, Sports and Tourism
		Law on Technology Information No.67/2006/QH11	Ministry of Information and Communications
		Law on Cybersecurity	Ministry of Public Security
		Decree No.72/2013/ND-CP	Ministry of Information and Communications
VI	DOMAIN NAME	Law on Technology Information (No. 67/2006/QH11)	Ministry of Information and Communications
		Decree No. 72/2013/ND-CP (amended and supplemented by Decree No 27/2018/ND-CP; amended by Decree no. 150/2018/ND-CP on amending certain decrees on investment and business requirements and administrative procedures in the information and communications sector)	Ministry of Information and Communications
		Circular No. 24/2015/TT-BTTTT stipulates management and use of internet resources	1. Ministry of Information and Communications 2. Vietnam Internet Network Information Center (VNNIC)
		Law on Telecommunications 2009	Ministry of Information and Communications
		Decree No. 174/2013/ND-CP	Ministry of Information and Communications
		Joint Circular 14/2016/TTLT-BTTTT-BKHCH	1. Ministry of Information and Communications 2. Ministry of Science and Technology
		Circular No. 16/2016/TT-BTTTT	1. Ministry of Information and Communications 2. Vietnam Internet Network Information Center
		Circular No. 208/2016/TT-BTC	1. Vietnam Internet Network Information Center
		Circular No. 10/2018/TT-BTTTT	The Ministry of Information and Communications
		Circular 03/2013/TT-BTTTT	Ministry of Information and Communications
		Decree No. 124/2015/ND-CP	Ministry of Industry and Trade
		Criminal Code 2015 (amended and Supplemented in 2017)	

No		Laws and regulations	Corresponding responsible agency
VII	PAPERLESS	Law on information technology	Ministry of Information and Communications
		Decree 64/2007/ND – CP	Ministry of Information and Communications
		Decision No.1017/QĐ-TTg	Ministry of National Defence
		Decree No.43/2011/NĐ-CP	Ministry of Public Security
		Decision No.1819/QĐ-TTg	The Office of the Government
VIII	SPAM	Law on information technology	Ministry of Information and Communications
		Law on cyberinformation security	1. Ministry of Information and Communications 2. Ministry of Public Security
		Decree No. 90/2008/NĐ-CP on anti-spam (amended and supplemented by Decree No. 77/2012/NĐ-CP and Decree No. 174/2013/ND-CP)	Ministry of Information and Communications
		Circular No. 12/2008/TT-BTTTT	1. Vietnam Computer Emergency Response Team (VNCERT) 2. Ministry of Information and Communication
		Decree No. 174/2013/ND-CP	Ministry of Information and Communications
IX	ELECTRONIC AUTHENTICATION AND SIGNATURE	Law on e-transactions 2005	Ministry of Information and Communications
		Decree No. 130/2018/NĐ-CP on guidelines for the law on e-transactions	Ministry of Information and Communications
		Law on accounting 2015	Ministry of Finance
		Circular No. 32/2011/TT-BTC	Ministry of Finance
		Decree No. 51/2010/ND-CP	Ministry of Finance
		Circular no. 39/2014/TT-BTC on sale invoices	Ministry of Finance
		Decree No. 165/2018/ND-CP on e-transactions in financial operations	Ministry of Finance
		Decree 166/2016/NĐ-CP on electronic transactions in social health and unemployment insurance	1. Ministry of Information and Communications 2. Ministry of Labour, War Invalids and Social Affairs 3. Ministry of Health 4. The SSAV (the Portal of the Social Security Authority of Vietnam) 5. Ministry of National Defence and Ministry of Public Security
		Decree No. 133/2017/TT-BTC	State Treasury
		Decree No. 134/2017/TT-BTC on guiding e-transactions on securities market	The State Securities Commission
Circular No. 110/2015/TT-BTC on electronic tax transactions	Ministry of Finance		

