



Review of e-commerce
legislation harmonization
in the Association of
Southeast Asian Nations





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NOTE

Within the UNCTAD Division on Technology and Logistics, the ICT Analysis Section carries out policy-oriented analytical work on the development implications of information and communication technologies (ICTs). It is responsible for the preparation of the *Information Economy Report* as well as thematic studies on ICT for Development. The ICT Analysis Section promotes international dialogue on issues related to ICTs for development, and contributes to building developing countries' capacities to measure the information economy and to design and implement relevant policies and legal frameworks.

The following symbols have been used in the tables:

Two dots (..) indicate that data are not available or are not separately reported. Rows in tables have been omitted in those cases where no data are available for any of the elements in the row;

A dash (–) indicates that the item is equal to zero or its value is negligible;

A blank in a table indicates that the item is not applicable, unless otherwise indicated;

A slash (/) between dates representing years, for example, 1994/95, indicates a financial year;

Use of an en dash (–) between dates representing years, for example, 1994–1995, signifies the full period involved, including the beginning and end years;

Reference to “dollars” (\$) means United States dollars, unless otherwise indicated;

Annual rates of growth or change, unless otherwise stated, refer to annual compound rates;

Details and percentages in tables do not necessarily add up to the totals because of rounding.

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PREFACE

Leveraging information and communication technologies (ICTs) is recognized as a key priority for the Association of Southeast Asian Nations (ASEAN) regional integration, as reflected in the ICT Masterplan 2015. In this context, an area of high relevance is to ensure that governments, businesses and consumers are able to harness the opportunities for electronic commerce. Seizing its potential requires not only access to affordable ICT infrastructure and services but also the development of trust among users – such as governments, businesses and consumers.

The enactment and enforcement of relevant legislation in a way that promotes regional integration are critical steps in this context. The ASEAN has been pioneering among developing countries the harmonization of such legislation. However, while the legislative process takes time, the ICT landscape continues to evolve at a high pace. This makes it important to continuously take stock of progress made and to identify possible needs for further work and revision.

This Review is a joint initiative by the ASEAN secretariat (ASEC) and UNCTAD. It provides an up-to-date assessment of the current state of e-commerce legislation, maps prevailing gaps, identifies emerging challenges and makes specific recommendations towards furthering harmonization in different areas.

The Review is the result of constructive collaboration between the ASEC and the UNCTAD secretariat as well as active participation by all ASEAN member States. In preparation of the Review, two online surveys were conducted on legal frameworks for e-commerce targeting ASEAN member States' Government representatives and e-commerce businesses, respectively. Two regional workshops were also organized back-to-back with ASEAN Telecommunications and IT Senior Officials Meetings (TELSOM), to which the outcomes of the workshops were presented.

The recommendations made in the Review are intended to serve as a basis for ASEAN to consider the next steps in its efforts to creating a harmonized legal framework for e-commerce in the region.

I would like to express my sincere appreciation to everyone who has contributed in the process. It is my hope that the analysis and recommendations will be a significant value in the next two years as the establishment of the ASEAN Economic Community approaches. Let me assure you of UNCTAD's commitment to continue to support the ASEAN and its member countries in this process.



Supachai Panitchpakdi

UNCTAD Secretary-General

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The UNCTAD team comprised Torbjörn Fredriksson, Cécile Barayre and Marie Sicat, as well as two international consultants Chris Connolly and Ian Walden. Statistical support was provided by Smita Lakhe and Agnès Collardeau-Angleys. Overall direction was provided by Anne Miroux, Director of the Division on Technology and Logistics.

From the ASEAN secretariat, strategy policy direction was given by Tran Dong Phuong, Budi Yuwono and Sukma Wardhana in the Infrastructure Division.

Contributions by the representatives of ASEAN member States are greatly appreciated. They were actively involved at various stages of the production of the Review. Several private sector representatives also responded to the survey carried out in preparation of this Review.

