

# PERSPECTIVE

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## Digital Commitments in ASEAN's Free Trade Agreements

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*Representatives of signatory countries are pictured on screen during the signing ceremony for the Regional Comprehensive Economic Partnership (RCEP) trade pact at the ASEAN summit held online in Hanoi on 15 November 2020. Photo: Nhac NGUYEN, AFP.*

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**EXECUTIVE SUMMARY**

- Digital commitments in trade agreements have evolved over time to include market access, and rules and regulations that seek to govern the movement of digital goods and services across borders as well as to facilitate trade.
- ASEAN's commitments in terms of the number of provisions in e-commerce have increased over time, but the expansion in coverage may not necessarily mean deeper commitments.
- The disparity within ASEAN member states (AMS), alongside national policies and ambitions to develop the domestic digital economy, have contributed to the slower pace of attaining binding commitments in trade agreements.
- Moving forward, upgrades in e-commerce commitments in the AANZFTA can be expanded, guided by the RCEP commitments.
- However, advancing towards a framework for an ASEAN Digital Economy, which requires committing to even more provisions, will require more and better empirical evidence on the impact of digital commitments on the domestic economies of AMS for decision-making in each country's cost-benefit analysis of these commitments to be properly informed.

## **INTRODUCTION**

The growing importance of, and interest in the digital economy has led to an increasing inclusion of digital provisions in free trade agreements, be it at the multilateral, regional or bilateral level. At the multilateral level, 86 members including six from ASEAN, are currently engaged in World Trade Organization (WTO) negotiations on a Joint Statement Initiative (JSI) on trade-related aspects of e-commerce. The JSI is a plurilateral negotiating tool which aims to have a substantive agreement on these aspects at the WTO's 12th Ministerial Conference (MC12) scheduled to take place from 30 November to 3 December 2021 but which has been postponed indefinitely due to the announcements of travel restrictions and quarantine requirements in Switzerland and many European countries.<sup>1</sup>

Digital provisions can be traced back to the inclusion of paperless trading in the early part of 2000 and the subsequent emergence of e-commerce chapters in trade agreements in 2003.<sup>2</sup> This pattern has escalated over time; 69 Regional Trade Agreements (RTAs) were identified with a standalone e-commerce chapter or article(s) between 2001 and 2016.<sup>3</sup> There were also 21 other RTAs that had provisions addressing paperless trading, digital rights management or general promotion, but without a dedicated e-commerce chapter.

Digital commitments can be divided into three types, namely market access (MA), Rules and Regulations (R&R) and Facilitation (F). Provisions or commitments on MA cover a wide range of issues such as customs duties, valuation issues, movement of natural persons (as service providers), and access to data.<sup>4</sup> R&R cover different issues including intellectual property rights (IPRs), protection of personal information and consumer protection competition. Finally, facilitation commitments include paperless trade, e-signatures and digital authentication.

This paper maps the digital commitments of ASEAN in relevant agreements on e-commerce to show the evolving nature of these commitments. It covers the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA), ASEAN Agreement on Electronic Commerce, Regional Comprehensive Economic Partnership Agreement (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). It also seeks to explain why these commitments vary and list the challenges that ASEAN will face as it moves towards negotiating an ASEAN Digital Economy Framework by 2025, as announced in the 53<sup>rd</sup> ASEAN Economic Ministers (AEM) in September 2021.<sup>5</sup>

## **ASEAN COMMITMENTS IN E-COMMERCE**

AMS have made commitments in four agreements that have e-commerce provisions (see Table A1 in Appendix for the details).<sup>6</sup> The AANZFTA, ratified in 2010, is the first agreement with a Dialogue partner to have an e-commerce chapter. The next agreement on e-commerce is the ASEAN Agreement on Electronic Commerce, which was signed in 2019 and expected to enter into force in 2021. The RCEP is the latest agreement with AMS as parties, which has an e-commerce chapter. It was signed in 2020 and will enter into force

on 1 January 2022. Lastly, the Comprehensive and Progressive Treatment for Trans-Pacific Partnership (CPTPP), which has four AMS as parties to the agreement, entered into force in 2018.<sup>7</sup>

Figure 1 shows the e-commerce commitments in each of these agreements and the similarities and differences from each other.