Appendix 3

List of Issues and Challenges Observed from Legal and Operational Perspectives

<Cambodia>

Factors that are related to e-commerce (challenges and future outlook)

	Legal framework	Operation/Implementation
Transaction		
Electronic transaction	<ul style="list-style-type: none"> • Law on E-Commerce promulgated in November 2019. • Law on E-Commerce requires e-commerce providers to be registered for the purpose of protecting consumers as well as collecting tax. The government believes that this registration process enables regulators to easily reach those who violate the law and to collect tax adequately with the information obtained. While this process could be ideal to identify e-commerce-related business providers, possible issues on additional costs as well as time and documentation inefficiencies in the registration process, amongst others, may hinder the overall promotion of e-commerce businesses since potential applicants may hesitate. 	<ul style="list-style-type: none"> • The scope of the law has extended to both civil and commercial transactions. Therefore, the implementation of this law requires to adopt and comply with existing provisions of the Civil Code and the Civil Procedures Code. • Since some provisions of the law required joint-Prakas between ministries/institutions concerned (potentially MoC, MEF, MPTC, and NBC), this will take time in consolidating and synthesizing various inputs. Therefore, it may lead to the prolong and late completion. • Lack of human resources and digital literacy to keep pace with the new law and technology change. There are a number of factors could post more challenges to the promotion of e-commerce in Cambodia such as <ul style="list-style-type: none"> - Lack of supporting infrastructures - Poor logistics system - Limited internet coverage and accessibility • Implementing regulations such as Sub Decree and Prakas will be formulated to support the implementation of the law.
Electronic payment platform for domestic/ international transaction	<ul style="list-style-type: none"> • There is no regulation on QR code payment. National Bank of Cambodia (NBC) is planning to develop a QR code payment regulation in a few years. 	<ul style="list-style-type: none"> • In order for the standard codes to be beneficial to the users, NBC can communicate more with private sector to provide the relevant knowledge of electronic payment and raise public awareness by providing socialization and networking programme as well as expanding scopes of financial education. • Credit bureau system is necessary to check the consumer information such as phone number and ID card. • Financial transaction needs to be recorded online to collect the information effectively. Currently, manual record is common in Cambodia.
Digital authorization /signature	-	<ul style="list-style-type: none"> • Currently, there is no technical guideline to implement the digital signature. A working group to discuss this issue needs to be set up.
Cross boarder transaction (Product, service and money)	-	-

		Legal framework	Operation/Implementation
Protection			
Private data protection	<ul style="list-style-type: none"> • There are provisions on private data protection in Law on E-Commerce as follows: <ul style="list-style-type: none"> - Article 25: Liability/Responsibility of Information or Event - Article 32: Data Protection However, there are no provisions to protect private data for consumers. 	<ul style="list-style-type: none"> • The implementation of the provisions relating to private data protection mainly relies on the provision in Criminal Code. However, to regulate this provision effectively, it requires more concrete support from other regulations, particularly the Law on Data Protection. • Once the law is put in place for the implementation, there will be some challenges with several authorities established by the Sub-Decrees, whose responsibilities also cover matters related to product and service quality. 	
Consumer protection	<ul style="list-style-type: none"> • Law on Consumer Protection promulgated in November 2019. 	<ul style="list-style-type: none"> • Some provisions of the existing rules and regulations (e.g. Law on Unfair Competition, Law on Management of Quality and Safety of Products and Services) may be duplicated with Law on Consumer Protection. Therefore, there will be some difficulties in sharing clear authority. • Lack of human resources, technical materials, financial supports 	

