

ASEAN and E-Commerce: Lessons from the Singapore Chairmanship

Tham Siew Yean

INTRODUCTION

Google and Temasek's 2017 highlights on Southeast Asia's e-economy indicates the huge potential for e-commerce development in the region.¹ For example, the region as a whole has the third largest number of internet users in the world, totalling 330 million monthly active users as at the end of 2017. The internet economy for the region has grown from 1.3 percent of the region's Gross Domestic Product (GDP) in 2015 to 2 percent in 2017 and it is projected to reach 6 percent by 2025. It is relatively easier for the region to embrace new technology as the region's overall population is relatively young. An estimated 3.6 hours is spent on mobile internet every day in the region as compared to the 2 hours a day for the United States (US) and 1.8 hours a day for the United Kingdom (UK). More importantly, the people in the region also devote more time for shopping online every month. This is estimated at 140 minutes every month, or twice as much time expended by the Americans on shopping online.

Despite the potential, the region faces a fragmented e-commerce landscape that is considerably divided in terms of the stage of e-commerce development in each country. Numerous challenges abound, ranging from the legal and physical infrastructures needed to facilitate e-commerce to payment systems, security issues, logistics, including transportation challenges, especially in archipelagic parts of the region, to customs and cross-border administration. Thus, the Association of Southeast Asian Nations (ASEAN) has an important role to play here to foster greater cooperation in e-commerce that can contribute towards realising the region's

¹ See full report at <http://storage.googleapis.com/201712/e-economy-sea-spotlight-2017-unprecedented-growth-southeast-asia-50-billion-internet-economy/APAC-Google-Temasek-2017-spotlight.pdf>, accessed 6 January 2019.

potential in e-commerce as well as using e-commerce to deepen the region's integration process.

This article seeks to provide a review of the evolution of e-commerce cooperation in ASEAN. Singapore's chairmanship in 2018 is highlighted in terms of the goals and achievements in e-commerce cooperation as well as important lessons from its chairmanship. In particular, how Singapore utilised the opportunities conferred from the rotational chairmanship to push further cooperation is summarised in the conclusion.

E-COMMERCE COOPERATION IN ASEAN

1997-2017

E-commerce cooperation in ASEAN has a long history as the seeds for cooperation can be traced back to the ASEAN Vision 2020 Plan that was launched in 1997. In the Plan, member countries were urged to accelerate the development of science and technology, including information technology (IT), by establishing a regional IT network.² Subsequently, an e-ASEAN initiative was introduced in 1999, leading to the launch of an e-ASEAN Framework Agreement in November 2000. The creation of an e-commerce friendly environment was one of the main elements in this agreement, which also has a specific focus on the adoption of e-commerce regulatory and legislative frameworks. Task forces and technical working groups were established to meet the e-ASEAN agreement goals, with Singapore being assigned as the shepherd for the task force on e-commerce, assisted by Malaysia and Brunei Darussalam. The primary mandates of the task force were to oversee e-commerce legislation on electronic transactions and electronic signatures as well as consumer protection in terms of online alternative dispute resolution as well as privacy and personal data protection.³

Accordingly, the task force developed an e-commerce reference framework in 2001, based on the existing e-commerce laws of ASEAN Member States (AMS), and in consultation with the legal experts from member states. At that time, five AMS,

² Quimbo, R.N.S. (n.d.). "The E-ASEAN Legal Framework and Its Challenges". Retrieved from <https://pdfs.semanticscholar.org/cd95/b15151d4fa37d206476ec222956fa5da056d.pdf>, accessed 14 December 2018.

³ Pichet Durongkaverroj (2002). "An Overview of e-ASEAN Initiative". Power-point presentation at ITU Workshop on Creating Trust in Critical Network Infrastructures 20-22 May 2002, Seoul. <https://www.itu.int/osg/spu/ni/security/workshop/presentations/cni.24.pdf>, accessed 14 December 2018.

namely Brunei Darussalam, the Philippines, Malaysia, Singapore and Thailand, already had e-commerce related laws which were included in the framework. The framework served to provide the general principles for e-commerce laws as well as the minimum provisions in these laws for the AMS. In this way, member countries without e-commerce laws at that point in time, namely Cambodia, Laos PDR, Myanmar and Vietnam, could use the reference framework to develop their own e-commerce laws. Concurrently, the framework was also meant to facilitate cross-border e-commerce and the cross-recognition/cross-certification of digital certificates/digital signatures.