#### *AANZFTA (2010) and ASEAN Agreement on Electronic Commerce (2019)*

It is not surprising that the AANZFTA has the smallest number of provisions, being the oldest agreement; a government's ability to address the various issues that emerge from the rapidly changing digital environment usually lags behind the innovative changes happening in the real world. Thus while the AANZFTA and the subsequent ASEAN Agreement on Electronic Commerce contain provisions that address cooperation, paperless trading, electronic authentication and electronic signatures, online consumer protection, online personal information, the domestic regulatory environment and dispute settlement, the newer ASEAN agreement has six additional provisions. These are the scope of the agreement, cross-border transfer of information, location of computing facilities, cybersecurity, electronic payment and logistics. While this may demonstrate an expansion of ASEAN's commitments to include other pertinent issues that are critical for e-commerce, a closer investigation of the additional commitments indicate that except for the provision on data localisation (which is inapplicable to financial services), the use of best-endeavour clauses such "encourage" the use of safe and secure, efficient and interoperable e-payment systems and "endeavour" to lower the cost of logistics, indicate that these are weak provisions. Likewise, member states are "working towards eliminating or minimising barriers to the flow of information across borders" while the provision on cybersecurity merely focus on building on the capabilities of national entities and the use of existing collaboration mechanisms to cooperate on matters related to cybersecurity.

#### *RCEP and CPTPP*

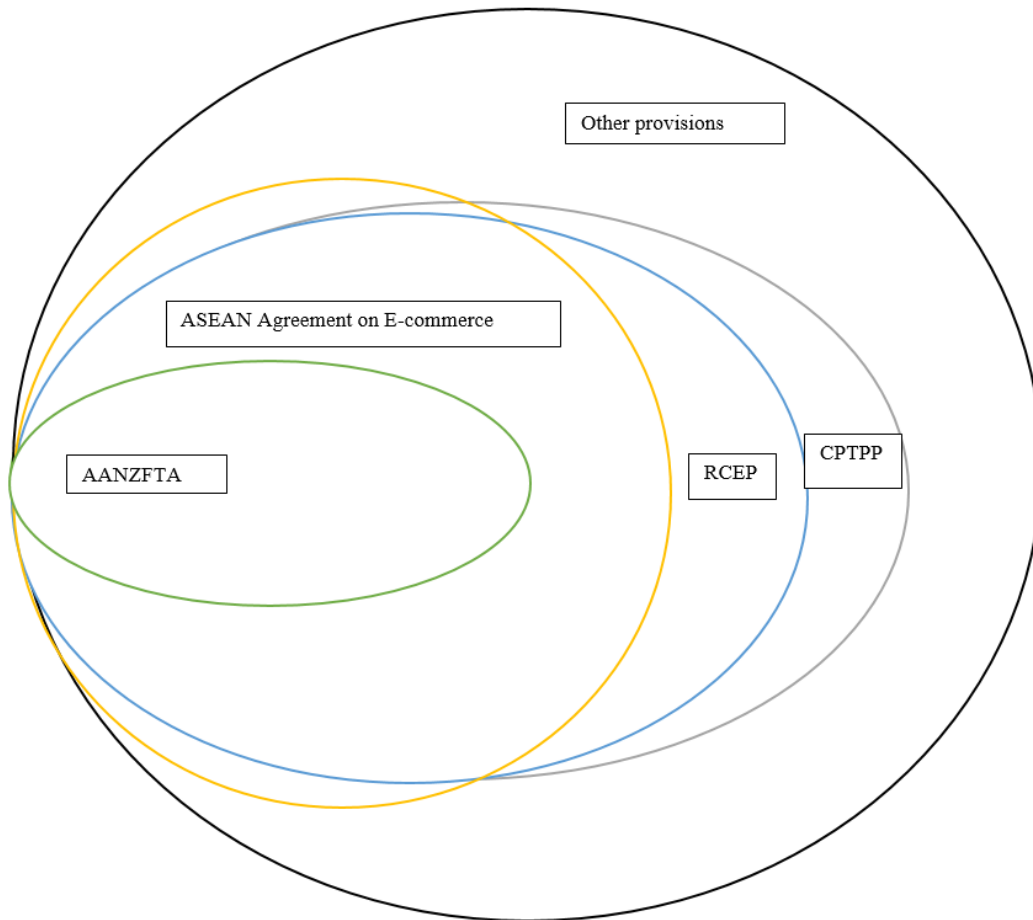
Moving on to the RCEP, the commitments expanded to include provisions on customs duties, unsolicited commercial electronic messages, and non-discrimination of digital products. The CPTPP, though an older agreement, has four more provisions compared to the RCEP, namely, non-discrimination of digital products, source code, principles on access and use of the internet for electronic commerce and internet interconnection charge sharing. Further analysis reveals that the provisions in RCEP, though similar, are much weaker than those in the CPTPP.<sup>8</sup> Take for example, customs duties. In the RCEP, the maintenance of the current practice of not imposing customs duties on electronic transmissions between Parties (Article 12:11) is linked to the WTO's moratorium on customs duties. Should the moratorium be discontinued, a RCEP party may unilaterally adjust its practice. Thus, while the CPTPP states that the exclusion of customs duties shall not preclude a Party from imposing "internal" taxes, fees and other charges on content transmitted electronically, provided that such taxes, fees, or charges are imposed in a manner consistent with the agreement, the same clause in the RCEP has excluded the term "internal" from the text,

thereby implicitly allowing external taxes or duties to be imposed should the WTO moratorium be discontinued.

