

Policy Brief No. 20

Indonesia's Strategies for Joining the ASEAN Digital Economy Framework Agreement

by Hasran and Karima Tausiah



Key Messages

- This policy brief presents the possible contents of DEFA by mapping relevant elements of the digital economy from existing agreements. The mapping indicates areas with extensive coverage by existing regional arrangements (cross-border paperless trade, cyber security, e-commerce, digital payment, digital ID, and personal data protection) and areas and issues that are less regulated by regional arrangements (digital inclusivity, emerging technology, and climate).
- Indonesia should map out areas of strength and weakness in domestic regulation and system interoperability on the possible content of DEFA. For the areas of strength, where domestic laws and system interoperability exist, or joint commitments and initiatives for harmonization within the region are underway, the directorate should push for strong cooperation and binding commitments in the agreement. Meanwhile, a more moderate approach should be proposed for less developed areas regarding regulatory frameworks and interoperability.
- This policy brief identified strengths in data protection, digital payment, cross-border e-commerce, digital ID, and cross-border paperless trade. For each area, the following actions should be considered during negotiations:
 - First, concerning cross-border e-commerce, Indonesia should suggest the avoidance of unnecessary barriers related to electronic commerce within each ASEAN Member States (AMS) domestic regulation.
 - Second, regarding cross-border data flow, Indonesia should propose removing restrictions on data transfers across borders, especially when the purpose is to facilitate business activities.
 - Third, regarding the digital ID component, Indonesia should advocate for establishing common principles for introducing digital ID systems or mutual recognition of digital IDs that all AMS can utilize.
 - Fourth, concerning paperless trade, Indonesia should recommend fully implementing e-form D to enhance trade efficiency within ASEAN.
 - Lastly, Indonesia should promote the interoperability and interconnection of digital payment systems in the ASEAN region.

Describing DEFA: Objective and its Key Elements

Background and Objectives of DEFA

Integration is essential for ASEAN to achieve sustainable growth, narrow the gap in economic growth, and reskill and upskill the human resources among AMS. Efforts to enhance this integration have been made since 1992 when the ASEAN Leaders mandated the creation of the ASEAN Free Trade Area (AFTA). Since then, several new initiatives have emerged, including the ASEAN Vision 2020 in 1997, the Hanoi Plan of Action (HPA) in 1998, the Declaration of ASEAN Concord II in 2003, the AEC Blueprint 2015 in 2007, and the AEC Blueprint 2025 in 2015 (ASEAN, 2021a). In these initiatives, integration is mainly carried out by facilitating market access, especially for trade, services, investment for physical goods, and the Movement of Natural Persons (MNP).

ASEAN has achieved strong integration in market access for physical goods but not for its digital market. Despite working on digital integration for nearly two decades, ASEAN has no Digital Economy Agreement (DEA) signed by its member states. ASEAN commitments regarding digital transformation are spread across conventional trade agreements, including the ASEAN Single Window (ASW) Agreement, the ASW Protocol, the Agreement between ASEAN, Australia, and New Zealand (AANZFTA), the ASEAN Agreement on Electronic Commerce (E-commerce Agreement), and the Regional Comprehensive Economic Partnership (RCEP). While the number of provisions regarding digital integration has increased over the years, commitments in previous agreements are not necessarily binding because of disparities between the AMS (Yean, 2021).

The regional bloc accelerated its digital integration and transformation efforts after the COVID-19 crisis hit the economy in early 2020. In 2021, ASEAN member states joined forces to establish the ASEAN Digital Masterplan (ADM) 2025. While one objective of the ADM is to speed up ASEAN's recovery from COVID-19, its overall goal is to make ASEAN a leading digital community and economic bloc powered by secure and transformative digital services, technologies, and ecosystems (ASEAN, 2021b). In 2022, ASEAN leaders agreed to sign the Bandar Seri Begawan Roadmap (BSBR), which requires members to begin negotiations for the ASEAN DEFA (ASEAN, 2021c). The BSBR scheduled negotiations to begin in 2025, but at the 41st ASEAN Summit in November 2022, leaders agreed to bring forward the date to September 2023, with the expectation that negotiations will be completed by 2025.

DEFA is expected to be the first DEA signed by all AMS, though there have been DEAs in Southeast Asia that involve only Singapore with other developed countries (i.e., UKSDEA and SADEA). Unlike conventional free trade agreements (FTAs), which focus more on market access, DEAs aim to facilitate international collaboration on wide-ranging issues such as cross-border data flows, personal data protection, AI governance, and digital ID systems (Wihardja and Rohman, 2023).