The focus on e-commerce cooperation in ASEAN was continued in the ASEAN Economic Community (AEC) 2015 Blueprint as it is listed as one of the elements in the development of a competitive economic region, which is one of the four pillars in the Blueprint. The other three pillars are: (a) a single market and production base, (b) a region of equitable economic development, and (c) a region fully integrated into the global economy. E-commerce together with competition policy and intellectual property rights are meant to improve a country's business environment, thereby enhancing the competitiveness of ASEAN as a region.

The goal for e-commerce in the 2015 Blueprint is to lay the policy and legal infrastructure for e-commerce and to enable online trade in goods within ASEAN, through the implementation of the e-ASEAN Framework Agreement.⁴ The priority actions for e-commerce, as shown in Table 1, continued to emphasise on the enactment of e-commerce laws, aiming for a harmonised legal infrastructure for ASEAN since the laws that were already enacted in the five AMS differed from each other in terms of electronic legislation; electronic signatures; licensing of certification authorities; and the liability of service providers.⁵ However, capacity building was also explicitly recognised as needed for the region.

⁴ Irawan, B. (2017). "AEC Blueprint Analysis: An Analysis of the ASEAN Cooperation in E-commerce". *CIMB ASEAN Research Institute (CARI)*, Vol. 1, Paper 19, 14 March.

⁵ Quimbo, R.N.S. (n.d.). "The E-ASEAN Legal Framework and Its Challenges". Op. cit., p. 88.

Table 1. Strategic Schedule for ASEAN Economic Community 2015: Priority Actions for E-commerce.

2008-09	2010-2011	2014-2015
Member countries to enact their e-commerce laws	Update and/or amend relevant legislations in line with regional best practices and regulations in e-commerce activities	A harmonised legal infrastructure for e-commerce fully in place in ASEAN
Implement harmonised guidelines and principles for electronic contracting and online dispute resolution services	Adopt the best practices/ guidelines on other cyber-law issues (i.e., data privacy, consumer protection, intellectual propriety rights, internet service provider liability, etc.) to support the regional e-commerce activities	
Adopt regional framework and strategy for the mutual recognition of digital signatures	Advancing cross-border electronic transactions, through pilot implementation of mutual recognition of foreign digital signatures	
Continued capacity building and information sharing for Member Countries on e-commerce legal infrastructure activities		

Note: There were no actions lines given for 2012-13.

Source: ASEAN Secretariat.⁶

Since the designated monitoring tool, the AEC scorecard, is essentially each AMS's self-assessment of their respective compliance to the AEC Blueprint goals based primarily on ratification rather than outcomes or impact, it cannot indicate the actual progress made towards the goals for e-commerce as stated in Table 1. An alternative assessment on the state of legislation of e-commerce laws in ASEAN indicates that this is very much work-in-progress. Furthermore, according to the assessment made, there was also little sharing of best practices in cyber-security nor was the aspired harmonisation of legislative frameworks achieved.

⁶ ASEAN Secretariat (n.d.). *Strategic Schedule for ASEAN Economic Community*. Retrieved from <https://www.asean.org/storage/images/archive/21161.pdf>, accessed 11 December 2018.

Table 2. Status of e-commerce laws in ASEAN.