This is unlike the CPTPP (Article 14.3) which states clearly that no party shall impose customs duties on electronic transmissions, including content transmitted electronically, between a person of one Party and a person of another Party.

Another example is the use of the dispute settlement mechanisms (DSM). RCEP's Article 12.17 on DSM, specifically excludes the use of Chapter 19 of the agreement for the settlement of disputes on e-commerce so that DS in e-commerce is confined to consultations; and if that fails to resolve the differences, then the matter may be referred to the RCEP Joint Committee in accordance with Article 18.3, but not to the DSM of the agreement. The DSM in the CPTPP, on the other hand, states only the exceptions given to Malaysia and Vietnam.

**Figure 1. E-Commerce provisions in AANZFTA, ASEAN E-commerce Agreement, RCEP and CPTPP Compared**



Note: The circles visually represents the number of provisions in each e-commerce chapter in each agreement and where there are overlapping provisions and where there are none. This is based on the details shown in Table 1A in Appendix.

Source: Author

It should be noted that besides the provisions in the CPTPP, other agreements with e-commerce commitments have included additional provisions specifically on barriers to trade, private sector participation, and the liability of intermediary service providers.<sup>9</sup>

In summary, the digital commitments of AMS have expanded over time, in keeping with changes in the digital realm and increasing commitments in other agreements. But the expansion in coverage may not necessarily mean deeper commitments, as seen in the specific examples illustrated above.

### **CHALLENGES TO DIGITAL COMMITMENTS**

Generally, ASEAN’s economic integration is affected by the different stages of development within ASEAN and the need to balance national ambitions and regional

integration. Thus the pace of integration is often determined by the lowest common denominator or the slowest member.<sup>10</sup> Likewise, ASEAN has to constantly find a balance between national and regional priorities, through consensus-seeking.<sup>11</sup>

This is also found to prevail in the e-commerce space, as shown below, indicating that these two factors can also be used to explain the slower pace of digital commitments within ASEAN.

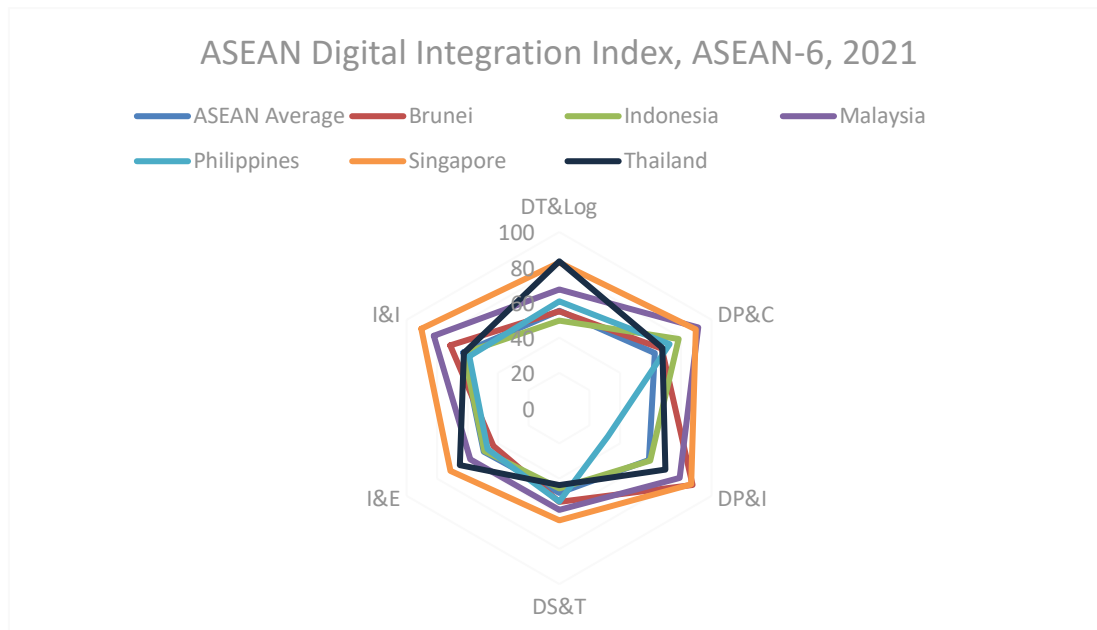
*Disparity within ASEAN: ASEAN Digital Integration Index*

In August 2021, ASEAN launched its own ASEAN Integration Index to ascertain the status of digital integration in its member countries. The Index is constructed as a weighted index of six pillars of digital integration, namely digital trade and logistics, data protection and cybersecurity, digital payments and identities, digital skills and talent, innovation and entrepreneurship and institutional infrastructural readiness. Of the six pillars, ASEAN's average score is highest in institutional and infrastructural readiness, and lowest for digital skills and talents.