Factors not directly related to e-commerce

	Legal framework	Operation/Implementation
ICT environment		
Definition of data and usage (data provider, data holder, and third party)	-	-
Cyber security (the existence of Penalty)	<ul style="list-style-type: none"> The Law on Cybercrime is being drafted by the Ministry of Interior. MOI can collaborate more with MOPT, MOJ and NBC to develop the cybercrime and related penalty regulation. Currently, there is no support from international institution to draft the law. 	<ul style="list-style-type: none"> Police is the enforcement agency. MOI as well as police need to improve the capacity against cybercrime.
Data/Server transfer regulation (localization or globalization)	-	-
Rights/others		
Intellectual property rights	-	<ul style="list-style-type: none"> Low capacity on implementation of relevant laws and regulations.
Liability regarding product and service	<ul style="list-style-type: none"> Although Civil Code generally specified the liability in terms of product and service, comprehensive law needs to be made. 	-
Trade mark, patent and other rights	-	-
Disclosure of source code	-	-

<Lao PDR>

Factors that are related to e-commerce (challenges and future outlook)

	Legal framework	Operation/Implementation
Transaction		
Electronic transaction	<ul style="list-style-type: none"> Decree on E-Commerce is currently being drafted by the Ministry of Industry and Commerce. As of January 2020, the drafting process was 90% completed and is expected to finish by the first half of 2020. Lack of budget to arrange the consultation meeting for relevant parties is one of the main challenges, which result in lack of involvement of public sectors especially start-up companies in drafting relevant laws and regulations. Need to encourage dialogues between the government and private sectors. Law on Electronic Transaction is need to be updated. Some existing regulations that are already implemented should be updated to ensure consistency with the global practices. 	<ul style="list-style-type: none"> There are number of stakeholders involved, such as eight departments under Ministry of Industry and Commerce, Ministry of Finance, Ministry of Science and Technology, Bank of Lao PDR, Ministry of Education and Sports, Ministry of Justice, Lao National Chamber of Commerce and Industry, and National University of Laos, which may prolong the efforts and time required for coordination. Private sector especially start-up should also be involved in the drafting process for the benefit of the e-commerce-related businesses. Lack of a government-wide awareness on the business aspects of e-commerce.
Electronic payment	-	<ul style="list-style-type: none"> There were many cases that non-bank applicants did not meet the requirements of Article 28 of Law on Payment System due to a lack of understanding of the law or the strict conditions. While there is lower incentives for business providers to introduce electronic payment schemes, series of knowledge sharing and awareness building programmes with a special focus on MSMEs could realize further utilization of electronic payments.
Digital authorization/signature	<ul style="list-style-type: none"> The Law on Electronic Signature was amended in 2018. 	<ul style="list-style-type: none"> Although the Law on Electronic Signature was amended in 2018, there are only limited numbers of actual cases that apply e-signature and e-document especially among government sector. Thus, there is significant room to improve the practical implementation of the law. Lao PDR has laws in place that give legal validity to e-documents and e-signatures, however those laws follow older models and are not effectively implemented and only limited adoption by stakeholders.
Cross boarder transaction (Product, service and money)	-	-