Countries	Electronic transactions	Privacy	Cyber crime	Consumer protection	Content regulation	Domain names
Indonesia	Yes	Draft or partial	Yes	Draft or partial	Yes	Yes
Malaysia	Yes	Yes	Yes	Yes	Yes	Yes
Philippines	Yes	Yes	Yes	Yes	No	Yes
Singapore	Yes	Yes	Yes	Yes	Yes	Yes
Thailand	Yes	Draft or partial	Yes	Yes	Draft or partial	Draft or partial
Vietnam	Yes	Draft or partial	Yes	Yes	Yes	Yes

Source: AT Kearney and CIMB Research Institute (CARI), n.d.⁷

Focussing on the regulatory framework is, however, insufficient as creating a trade-friendly e-commerce ecosystem requires other complementary initiatives in terms of Information, Communication and Technology (ICT) development, logistics as well as coordination in customs procedures, tax rates and invoicing standards.⁸ ASEAN's efforts to address these related pertinent issues are found in the other AEC 2015 initiatives. The ASEAN ICT Masterplan 2015 (AIM 2015), for example, addressed the need for supportive infrastructure development as well as to bridge the digital divide, while the Roadmap for the Integration of Logistics (RILS) aimed at the creation of an integrated ASEAN logistics environment. Trade facilitation in the ASEAN Trade in Goods Agreement (ATIGA) covered customs as well as non-customs issues. Effectively, this implies that the multi-dimensional nature of e-commerce is addressed through numerous existing ASEAN agreements, rather than housed under one agreement. But, even though the actual work programmes of these different initiatives were rather narrow in scope, not all were achieved by 2015.

Thus, when the AEC 2015 was launched as a milestone in the evolution of the AEC, the Blueprint goals which were not achieved were included in the AEC 2025 plans. Consequently, e-commerce is also included in the AEC2025 Plan to continue the efforts made in e-commerce cooperation due to its potential to support eco-

⁷ AT Kearney and CIMB Research Institute (CARI) (n.d.). "Lifting the Barriers to E-Commerce in ASEAN". Retrieved from <https://www.atkearney.co.uk/documents/10192/5540871/Lifting+the+Barriers+to+E-Commerce+in+ASEAN.pdf>, accessed 20 December 2018.

⁸ Mik, Eliza (2017). "Legal and Regulatory Challenges to Facilitating E-Commerce in the ASEAN". Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3100578, accessed 20 December 2018.

conomic integration in ASEAN.⁹ In the AEC2025 Plan, developing an ASEAN Agreement on e-commerce that can facilitate cross-border e-commerce transactions in the region is an important goal. Efforts to broaden the scope of cooperation within the ambit of e-commerce law and legislation can be seen from the areas for cooperation that are in the Plan, such as: (i) harmonisation of consumer rights and protection laws; (ii) harmonisation of legal frameworks for online dispute resolution mechanisms; (iii) development of inter-operable, mutually recognised, secure, reliable and user friendly e-identification and authorisation (electronic signature) schemes; and (iv) the development of a coherent and comprehensive framework for personal data protection. As in the case of other ASEAN agreements, the stated goals in the Plan need an action and/or work plan to work out the concrete actions that will be undertaken to attain the aspired areas of cooperation.

When the Philippines assumed the ASEAN chairmanship in 2017, its focus for the AEC was on inclusive, innovation-led growth.¹⁰ E-commerce was included as one of the 11 priority deliverables and it was subsequently announced at the 49th ASEAN Economic Ministers' Meeting that an ASEAN Coordinating Committee on Electronic Commerce (ACCEC) had been established to promote, coordinate and enhance the efforts made by various ASEAN sectoral bodies to promote the growth of e-commerce in ASEAN.¹¹ The Ministers also adopted the ASEAN Work Programme on Electronic Commerce (AWPEC) 2017-2025. The AWPEC focusses on cross-border e-commerce and brought together the multi-sectoral needs of e-commerce. Specifically, the work programme covers ten areas of cooperation, namely: (i) infrastructure; (ii) education and technology competency; (iii) consumer protection; (iv) modernising the legal framework; (v) security of electronic transactions; (vi) payment systems; (vii) trade facilitation; (viii) competition; (ix) logistics; and (x) e-commerce framework. The Work Programme specifies the initiatives for each of these ten areas, the output to be delivered as well as the implementing

⁹ ASEAN Secretariat (2015). *ASEAN 2025: Forging Ahead Together*. Retrieved from <https://www.asean.org/wp-content/uploads/images/2015/November/KL-Declaration/ASEAN%202025%20Forging%20Ahead%20Together%20final.pdf>, accessed 20 December 2018.