In Figure 2, comparing the older AMS and the CLMV countries with the ASEAN average clearly shows the disparity across these two groups of countries. Brunei, Malaysia and Singapore have scores *above* the ASEAN average for all six of these dimensions. Thailand is above the ASEAN average for all but one of the dimensions (namely, digital skills and talent). Indonesia is below the ASEAN average for digital trade and logistics and digital skills and talent, while the Philippines is below the ASEAN average for digital payments and identities and innovation and entrepreneurship.



**Figure 2. ASEAN Digital Integration Index, ASEAN-6, 2021**



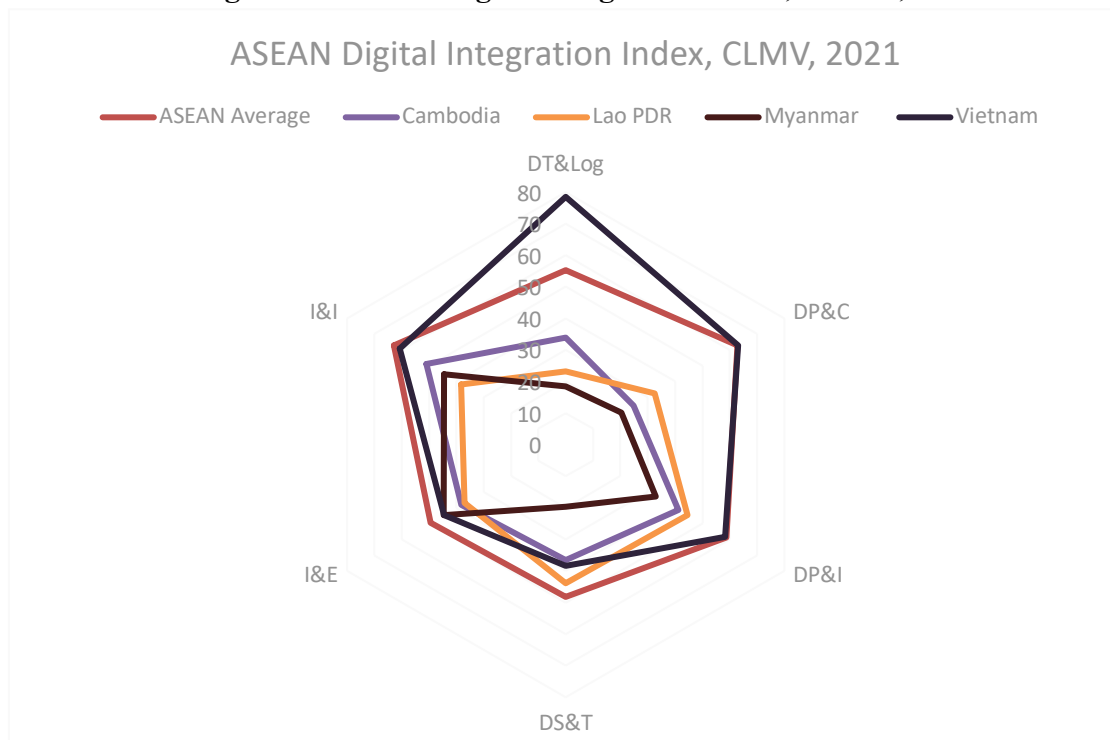
Notes: DT&Log: Digital trade and logistics, DP&C: Data Protection and security, DP&Identities: Digital payments and Identities, DS&T: Digital Skills and Talent, Innovation and Entrepreneurship, I&I: Institutional and Infrastructural Readiness

Source: <https://asean.org/wp-content/uploads/2021/09/ADII-Report-2021.pdf>

On the other hand, Cambodia, Laos PDR and Myanmar are *below* the ASEAN average for **all** six dimensions while Vietnam is below the ASEAN average for digital skills and talent, innovation and entrepreneurship and institutional infrastructural readiness (Figure 2).



**Figure 3. ASEAN Digital Integration Index, CLMV, 2021**



Notes: Notes: DT&Log: Digital trade and logistics, DP&C: Data Protection and security, DP&Identities: Digital payments and Identities, DS&T: Digital Skills and Talent, Innovation and Entrepreneurship, I&I: Institutional and Infrastructural Readiness

Source: <https://asean.org/wp-content/uploads/2021/09/ADII-Report-2021.pdf>

The disparity within the AMS reflects the different stages in their development and implies that the pace and willingness of each member country to make binding commitments will differ as well.