		Legal framework	Operation/Implementation
Protection			
Private data protection	<ul style="list-style-type: none"> Lao PDR does not have a law on protection of personal data and privacy. Although there are some articles in the Law on Electronic Data Protection that mention about privacy protection, it does not provide any direction towards enforcement and/or actions to be implemented. Lao PDR currently has no regulatory framework in place for data protection in digital markets. 	<ul style="list-style-type: none"> Lao PDR may consider other regulatory practices, such as promoting voluntary codes of conduct by companies. These codes of conduct can be developed by businesses in consultation with government and other stakeholders. This can be paired with a certification scheme. There is no clear mandate amongst relevant authority(ies) in regards to protection of privacy. The ASEAN Framework on Personal Data Protection (2016) is a probable approach to managing data privacy that Lao PDR could practice as Lao PDR agreed on this framework as one of the ASEAN Member States. 	
Consumer protection	<ul style="list-style-type: none"> Law on Consumer Protection amended in 2010 needs to be improved so that consumers can also be protected both off-line and online transactions including e-commerce. There is no provisions on consumers' rights of cancellation allowing consumers to cancel the purchase contract, make claim or allow redress legal recourse as well as ways to resolve through dispute resolution in the case of problems. Such measures could help build consumer confidence in e-commerce transactions. 	<ul style="list-style-type: none"> Consumer protection legislation needs to be implemented effectively. Simultaneously, awareness of consumer rights to be strengthened and obligations by firms need to be enforced. When goods or services are defective or do not meet the advertised quality criteria, governments should ensure there are enforcement authorities and relevant bodies to ensure consumers' rights to claim refund, redress and cancelation. While some e-commerce platforms offer guaranteed returns for all their purchases, a regulatory framework for online dispute resolution can help build trust amongst relatively small business providers and/or nascent individual websites. It requires online consumer protection regulation to build consumer confidence and further promoting digital economy. At the ASEAN level, Lao PDR set out the key aspects of the consumer protection framework in the "ASEAN Economic Community Blueprint 2025". It requires an Online Dispute Resolution (ODR) mechanisms that offer an inexpensive and speedy procedure to solve disputes between buyers and sellers through arbitration or mediation regardless of their physical locations (jurisdictions). ODR mechanisms can be established by domestic authorities or applying international initiatives and best practices such as the International Consumer Protection and Enforcement Network (ICPEN). (ASEAN countries have committed to improve consumer protection for cross-border purchases under the ASEAN Strategic Plan for Consumer Protection (ASAPCP) which includes establishing an ASEAN-wide ODR mechanism by 2025. 	

Factors not directly related to e-commerce

	Legal framework	Operation/Implementation
ICT environment		
Definition of data and usage	<ul style="list-style-type: none"> Data usage by the provider, data holder and third party are well defined in the Law on Electronic Transaction. On the other hand, some data such as personal information data is not defined clearly. 	-
Cyber security (the existence of Penalty)	-	<ul style="list-style-type: none"> Lack of budget and low capacity on implementation of relevant laws and regulations.
Data/Server transfer regulation (localization or globalization)	<ul style="list-style-type: none"> Lao PDR does not impose significant restrictions on cross-border flows of data. However, financial data especially from financial institutions including banks and securities companies are strictly restricted to be transferred cross-border. 	-
Rights/others		
Intellectual property rights	<ul style="list-style-type: none"> Lao PDR Law on Intellectual Property (2011) sets out the basis for the protection of patents and copyrights. It also prohibits any act without proper consent of the author in addition to careful consideration of quoting published works within the usage / reference under fair practice. 	<ul style="list-style-type: none"> Lack of budget and low capacity on implementation of relevant laws and regulations. Information on IP rights is not well disseminated to the private sector. Weak cooperation amongst Ministry of Science and Technology and other relevant ministries in sharing information. Lack of National Strategy on IP rights.
Liability regarding product and service	<ul style="list-style-type: none"> There are some provisions on liability of customers and suppliers under the Law on Consumer Protection which require improvements. 	<ul style="list-style-type: none"> It requires online consumer protection regulation to build consumer confidence and further promoting digital economy. At the ASEAN level, Lao PDR set out the key aspects of the consumer protection framework in the "ASEAN Economic Community Blueprint 2025". Consumer protection legislation needs to be implemented effectively. Simultaneously, awareness of consumer rights to be strengthened and obligations by firms need to be enforced. It requires an Online Dispute Resolution (ODR) mechanisms. ODR mechanisms can be established by domestic authorities or applying international initiatives and best practices such as the International Consumer Protection and Enforcement Network (ICPEN).
Trade mark, patent and other rights	-	<ul style="list-style-type: none"> Lack of budget and low capacity on implementation of relevant laws and regulations. Weak cooperation amongst relevant ministries in sharing information.
Disclosure of source code	-	-

<Myanmar>

Factors that are related to e-commerce (challenges and future outlook)