¹⁰ Undersecretary Enrique A. Manalo's Keynote Address at the Foreign Service Institute's *Mangrove Forum on International Relations on "The Philippines Chairmanship of ASEAN"*, 24 January 2017, Mindanao Ballroom, Sofitel Philippine Plaza, Pasay City in Foreign Service Institute Insights, Vol. IV, No.1, 2017. Retrieved from <http://www.fsi.gov.ph/the-philippines-chairmanship-of-asean-in-2017/>, accessed 4 January 2019.

¹¹ Retrieved from <https://cil.nus.edu.sg/wp-content/uploads/formidable/14/2017-49th-AEM-Joint-Media-Statement.pdf>, accessed 4 January 2019.

bodies.¹² The tenth dimension in the AWPEC 2017-2025 refers back to the need to develop an e-commerce Framework, which includes a review of the elements of an ASEAN e-commerce framework and the development of an agreement in 2018. Getting an ASEAN agreement on e-commerce signed is listed as the sole output in this dimension.

2018: E-commerce developments under Singapore's chairmanship

When Singapore took over the chairmanship in 2018, it was close to two decades since the e-ASEAN Framework Agreement was launched in November 2000. Based on the theme of a resilient and innovative ASEAN,¹³ five key thrusts were chosen as the deliverables for furthering the development of the AEC. These are promoting innovation and e-commerce; improving trade facilitation; deepening services and investment integration; cultivating a conducive regulatory environment; and forging ahead on ASEAN's external relations.¹⁴ Given that the digital economy contributed seven percent of ASEAN's Gross Domestic Product (GDP), and has the potential to grow further, digitalisation became a flagship deliverable under Singapore's chairmanship.¹⁵ Therefore, Singapore prioritised getting an ASEAN Agreement on Electronic Commerce signed by the end of its chairmanship. The agreement will serve to streamline rules governing e-commerce so as to lower the operating barriers to entry and enable business to better navigate the regulations in the region. Another priority is the ASEAN Digital Integration Framework, which will identify the key focus areas for ASEAN in the immediate future. The two priorities are clearly in line with the theme on an innovative ASEAN and using innovation to create regional resilience.

Importantly, Singapore did not just use its chairmanship to shape the agenda for ASEAN to forge ahead in terms of e-commerce cooperation. It has also successfully delivered on the two stated priorities. The ASEAN Economic Ministers signed

¹² For further details, see <https://asean.org/asean-economic-community/sectoral-bodies-under-the-purview-of-aem/e-commerce/>, accessed 4 January 2019.

¹³ See ASEAN 2018 page in <https://www.mfa.gov.sg/content/mfa/overseasmission/asean.html>, accessed 4 January 2019.

¹⁴ See "Updates on the ASEAN Economic Community", in *ASEAN Integration Brief*, No. 03, June 2018. Retrieved from https://asean.org/storage/2018/02/AEIB_3rd-Issue_v3-Ready-Print-Single-Page.pdf, accessed 4 January 2019.

¹⁵ Chan Chun Sing, 2018. "A Resilient and Future-Ready ASEAN", in *ASEAN Integration Brief*, No. 4, November 2018. Retrieved from https://asean.org/storage/2018/11/AEIB_4th-Issue_r1.pdf, accessed 4 January 2019.

the ASEAN Agreement on e-Commerce on 12 November 2018, on the side-lines of the 33rd ASEAN Summit and Related Meetings. Furthermore, the ASEAN Digital Integration Framework (DIF) was also endorsed to monitor the progress of ASEAN's digital integration.