#### *National Initiatives*

The importance accorded to digital developments is reflected in the numerous digital economy plans in all ten AMS (Table 1). AMS are keen to develop their info-structure by improving on broadband provision and costs. The interest on getting micro, small and medium enterprises (MSMEs) in ASEAN member states to make use of digital initiatives is due to the prevalence of these enterprises in ASEAN as well as the need for enhancing inclusiveness. Likewise, there are concerns to develop digital entrepreneurship and start-ups, which has the second lowest score for ASEAN in the Digital Integration Index. There is also a specific focus on e-commerce for four of the AMS.

**Table 1. Common Themes in Digital Plans in ASEAN Member States**

Themes	BN	CAM	IND	LAO	M	MYR	PHL	SG	TH	VN
Infrastructure: Broadband		X	X	X	X		X	X	X	X
MSMEs, including their digital transformation	X	X	X	X	X				X	
Digital Entrepreneurship and Start-ups		X	X		X		X	X	X	X
E-commerce			X		X				X	X

Notes: BN: Brunei, CAM: Cambodia, IND: Indonesia, M: Malaysia, MYR: Myanmar, PHL: Philippines, SG: Singapore, TH: Thailand, VN: Vietnam

Source: *Compiled from World Bank 2019<sup>12</sup>, Erh 2021<sup>13</sup>*

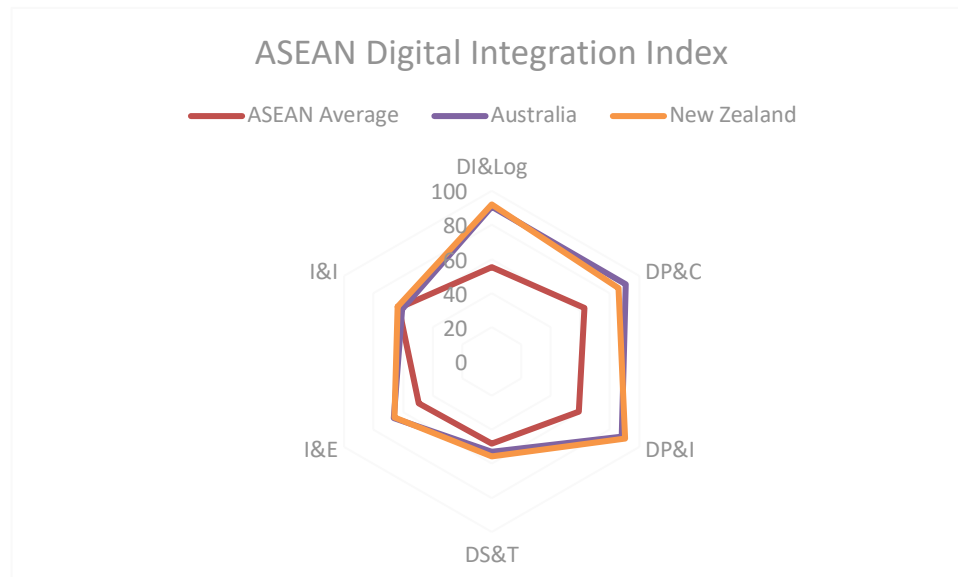
The interest in developing their respective national digital economies contribute towards the preference for building national capacities before digital integration. Enabling clauses that emphasise cooperation for capacity building and technical assistance are preferred, compared to hard commitments on market access, rules and regulations and even facilitation.

## **GOING FORWARD: DEEPENING DIGITAL COMMITMENTS IN ASEAN**

### *Upgrading of ASEAN-Plus Agreements*

ASEAN is in the midst of negotiating upgrades in several of its agreements with its Dialogue partners, including the AANZFTA, as announced at the 53<sup>rd</sup> ASEAN Economic Ministers' Meeting (AEM) in September 2021.<sup>14</sup> E-commerce is one of the eight key trading areas that will be focussed in the upgrading negotiations for the AANZFTA.<sup>15</sup> This is not surprising given the increasing importance of e-commerce and the fact that Australia and New Zealand have achieved higher scores for their digital integration index compared to the ASEAN average, as shown in Figure 4; this indicates that they will be more willing to embrace more and deeper digital commitments in trade agreements.

**Figure 4. ASEAN Digital Integration Index, ASEAN, Australia and New Zealand, 2021**



Notes: Notes: DT&Log: Digital trade and logistics, DP&C: Data Protection and security, DP&Identities: Digital payments and Identities, DS&T: Digital Skills and Talent, Innovation and Entrepreneurship, I&I: Institutional and Infrastructural Readiness

Source: <https://asean.org/wp-content/uploads/2021/09/ADII-Report-2021.pdf>

Moreover, the existing commitments as shown in Figure 1 fall far behind the current commitments of ASEAN, as at 2021. Since Australia and New Zealand are also members of the RCEP, an upgrading in e-commerce commitments can certainly strengthen digital trade ties if it aims to go beyond the current RCEP commitments. It may however be difficult to achieve the same degree of commitments as in the CPTPP since not all AMS are parties to that agreement, although some AMS have expressed an interest in joining the agreement.<sup>16</sup>

Likewise, should ASEAN FTAs with other Dialogue partners move towards upgrading, adding e-commerce provisions, similar or close to the RCEP commitments, is unlikely to meet resistance.