	Legal framework	Operation/Implementation
Transaction		
Electronic transaction	<ul style="list-style-type: none"> Although Ministry of Commerce announced the plan to draft the e-commerce law in 2018, the schedule of the enforcement is unclear. At present, Electronic Transaction Law (2004) covers the e-commerce transactions. While MOC is the key ministry for Electronic Transactions Law, information and data are managed by MOTC. 	<ul style="list-style-type: none"> The Electronic Transactions Control Board and the Central Body of Electronic Transactions specified as a law enforcement organization by Electronic Transaction Law are not fully functioning and needs improvements. Enforcement of the law is conducted by the Posts and Telecommunication Department under MOTC but specification on roles and responsibilities and coordination with other concerned ministries are yet unclear. Moreover, all illegal acts acknowledged by the Control Board and the Central Body will be handed over to the police for further investigation, but there is a lack of knowledge, experiences, and capacity amongst those in charge of detecting violations and investigation activities.
Electronic payment	<ul style="list-style-type: none"> There are several laws and regulations such as Financial Institution Law (2016), Directive on usage of electronic payment cards (2/2012) and regulations on Mobile Financial Services (2016). They regulate specific payments and services but are not comprehensive and missing some provisions such as usage of prepaid card and QR code payment. 	<ul style="list-style-type: none"> Currently only 3 private telecom companies (Telenor, Ooredoo, Mytel) and 1 national telecom company (MPT) are registered as MFSPs and provide services accordingly. The use of e-payments remains very limited still, due to low banking literacy, lack of trust in cashless transactions and the lack of bank interoperability Although Chapter 18 under the Financial Institution Law specifies that CBM would issue necessary regulations and guidelines regarding E-Money, E-Banking and Mobile Banking, these regulations have been yet drafted.
Digital authorization/signature	-	<ul style="list-style-type: none"> The existing law on digital signature needs improvement for the actual operation. As to the actual operations and implementation of the law, currently there is not much of an activity yet. There exist lack of knowledge, experiences and capacity amongst those in charge and need of improvements.
Cross boarder transaction (Product, service and money)	<ul style="list-style-type: none"> Existing Law on Export and Import stipulates that the business operator must obtain a license in order for them to buy / sell products from abroad. The existing law does not cover specifically on the services provided by or to the foreign providers / recipient. It is unclear whether the provisions for the transactions online would be amended or not and who to take initiative. 	<ul style="list-style-type: none"> Actual enforcement on online transaction is yet unclear.

		Legal framework	Operation/Implementation
Protection			
Private data protection	<ul style="list-style-type: none"> • There is no specific personal data protection law in Myanmar. Existing Law on Protecting the Privacy and Security of Citizens (2017) is under the purview of the Ministry of Home Affairs (MHA). • It is also unclear what needs to be protected in Myanmar especially privacy data, hence defining the scopes will be necessary for actual operations. 	<ul style="list-style-type: none"> • While the MOTC is monitoring personal data protection, the roles and responsibilities between MHA and MOTC are unclear. 	
Consumer protection	<ul style="list-style-type: none"> • Consumer Protection Law (2014) was amended in 2019. The provision on the mandatory labeling in local language will be in effect from March 2020, a year later after the amendment. 	<ul style="list-style-type: none"> • Actual operations on 1) Consumer Protection Law targets B2C, and 2) Competition Law targets B2B accordingly. • Establishment of the Consumer Protection Committee stipulated in the law is taking time. Currently it is awaiting the approval from the Cabinet. Meanwhile, former committee established under the previous law is acting temporarily. • Violations and fraudulent acts are subject to police investigation. There exist lack of knowledge, experiences and capacity amongst those in charge and need of improvements. 	