To transform the region into a leading digital community and economic bloc, as envisioned in the ASEAN Digital Master Plan 2025, DEFA aims to lay the groundwork for a secure and interconnected ASEAN digital economy while deepening the existing digital economy cooperation under ASEAN (Sefrina, 2021). Hence, in addition to including the novel issues on the digital economy, DEFA will continue and clarify ASEAN's commitments related to the digital economy that existed in previous trade agreements and, where possible, make those commitments more binding¹.

¹ The term "binding commitment" implies that the parties involved must carry out specific actions, adhere to predefined rules, or adopt agreed-upon measures as outlined in DEFA. For instance, Article 3.2 of UKSDEA and Article 5 of SADEA on customs duties state that no party can levy customs duties on electronic transmissions, including electronically transmitted content. Failure to fulfill binding commitments can lead to legal consequences.



Possible Contents of DEFA

Even though negotiations are still ongoing, two sources may give insight into the possible content of DEFA. First, DEFA may incorporate the elements outlined in prior ASEAN-level agreements to match AMS's development stage and digital readiness (Interview 1), though these commitments should be improved and strengthened (ASEAN, 2023). By referring to the previous agreement, DEFA will accommodate the existing commitments and ensure that these commitments represent the development stage of each AMS. Second, DEFA may incorporate new elements from agreements signed between its members and developed countries or other extra-ASEAN agreements (Interview 1). These outside agreements provide ambitious and forward-looking content that can become the basis for potential future joint digital economy agreements between ASEAN and other developed countries. These two sources will help identify areas that could be included in DEFA and provide information about the negotiation process.

The existing intra-ASEAN Agreements that cover commitment to digital transformation are the ASW Agreement, ASW Protocols, and the E-commerce Agreement. The ASW Agreement and ASW Protocols cover paperless trade, while the E-commerce Agreement covers the remaining areas of cross-border e-commerce, digital payment, digital ID, cyber security, and data protection (ASEAN, 2005; ASEAN, 2006; ASEAN, 2019). There are different levels of commitment in these intra-ASEAN agreements. Commitment to paperless trade is quite strong because the ASW Agreement and ASW protocol require establishing an ASEAN Single Window² and a national single window for each AMS. On the other hand, commitments under the E-commerce Agreement lack ambition, as it does not obligate each AMS to engage in certain practices or go far enough to promote substantial improvements in the existing digital transformation commitments (Interview 1).

Elements of DEFA may also be inferred from some advanced agreements between ASEAN member states and several developed countries outside the region to accommodate more complex issues. These agreements can take either the form of conventional trade agreements (i.e., RCEP, AANZFTA, Digital Economy Partnership Agreement or DEPA, and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership or CPTPP) or digital economy agreements (DEA), such as UKSDEA and SADEA. Those DEAs include content regarding paperless trade, cross-border e-commerce, cybersecurity, data protection, digital ID, digital payment, emerging technology, and digital inclusivity that could be incorporated into DEFA (MTI Singapore, 2020). Meanwhile, novel issues like talent mobility and climate, which are commonly absent in DEAs, can be sourced from the existing conventional FTA, such as CPTPP, UMSCA, RCEP, and AANZFTA (ASEAN, 2022; AANZFTA, 2008; Department of Foreign Affairs and Trade Australian Government, 2018; Office of the US Trade Representative, 2020).

² A Single Window provides a centralized platform where businesses can submit all necessary information for import, export, or transit requirements, streamlining the process and reducing administrative burdens. To simplify trade documents among ASEAN countries, the ASEAN Single Window (ASW) was introduced.