#### *Towards an ASEAN Digital Economy Framework*

The shift towards an ASEAN Digital Economy Framework will constitute a big shift since so far among the AMS, only Singapore has signed a Digital Economy Partnership Agreement (DEPA) with Chile and New Zealand, and a Digital Economy Agreement with Australia (SADEA), both in 2020.<sup>17</sup>

Analysis in the World Economic Forum in 2020<sup>18</sup> clearly shows that the digital provisions in both the DEPA and SADEA far exceed that of the CPTPP (See Appendix 2). The 11

additional provisions are electronic invoicing, electronic payments, cooperation on competition policy, submarine telecommunications cable, location of computing facilities for financial services, data innovation, open government data, digital identities, standards and conformity assessment for digital trade, artificial intelligence, and fintech cooperation. Given the current disparity and focus of AMS on developing their respective national digital economies, adding more and importantly, meaningful provisions can be an uphill task.

While the provision of empirical evidence may help nudge AMS towards making more and deeper commitments, there are in fact very few studies on the impact of digital commitments, primarily because such commitments are relatively new and the data needed for robust testing are sparse. A recent study indicates that Preferential Trading Arrangements (PTAs) with robust e-commerce chapters, and chapters in goods and services can increase trade in goods, services and digital services among member countries. However, the number of comprehensive agreements in the dataset is small while the time series is short. Hence, the evidence must be deemed to be preliminary.<sup>19</sup>

Empirical work tends to focus on the impact of data restrictions, mainly in developed countries and in large developing countries such as China, India and Indonesia. These do indicate that data restriction policies can affect the local economy negatively through its impact on the productivity levels of local companies, while the policies are neither able to create the new jobs expected nor develop the local industry in data-intensive sectors.<sup>20</sup> The construction of the data restrictiveness index for 46 OECD countries in a 2021 study and the use of this to measure its impact also shows that data restrictions can reduce trade, reduce productivity and increase prices for affected industries.<sup>21</sup>

What is needed to move forward is for ASEAN to build up a body of evidence that can help AMS make more informed decisions on more digital trade commitments. In particular, what is needed is a cost-benefit analysis of the impact of such commitments. For example, on the issue of customs duties, the WTO Programme on Electronic Commerce shows that while the removal of the moratorium may increase tax revenues, as argued by some developing countries, the costs in terms of gains foregone on consumer welfare and export competitiveness may outweigh the gains in tax revenues. At the same time, there are other options for raising domestic taxes internally.<sup>22</sup>

## **CONCLUSION**

Digital commitments in trade agreements have evolved over time as in other types of trade commitments. As in the case of trade in goods and services, digital commitments do not just cover market access but also rules and regulations governing the movement of digital goods and services across borders, as well as trade facilitation measures.

ASEAN's commitments in terms of the number of provisions in e-commerce have increased over time but this does not necessarily mean that the provisions have deepened. The disparity within ASEAN, alongside national policies and ambitions to develop the

individual AMS's domestic digital economy, have contributed towards the slow pace of commitments.

Upgrades in the e-commerce commitments in the AANZFTA can be expanded, guided by the RCEP. However, in advancing towards negotiating a framework for an ASEAN Digital Economy, additional provisions are needed. This requires a greater focus on gaining better empirical evidence so that AMS can make reliable cost benefit analyses on these commitments.