Factors not directly related to e-commerce

	Legal framework	Operation/Implementation
ICT environment		
Definition of data and usage	<ul style="list-style-type: none"> The existing law on Electronic Transaction (2004) does not define the specific details of data. Provisions on the usage of data is yet to be stipulated. 	<ul style="list-style-type: none"> There exist lack of knowledge, experiences and capacity amongst those in charge and need of improvements.
Cyber security (the existence of Penalty)	<ul style="list-style-type: none"> There is no specific law on cybercrime/cybersecurity. The MOTC is currently drafting the base law of digital policies in Myanmar as of the end of August 2019. This law is expected to provide provisions on cyber security, e-government, e-commerce, privacy data protection, etc. As global cybercrimes are threatening emerging countries including Myanmar, developing the regulatory framework on cybercrime/cybersecurity is an urgent issue. However, the schedule of drafting and implementing the law, as well as the responsible ministry to initiate the drafting of provisions on e-commerce is unclear. 	<ul style="list-style-type: none"> There exist lack of knowledge, experiences and capacity amongst those in charge and need of improvements.
Data/Server transfer regulation (localization or globalization)	<ul style="list-style-type: none"> There is no specific discussions on this issue as of now. However, global trends and discussions in ASEAN region on data localization and source codes are being followed and understood. 	-
Rights/others		
Intellectual property rights	<ul style="list-style-type: none"> New law on Patent, Copy Rights, Trademarks have been promulgated in 2019. Currently these laws are under preparation for the actual implementations. Currently the Intellectual Property Rights are in charge of the department under the Ministry of Education however it is planned to move under the Ministry of Commerce as the relevant laws on IP rights are to be enacted. The specific as to the timing and the roles of the department is unknown. 	<ul style="list-style-type: none"> Actual operations and enforcement details are yet to be determined. There exist lack of knowledge, experiences and capacity amongst those in charge and need of improvements.
Liability regarding product and service	-	<ul style="list-style-type: none"> There exist lack of knowledge, experiences and capacity amongst those in charge and need of improvements.
Trade mark, patent and other rights	<ul style="list-style-type: none"> Amongst the newly promulgated law, the sub law on Trade Mark Law is expected to be ratified first as soon as the President signs the legislation. It is unclear what sort of procedures to be followed by the relevant parties. 	<ul style="list-style-type: none"> Actual operations and enforcement details are yet to be determined. There exist lack of knowledge, experiences and capacity amongst those in charge and need of improvements.
Disclosure of source code	-	-

<Viet Nam>

Factors that are related to e-commerce (challenges and issues)

	Legal framework	Operation/Implementation
Transaction		
Electronic transaction	<ul style="list-style-type: none"> There are no specific regulations to accommodate e-commerce business in specialized areas such as health, education, tourism, transport, finance, and real estate etc. Although Decree No. 27/2018/QĐ-TTg specifies the standard industrial classification in Viet Nam, the absence of industry code for e-commerce may cause concerns for both government on identification of companies' numbers and companies on registration and taxation. 	<ul style="list-style-type: none"> Many websites/app providers are operating outside Viet Nam, causing some difficulties to regulate them due to the geographical distance and time lag. The government officials need to be trained for the necessary knowledge to improve their capacity.
Electronic payment platform	<ul style="list-style-type: none"> To align with the market change, Decree 101 on E-Payment needs to be amended. The decree does not define the new type of non-cash services such as e-payment gateway services, e-wallet services, and e-clearing services. The State Bank of Viet Nam is working to revise these legal documents to accommodate current development. 	<ul style="list-style-type: none"> It is necessary to raise public awareness of electronic payment.
Digital authorization/signature	-	-
Cross boarder transaction (Product, service and money)	<ul style="list-style-type: none"> Tax management: <ol style="list-style-type: none"> No appropriate industry codes Hard to determine the nature of the transaction to apply the appropriate tax regime Hard to collect the income information <p>To solve above problems, the Congress promulgated the amended Law on tax management (take effect in 2020) and the National Assembly has adopted a revised tax administration law (effective 2020).</p>	<ul style="list-style-type: none"> Many websites/app providers are operating outside Viet Nam, causing some difficulties to regulate them due to the geographical distance and time lag.