The E-commerce Agreement itself builds on past efforts that are pertinent to the issue. Specifically, Article 5 in the e-ASEAN Framework Agreement (2000) which refers to the facilitation of the growth of electronic commerce and the electronic commerce chapter of the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA, 2009) are used as the foundations for the agreement.¹⁶ At the same time, modern elements such as cross-border transfer of information by electronic means, location of computing facilities and cybersecurity are incorporated into the agreement. The three stated objectives of the agreement are to: (i) facilitate cross-border e-commerce transactions; (ii) contribute towards creating an environment of trust and confidence in the use of e-commerce; and (iii) deepen cooperation among AMS to further develop and intensify the use of e-commerce to drive economic growth and social development in the region. Eight dimensions are covered in the agreement, namely, domestic regulatory framework; transparency; cooperation; facilitating electronic transactions and trading; cross-border data and information flows and location of computing facilities; logistics; consumer protection and privacy; and technology neutrality. Given the fast changing nature of e-commerce, a review clause is also included in the agreement to amend it based on the evolution of this type of trade over time.

CONCLUSION: KEY LESSONS FROM SINGAPORE'S CHAIRMANSHIP

The chairmanship of ASEAN is rotated annually based on the alphabetical order of the AMS. An important component of the chairmanship is the prerogative to propose the priorities for ASEAN's agenda for the year of its chairmanship. Of course, given the ASEAN way, this prerogative needs to be exercised with the agreement of other member states. For 2018, Singapore has successfully utilised its chairmanship to set an agenda that will drive ASEAN cooperation forward. Specifically, for e-commerce, it chose to focus on one of the stated goals of the AWPEC, and which is crucial for moving ahead in the region's e-commerce cooperation. Indeed, being

¹⁶ Factsheet, 2018. "Promoting innovation and e-commerce through the ASEAN Agreement on Electronic-Commerce", Retrieved from https://www.gov.sg/~/sgpcmedia/media_releases/mti/press_release/P-20181112-1/attachment/Annex%20A%20Factsheet%20on%20ASEAN%20Agreement%20on%20e-Commerce.pdf, accessed 5 January 2019.

able to choose strategically an important and relevant agenda for the times is a hallmark of Singapore's past chairmanship as well, such as the establishment of the ASEAN Free Trade Area (AFTA), during the 4th ASEAN Summit in Singapore in 1992, and the conclusion of the ASEAN Charter at the 13th ASEAN Summit in 2007 in Singapore.¹⁷

Having set the agenda, Singapore has to manage the difficult task of building consensus to be able to meet its deliverables.¹⁸ As noted by Ambassador Ong Keng Yong at the start of Singapore's chairmanship, getting other member states to buy into the agenda can be quite an onerous task due to the different levels of economic development in the region.¹⁹ Considerable diplomatic acumen is needed to build the needed consensus in order to conclude the agenda successfully.

Thus, key lessons from Singapore's chairmanship are the adroit use of leadership and diplomacy to set an agenda that is appropriate for the times and equally importantly, to be able to bring the agenda to a successful conclusion. Clearly then the chairmanship role in ASEAN is far from ceremonial and has been put to good use by Singapore to further cooperation within ASEAN. Given that there are many more desired outcomes in e-commerce in the AWPEC until 2025, the momentum that was set in 2018 by Singapore should be continued to bring all these to fruition.

Tham Siew Year is Senior Fellow at ISEAS-Yusof Ishak Institute, Singapore and Adjunct Professor at Universiti Kebangsaan Malaysia. She was formerly Director and Professor at Institute of Malaysian and International Studies (IKMAS), Universiti Kebangsaan Malaysia. She has served as a consultant to national agencies in Malaysia (Ministry of International Trade and Industry (MITI) and Ministry of Higher Education); and international agencies, including the World Bank, Asian Development Bank, and Asian Development Bank Institute. She has a PhD in economics from University of Rochester, USA.

¹⁷ Termsak Chalermpanupap (2018). "Singapore as the ASEAN Chair: Responsibilities and Legacies". *ASEAN Focus*, Issue 4/2018, page 15.

¹⁸ Tang Siew Mun (2015). "The ASEAN Chairmanship: Duties, Obligations and Challenges", *ASEAN Focus*, Issue 2/2015, page 4.

¹⁹ Albert Wai (2017). "Looking ahead to 2018: ASEAN's Chairmanship poses a stern test for Singapore." Retrieved from <https://www.todayonline.com/world/looking-ahead-2018-asean-chairmanship-poses-stern-test-singapore>, accessed 5 January 2019.