**Appendix**
**Table A1. E-commerce Provisions in ASEAN Agreements**

<b>E-commerce Provisions</b>	<b>AANZFTA (2010)</b>	<b>ASEAN Agreement on E-commerce (2021)</b>	<b>RCEP (2022)</b>	<b>CPTPP (2018)</b>
Objectives of Chapter	Art. 10.1	Art. 1	Art. 12.2	None
Scope of chapter	None	Art. 3	Art. 12.3	Art. 14.2
Definitions	Art. 10.2	Art. 1	Art. 12.1	Art. 14.1
Relation to the FTAs other chapters	None	Art. 4	Art. 12.3	Art. 14.2
Cooperation	Art. 10.9	Art. 6	Art. 12.4	Art. 14.15; 14.16
Transparency	Art. 10.3	Art. 13	Art. 12.12	None
Stakeholder Engagement	Art. 10.10	Art. 11	Art.12.16	None
Paperless trading	Art. 10.8	Art. 7.1	Art. 12.5	Art. 14.9
Electronic authentication and electronic signatures	Art.10.5	Art.7.2	Art. 12.6	Art. 14.6
Online consumer protection	Art. 10.6	Art. 7.3	Art.12.7	Art. 14.7
Online personal information protection	Art.10.7	Art. 7.5	Art. 12.8	Art. 14.8
Domestic Regulatory Framework	Art. 10.4	Art. 12	Art. 12.10	Art. 14.5
Dispute Settlement	Art. 10	Art. 15	Art. 12.17	Art. 14.18
Electronic Payment	None	Art. 9	None	None
Logistics	None	Art. 10	None	None
Cross-border transfer of information	None	Art. 7.4	Art. 12.15	Art.14.11
Location of Computing Facilities	None	Art. 6	Art. 12.14	Art. 14.13
Cybersecurity	None	Art. 8	Art. 12.13	Art.14.16
Customs Duties	None	None	Art.12.10	Art. 14.3
Unsolicited	None	None	Art. 12.9	Art. 14.14

Commercial Electronic Messages				
Non-discrimination of digital products	None	None	None	Art. 14.4
Source Code	None	None	None	
Principles on Access to and Use of the Internet for Electronic Commerce	None	None	None	Art. 14.10
Internet Interconnection Charge Sharing	None	None	None	Art. 14.12

Source: Author

**Table A2. Key Digital Trade Provisions in Selected Trade Agreements**

Key issues	CPTPP	DEPA	SADE A
Elimination of customs duties	Y	Y	Y
Non-discriminatory treatment of digital products	Y	Y	Y
Electronic authentication	Y	Y	Y
Paperless trading	Y	Y	Y
Domestic e-transactions	Y	Y	Y
Online consumer protection	Y	Y	Y
Personal information protection	Y	Y	Y
Measures against spam	Y	Y	Y
Cybersecurity	Y	Y	Y
Cross-border transfer of information	Y	Y	Y
Prohibition of data localization	Y	Y	Y
Cross-border transfer & localization for financial services	N	NM	Y
Liability of intermediary service providers	N	NM	NM
Non-disclosure of software source code	P	NM	Y
Open government data	N	Y	Y

Notes: Y = included; P = partially included; N = not included; NM = not mentioned.

Sources: Lovelock (2020, 31-52)<sup>23</sup> and Asian Trade Centre (2020).<sup>24</sup>



- <sup>1</sup> See [https://www.wto.org/english/news\\_e/news21\\_e/mc12\\_26nov21\\_e.htm](https://www.wto.org/english/news_e/news21_e/mc12_26nov21_e.htm) <Accessed 1 December 2021>.
- <sup>2</sup> See Weber (2015) as cited in Lee (2020), “E-commerce and Trade Policy”, Chapter 4 in Lee, C. and Lee, E. (eds.), *E-commerce, Competition and ASEAN Economic Integration*. Singapore: ISEAS.
- <sup>3</sup> Wu, Mark. 2017. Digital Trade-Related Provisions in Regional Trade Agreements: Existing Models and Lessons for the Multilateral Trade System. RTA Exchange. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and the Inter-American Development Bank (IDB). [www.rtaexchange.org/](http://www.rtaexchange.org/) <Accessed 22 November 2021>
- <sup>4</sup> Ibid, 12.
- <sup>5</sup> See [https://asean.org/wp-content/uploads/2021/09/AEM-53-JMS\\_FINAL\\_ADOPTED.pdf](https://asean.org/wp-content/uploads/2021/09/AEM-53-JMS_FINAL_ADOPTED.pdf) <Accessed 22 November 2021>.
- <sup>6</sup> It should be noted that e-commerce provisions can also be found in specific and non-specific articles, annexes and side letters in some FTAs. However these are relatively small compared to the provisions in a standalone e-commerce Chapter. For further discussions, see José-Antonio Monteiro and Robert Teh (2017). “Provisions on Electronic Commerce in Regional Trade Agreements”. WTO Working Paper ERSD-2017-11. [https://www.wto.org/english/res\\_e/reser\\_e/ersd201711\\_e.htm](https://www.wto.org/english/res_e/reser_e/ersd201711_e.htm) <Accessed 23 November 2021>.
- <sup>7</sup> Note that Malaysia has yet to ratify the agreement as at November 2021.
- <sup>8</sup> See <https://www.bilaterals.org/?important-differences-between-the> and Leblond, P. (2020). “Is RCEP WTO’s Future?” <https://www.cigionline.org/articles/digital-trade-rcep-wtos-future/> <Accessed 22 November 2021>.
- <sup>9</sup> Ibid Monteiro and Teh (2017), p. 14.
- <sup>10</sup> See Hill, H. and Menon, J. 2010. “ASEAN Economic Integration: Features, Fulfillments, Failures and the Future”. *ADB Working Paper Series on Regional Economic Integration*, No.69, December. <https://www.adb.org/sites/default/files/publication/28551/wp69-hill-menon-asean-economic-integration.pdf> <Accessed 1 December 2021>.
- <sup>11</sup> See Kurus, Bilson, 1995. “The ASEAN Triad: National Interest, Consensus-seeking, and Economic Cooperation”, *Contemporary Southeast Asia*, 16(4): 404-420.
- <sup>12</sup> The World Bank 2019. The Digital Economy in South-east Asia: Strengthening the Foundations for Future Growth. <https://openknowledge.worldbank.org/bitstream/handle/10986/31803/The-Digital-Economy-in-Southeast-Asia-Strengthening-the-Foundations-for-Future-Growth.pdf?sequence=1&isAllowed=y> <Accessed 23 November 2021>.
- <sup>13</sup> Erh, Joey 2021. Assessing Digital Economy Policies in Six Southeast Asian Countries. Perspective. ISSUE: 2021 No. 50. [https://www.iseas.edu.sg/wp-content/uploads/2021/03/ISEAS\\_Perspective\\_2021\\_50.pdf](https://www.iseas.edu.sg/wp-content/uploads/2021/03/ISEAS_Perspective_2021_50.pdf) <Accessed 23 November 2021>.
- <sup>14</sup> See [https://asean.org/wp-content/uploads/2021/09/AEM-53-JMS\\_FINAL\\_ADOPTED.pdf](https://asean.org/wp-content/uploads/2021/09/AEM-53-JMS_FINAL_ADOPTED.pdf) <Accessed 23 November 2021>.
- <sup>15</sup> See <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/asean-australia-new-zealand-free-trade-agreement-aanzfta/upgrading-aanzfta/> <Accessed 23 November 2021>.
- <sup>16</sup> These are reportedly Indonesia, and the Philippines. See <https://www.bangkokpost.com/opinion/opinion/2203475/coming-clean-on-cptpp> <Accessed 23 November 2021>.
- <sup>17</sup> See <https://www.mti.gov.sg/Improving-Trade/Digital-Economy-Agreements/The-Digital-Economy-Partnership-Agreement> and <https://www.mti.gov.sg/Improving-Trade/Digital-Economy-Agreements/The-Singapore-Australia-Digital-Economy-Agreement> <Accessed 23 November 2021>.