		Legal framework	Operation/Implementation
Protection			
Private data protection	<ul style="list-style-type: none"> • There are no legal regulations to protect the "rights" to exploit personal data appropriately. • There are no specific regulations on processing private data in accordance with the law. • Protecting user data in M&A (Mergers and Acquisitions) cases has a legal gap and need a full update. • There are some opinions that maximum penalty amount of 50 million VND stipulated in Decree No.124/2015/ND-CP is relatively low (for individual but for organisations, the penalty amount will be doubled). • Some aspects in protecting personal information are not clearly defined in the current documents. 	<ul style="list-style-type: none"> • Along with the improvement of the government's enforcement, it is necessary to foster awareness of personal information protection for citizens and companies. • While there is no comprehensive law, it is unclear which laws should apply for some specific cases. • Guidelines and manuals as well as corresponding agencies of personal data protection differ depending on the laws. 	
Consumer protection	<ul style="list-style-type: none"> • Basically, current legal framework functions adequately in respect to consumer protection in Viet Nam, but there are some cases that the actual status of information verification before posting on electronic media may not be covered by the law to protect consumer rights. • There are no regulations to allow consumers to withdraw from the contract or return the purchased goods without having to pay compensation, when entering into contracts over the internet for a certain period of time. • There is no regulation to calculate the penalty based on the illicit benefit that the violator has obtained from the offender. 	<ul style="list-style-type: none"> • Although Law on Protecting Consumer's Right, Civil Code and other laws and decrees stipulate quality control, lack of quality control is a deep issue in e-commerce transactions. • Although Law on Technology Information stipulates the termination of e-commerce contracts in case a customer enters a wrong information to buy products on website, there is no guideline / manuals to process the contract termination for the actual enforcement as of August 2019. 	

Factors not directly related to e-commerce

	Legal framework	Operation
ICT environment		
Definition of data and usage	<ul style="list-style-type: none"> Preparing regulation as contents of a decree under the Cyber Security Law 	-
Cyber security (the existence of Penalty)	<ul style="list-style-type: none"> There are no specific regulations on processing private data in accordance with the Law on Science and Technology have not met the protection of personal data 	<ul style="list-style-type: none"> Cybersecurity Law was taken into effect in January 2019, but has not operated yet because of lack of guideline.
Data/Server transfer regulation (localization or globalization)	<ul style="list-style-type: none"> Article 26.3 of the Law on Cyber Security requires certain entities to store data within the territory of Viet Nam. This requirement applies to domestic and foreign enterprises. The guidance is being drafted. There have been opinions that these data storage requirements do not conform to Viet Nam's international commitment. 	<ul style="list-style-type: none"> Information stipulated in Article 26.3 of Cybersecurity Law must be stored in Viet Nam for a duration of time. Under this Article, it is still unclear whether such data must be stored exclusively in Viet Nam. In addition, foreign enterprises doing business in cyberspace related to Viet Nam have to open representative offices in the country.
Rights/others		
Intellectual property rights	<ul style="list-style-type: none"> IP-specialized court is needed. New Non-Traditional Trademarks should be regulated in the next few years as Viet Nam is a member of CPTPP. CPTPP has a slightly higher requirement in trademark. 	<ul style="list-style-type: none"> There is a "mismatch" between legislation and practical implementation. Although there are many competent authorities, there is no unified coordination among these agencies in dealing with cases of infringement of IP rights. The sanction of IP rights violations currently mainly stops at the level of administrative sanctions and the fines are not enough to deter the violators. Many businesses or IP representatives have come to the court. However, most of IP infringement cases are complicated which makes competent authorities, especially courts, hesitate and unresponsive in handling the cases. Intellectual property rights infringement is very difficult to control in cyberspace and there are technical issues.
Liability regarding product and service	-	-
Trade mark, patent and other rights	-	-
Disclosure of source code	<ul style="list-style-type: none"> There are no laws and regulations on disclosure of source code in Viet Nam. It is necessary to have a legal framework that can protect companies from pressure to disclose secrets as source codes and algorithms. 	-