Valuable comments and inputs were contributed by Luca Castellani (UNCITRAL).

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CONTENTS

NOTE	II
PREFACE	III
ACKNOWLEDGEMENTS.....	IV
ABBREVIATIONS	VII
EXECUTIVE SUMMARY: TOWARDS E-COMMERCE LEGAL HARMONIZATION IN ASEAN.....	IX
INTRODUCTION	1
Background to the ASEAN e-commerce law harmonization process	1
Why is cyberlaw reform important for the region?	3
Trade facilitation	4
Outsourcing	4
E-government initiatives	4
E-payment	5
Cloud computing	5
Social networking.....	5
The current status of e-commerce law harmonization in ASEAN	5
THE CURRENT PROJECT.....	7
Objectives of the Review	7
Issues examined in the Review	7
Electronic transactions	7
Consumer protection	8
Data protection and privacy.....	8
Cybercrime	9
Content regulation.....	9
Domain names and dispute resolution.....	9
Cloud computing policy.....	10
Other issues.....	10
TOWARDS E-COMMERCE LEGAL HARMONIZATION IN ASEAN	11
Identification of key challenges	11
Differences in legal approach.....	11
Absence of independent, well-resourced regulators	11
Lack of skills and training	11
Slow legislative process	11
Low levels of awareness in government.....	11
Resource constraints	11
Lack of continuity	11
Rapid emergence of new issues.....	12
Recommendations.....	12
Commission an updated roadmap	12
Strengthen information sharing within ASEAN	12
Build capacity in key areas	12
Take steps to further cross-border harmonization in three key areas.....	13

(a) <i>Cybercrime</i>	13
(b) <i>Consumer protection</i>	13
(c) <i>Recognition of electronic signatures</i>	13
Establish a regional online dispute resolution facility	14
Monitor harmonization of e-commerce laws in ASEAN member countries	14
Embark on a new multi-year project with UNCTAD to contribute to the ASEAN ICT Masterplan 2015	14
REPORT ON THE LEGAL FRAMEWORKS OF ASEAN COUNTRIES	17
BRUNEI DARUSSALAM	17
CAMBODIA	21
INDONESIA	24
THE LAO PEOPLE'S DEMOCRATIC REPUBLIC	27
MALAYSIA	29
MYANMAR	32
THE PHILIPPINES	34
SINGAPORE	37
THAILAND	40
VIET NAM	43
NOTE	46
ANNEX 1. COMPENDIUM OF E-COMMERCE LAWS IN ASEAN MEMBER STATES (AS OF MARCH 2013)	48
ANNEX 2. CHALLENGES TO THE ENACTMENT AND ENFORCEMENT OF E-COMMERCE LAWS WITHIN ASEAN BASED ON THE RESPONSES FROM THE QUESTIONNAIRE	50
ANNEX 3. LIST OF ASEAN DELEGATES WHO CONTRIBUTED TO THE REVIEW	56
ANNEX 4. LIST OF SELECTED PUBLICATIONS IN THE AREA OF ICT AND LEGAL ISSUES	58

ABBREVIATIONS

AEC – ASEAN Economic Community

APEC – Asia Pacific Economic Community

ASEAN – Association of Southeast Asian Nations

ASEC – ASEAN secretariat

Convention on Cybercrime – The Council of Europe Convention on Cybercrime

ICPEN – International Consumer Protection and Enforcement Network

E-commerce – Electronic commerce

European Union Data Protection Directive – Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

INTERPOL – International Criminal Police Organization

ITU – International Telecommunication Union

M-commerce – Mobile commerce

OECD – Organization for Economic Cooperation and Development

OECD Privacy Guidelines – OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data

PKI – public key infrastructure

UDRP – Uniform Domain-name Dispute Resolution Policy

UNCITRAL – United Nations Commission on International Trade Law

UNESCAP – United Nations Economic and Social Commission for Asia and the Pacific

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