Table 1.
Potential elements for ASEAN DEFA

	Intra ASEAN			Extra ASEAN						
	AEA	ASW	ASW Protocol	RCEP	AANZFTA	DEPA	CPTPP	USMCA	UKSDEA	SADEA
Cross-Border Paperless Trade <ul style="list-style-type: none"> • Interoperable single window • Expedited customs processes • Open government documents 	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cross-Border E-commerce <ul style="list-style-type: none"> • Fair treatment of digital goods and services • Facilitation for cross-border small shipments • Dispute settlements • Logistics 	✓			✓	✓	✓	✓	✓	✓	✓
Cyber Security and Online Safety <ul style="list-style-type: none"> • Fraud protection • Alignment of cybersecurity standards and protections • Cross border cooperation 	✓			✓	✓	✓	✓	✓	✓	✓
Data Protection and Privacy <ul style="list-style-type: none"> • Online consumer protection • Unsolicited commercial electronic messages • Personal data protections • Common data classifications • Source code • Cross-border data flows • Location of computing facilities 	✓	✓	✓	✓		✓	✓	✓	✓	✓
Digital ID and Authentication <ul style="list-style-type: none"> • Technical interoperability • Mutual recognition & legal standing 	✓			✓	✓	✓	✓	✓	✓	✓
Talent Mobility and Building <ul style="list-style-type: none"> • Labor mobility • remote working for digital talents and entrepreneurs • Re-skilling, up-skilling, and lifelong learning support • Accreditation 				✓	✓		✓	✓		
ICT Infrastructure <ul style="list-style-type: none"> • Network infrastructure accessibility and affordability • User device standards and regulation 	✓		✓			✓	✓	✓		
Digital Payment and E-invoicing <ul style="list-style-type: none"> • Interoperable e-invoicing systems • Comparable regulatory requirements & barriers 	✓					✓			✓	✓
Emerging Technologies <ul style="list-style-type: none"> • Artificial intelligence 						✓			✓	✓
Digital Inclusivity <ul style="list-style-type: none"> • SMEs' capability building and cooperation • Trade and investment opportunities 				✓	✓	✓	✓	✓	✓	✓
Climate <ul style="list-style-type: none"> • Environment Protection cooperation 							✓	✓		
Dispute Settlement	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Source: ASEAN official documents, processed by authors. Check mark (✓) means the element is discussed in the document.

Based on the contents of these existing agreements (Table 1), it is evident that cross-border paperless trade, cross-border e-commerce, data protection and privacy, and cybersecurity have been extensively covered in the existing ASEAN agreements. Meanwhile, more discussions are still needed to cover aspects that have yet to be covered in intra-ASEAN agreements but are highly relevant in some extra-ASEAN agreements, such as digital identity, talent mobility, ICT infrastructure, and digital payment. Moreover, more novel issues such as emerging technologies, digital inclusivity, and climate still leave a gap that can be explored further in DEFA negotiations.

Indonesia's Strategy: Focusing on Strengths

Within the ASEAN region, Indonesia has the highest digital economic market potential. Measured using the total value of merchandise sold through a customer-to-customer (C2C) exchange sites (gross merchandise value), Indonesia's digital economy is predicted to grow from US\$77 billion in 2022 to US\$130 billion in 2025 (Google, Temasek, & Bain 2022). Investment in Indonesia also suggests high market potential. Google, Temasek, & Bain (2022) reported that Indonesia received 34% of the digital economy investment in ASEAN member states in 2021, making it the second favorite investment destination after Singapore (43%). Most of this investment comes from other ASEAN countries, such as Singapore and Malaysia, and extra-ASEAN countries, such as the United States, China, the European Union, and the United Kingdom (ASEAN & UNCTAD, 2022).

An appropriate strategy is needed if Indonesia wants to use DEFA to optimize its digital economy potential. An interview with an official from the Ministry of Trade suggested that given the time constraints for finishing the negotiation and the numerous elements to be addressed within DEFA, Indonesia should map out specific priority elements for negotiation. This mapping should be grounded in regulatory readiness³ and system interoperability⁴ (Interview 1). Components that are well-prepared regarding regulations and interoperability will enable the country to optimize benefits from the agreement (Interview 1).

Indonesia should advocate for the interoperability of digital payment systems in ASEAN. This interoperability will allow participants to clear and settle financial transactions without using various payment systems, resulting in faster, less expensive, and more trustworthy cross-border transactions. To enable digital payment interoperability, each AMS must establish domestic regulations and standardize its operating messages using ISO20022⁵ (Interview 2). Fortunately, in Indonesia, the relevant regulation is comprehensive, spread among four payment initiatives introduced by the Bank of Indonesia: Quick Response (QR) Code, real-time payment method (BI-FAST), national payment gateway, and payment interface, while the ISO 20022 format message standard also supports QR Code and Bi-Fast (Bank Indonesia (BI), 2019). Moreover, interoperability on the ASEAN level is progressing well because other AMS have also begun or plan to use the same format standard on their digital payment (Sinay et al., 2021). Given its readiness and other AMS developments, Indonesia could leverage the DEFA negotiation to strengthen collaboration on digital payment interoperability (Interview 2).

Another priority for Indonesia in DEFA negotiations is cross-border e-commerce. Besides having the most significant transaction value in ASEAN in 2021 (Google, Temasek, & Bain 2022), Indonesia's e-commerce sector has been supported by fairly comprehensive domestic regulations. These regulations encompass customs clearance and taxation (Ministry of Finance (MOF) Regulation No. 96/2023, 2023), logistics (MOF Regulation No. 28/2018, 2018), non-discrimination on digital goods (MOF Regulation No. 190/2022, 2022), payment methods, consumer online protection, and e-commerce dispute settlement (Government Regulation No. 80/2019, 2019). However, some restrictions also exist, such as a prohibition on importing goods through e-commerce with a unit

³ Regulatory readiness refers to a situation where domestic regulations have sufficiently discussed the possible content of DEFA, aligning with international standard.