<sup>18</sup> See WEF 2020. *Advancing Digital Trade in Asia: Community Paper*.

[https://www3.weforum.org/docs/WEF\\_GFC\\_Advancing\\_Digital\\_Trade\\_in\\_Asia\\_2020.pdf](https://www3.weforum.org/docs/WEF_GFC_Advancing_Digital_Trade_in_Asia_2020.pdf)

<Accessed 23 November 2021>.

<sup>19</sup> See Suominen, Kati 2021. “Do CPTPP-Style Digital Trade Rules Add New Value?”

<https://www.csis.org/analysis/do-cptpp-style-digital-trade-rules-add-new-value> <Accessed 23

November 2021>

<sup>20</sup> Ferracane, Martina, F. 2021. “The Costs of Data Protectionism”, In M. Burri (ed). *Big Data and Global Trade Law* (pp.63-82). Cambridge: Cambridge University Press.

<https://www.cambridge.org/core/books/big-data-and-global-trade-law/costs-of-data-protectionism/A97AC3D1E4EAD2A8B90F33EEF605D672> <Accessed 23 November 2021>

<Accessed 23 November 2021>

<sup>21</sup> Cory, Nigel and Dascoli, Luke 2021. “How Barriers to Cross-Border Data Flows Are Spreading Globally, What They Cost, and How to Address Them”.

<https://itif.org/publications/2021/07/19/how-barriers-cross-border-data-flows-are-spreading-globally-what-they-cost> <Accessed 23 November 2021>

<Accessed 23 November 2021>

<sup>22</sup> See <https://sdg.iisd.org/news/wto-members-highlight-benefits-and-drawbacks-of-e-commerce-moratorium/> <Accessed 23 November 2021>

<sup>23</sup> Lovelock, Peter 2020. Chapter 2: The New Generation of ‘Digital’ Trade Agreements: Fit for

Purpose? <https://www.pecc.org/state-of-the-region-reports/287-2020-2021/888-chapter-2-the-new-generation-of-digital-trade-agreements-fit-for-purpose> <Accessed 1 December 2021>.

<Accessed 1 December 2021>.

<sup>24</sup> ATC 2020. Unpacking the Digital Economy Partnership Agreement. (DEPA).

<http://asiantradecentre.org/talkingtrade/unpacking-the-digital-economy-partnership-agreement-depa> <Accessed 1 December 2021>.

<Accessed 1 December 2021>.

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