⁴ Interoperability allows participants in various systems to clear and settle transactions without involvement in multiple systems. Achieving system interoperability requires standardized protocols, data formats, and interfaces to ensure seamless communication and data exchange among different systems.

⁵ ISO 20022 is a flexible standard for financial messages that enables interoperability between financial institutions, market infrastructures, and banks' customers.

value of less than US\$100 (Ministry of Trade (MOT) Regulation No. 31/2023, 2023). This restriction should be lifted since it will constrain e-commerce growth (Catriana & Djumena, 2023). Moreover, Indonesia should advocate that such regulations will not be introduced in the near future, both domestically and in other AMS regulations. To do so, during the DEFA negotiation, Indonesia should suggest that ASEAN avoid unnecessary restrictions in their domestic regulations on cross-border e-commerce.

Third, to ensure digital trust in cross-border e-commerce and payments, Indonesia should advocate for a discussion on digital ID during DEFA negotiations. Digital ID is the electronic representation of an individual's identity, encompassing attributes, credentials, or information stored and verified digitally. Digital ID is essential for ASEAN's digital integration because it facilitates greater access to e-commerce and digital payments domestically and throughout the ASEAN region (UNCTAD, 2022). The success of digital ID implementation relies on domestic regulations and system interoperability (Domeyer et al., 2020). Currently, from a regulatory standpoint, digital ID in Indonesia is governed by the Ministry of Home Affairs Regulation No. 72/2022, while its interoperability aspects, such as technical standards, are based on the international standard (Ministry of Home Affairs Regulation No. 72/2022, 2022). Considering the importance of digital ID and Indonesia's readiness, a discussion of digital ID as part of DEFA negotiations should be proposed (Suvannaphakdy, 2022). Indonesia can direct the discussion on the establishment of common principles for introducing a digital ID in ASEAN or developing mutual recognition of digital ID that all AMS can utilize, which aligns with initiatives outlined in the ASEAN Digital Master Plan 2025 (ASEAN, 2021b).

Cross-border e-commerce and payments involve data transfer, and Indonesia should push for a discussion of cross-border data in DEFA. This discussion should provide suggestions to remove restrictions on data transfers across borders when the purpose is to facilitate business activities. Indonesia has made this data transfer feasible by enacting its Personal Data Protection Law in 2022, making it the sixth ASEAN country to pass a PDP law (Zico Law, 2020). In its regulation, Indonesia allows the transfer of data out of Indonesian territory, provided it meets three conditions: (i) the sending party must ensure that the recipient party's country has a personal data protection level equal to or higher than the provisions in the PDP Law; (ii) the sending party must ensure the presence of adequate and binding data protection; and (iii) if the first and second requirements are not met, the last option is to obtain consent from the data subject before conducting the cross-border transfer (Law No. 27/2022, 2022). Fortunately, these requirements are aligned with the ASEAN Model Contractual Clauses for Cross-Border Data Flows (MCCs), a framework that provides guidelines for AMS in designing their cross-border data flow regulations and policies. With this alignment, improving data transfers with other AMS should be a valuable effort.

Finally, in DEFA negotiations, Indonesia should propose the full implementation of e-Form D (Electronic Certificate of Origin, or e-COO) through the ASEAN Single Window. e-Form D is an electronic certificate of origin under the ASEAN Trade in Goods Agreement (ATIGA) and specifies the country of origin for the goods involved in international trade transactions among AMS. Promoting full implementation of e-Form D aligns with the ASEAN Single Window's goal of integrating trade administration processes among AMS and was also one of Indonesia's top economic priorities during the ASEAN Summit in May 2023⁶ (Interview 3 & ASW, 2023). Promoting e-Form D will accelerate customs processes, reduce bureaucracy, and enhance efficiency in international trade (ESCAP, 2018). Although all AMS have engaged in electronic certificate exchanges, only Indonesia, Malaysia, Singapore, Thailand, and Vietnam have fully implemented electronic exchanges without hard copy document backups (ASW, 2020). Indonesia can seize the momentum in DEFA negotiations to further promote the full implementation of e-Form D.

Indonesia can encourage more robust cooperation and binding commitment for areas with available regulatory frameworks and system interoperability. Indonesia should also propose a more moderate approach for less developed areas regarding regulatory frameworks and interoperability, such as implementing grace periods to allow AMS to develop/update regulations. To borrow an example from the RCEP agreement, Laos, Brunei, and Myanmar are not required to apply the rules in the electronic signature clause and regulations regarding personal data protection and unsolicited commercial electronic messages in the RCEP e-commerce chapter for five years after the date of entry into force of the RCEP Agreement.

⁶ During the 43rd ASEAN Summit, Indonesia advocated for fully implementing e-Form D no later than December 30 2023 (Interview 3).

Conclusion and Policy Recommendations

The ASEAN Digital Economy Framework Agreement (DEFA) will be the first digital economy agreement (DEA) that is signed by all ASEAN Member States (AMS). Its primary objective is to strengthen cross-border collaboration on the digital economy in ASEAN. Beyond addressing novel issues in the digital realm, DEFA will continue and clarify ASEAN's commitments related to the digital economy that existed in previous trade agreements and, if possible, make those commitments more binding. The elements of DEFA may come from two sources: existing ASEAN-level agreements and agreements signed between ASEAN members and extra-ASEAN developed countries. This new agreement shows that ASEAN is serious about working together for a better digital future within the region and on the global stage.

This policy brief has presented the possible contents of DEFA by mapping relevant elements of the digital economy from existing agreements. The mapping indicates areas with extensive coverage by existing regional arrangements (cross-border paperless trade, cyber security, e-commerce, digital payment, digital ID, and personal data protection) and areas and issues that are less regulated by existing regional arrangements (digital inclusivity, emerging technology, and climate).

An appropriate strategy is needed if Indonesia wants to use DEFA to optimize its digital economy potential. In this case, The Directorate of ASEAN Negotiations of the Ministry of Trade (MOT), as Indonesia's representative in negotiations, should assess the strengths and weaknesses with respect to the possible content of DEFA. For areas of strength, where domestic laws and system interoperability exist, or joint commitments and initiatives for harmonization within the region are underway, the directorate should push for strong cooperation and binding commitments. Meanwhile, a more moderate approach should be proposed for less developed areas regarding regulatory frameworks and interoperability. For example, Indonesia should propose a grace period on these less developed elements to give more time for Indonesia to update its regulations and system interoperability accordingly.

This policy brief also identified these strengths in data protection, digital payment, cross-border e-commerce, digital ID, and cross-border paperless trade. For each area, the following actions should be considered during negotiations.

First, concerning cross-border e-commerce, Indonesia should suggest the avoidance of unnecessary barriers related to electronic commerce in AMS domestic regulations.

Second, regarding cross-border data flow, Indonesia should propose removing restrictions on data transfers across borders, especially when the purpose is to facilitate business activities.

Third, regarding the digital ID component, Indonesia should advocate for establishing common principles for introducing digital ID systems or mutual recognition of digital IDs that all AMS can utilize.

Fourth, concerning paperless trade, Indonesia should recommend fully implementing e-form D to enhance trade efficiency within ASEAN.

Lastly, Indonesia should promote the interoperability and interconnection of digital payment systems in the ASEAN region.

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Interview Lists

Interview 1: Indonesia's Readiness in Embracing the ASEAN Digital Economy Framework Agreement (DEFA), Direktorat Perundingan ASEAN (2023, April 14). Personal Communication

Interview 2: Open finance and digital payment in Indonesia. Bank Indonesia (2023, April 15). Personal Communication

Interview 3: Indonesia's Readiness in promoting cross-border trade. Lembaga Nasional Single Window (2023, Mei 25). Zoom Interview

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CIPS

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ABOUT THE CENTER FOR INDONESIAN POLICY STUDIES

Center for Indonesian Policy Studies (CIPS) is a strictly non-partisan and non-profit think tank providing policy analysis and practical policy recommendations to decision-makers within Indonesia's legislative and executive branches of government.

CIPS promotes social and economic reforms that are based on the belief that only civil, political, and economic freedom allows Indonesia to prosper. We are financially supported by donors and philanthropists who appreciate the independence of our analysis.

KEY FOCUS AREAS:

Food Security & Agriculture: To enable low-income Indonesian consumers to access more affordable and quality staple food items, CIPS advocates for policies that break down the barriers for the private sector to openly operate in the food and agriculture sector.

Education Policy: The future of Indonesia's human capital need to be prepared with skills and knowledge relevant to the 21st century. CIPS advocates for policies that drive a climate of healthy competition amongst education providers. Such competition will drive providers to constantly strive to innovate and improve education quality for the children and parents they serve. In particular, CIPS focuses on the improvement of operational and financial sustainability of low-cost private schools who serve the poor.

Economic Opportunities: CIPS advocates for policies that expand economic involvement and opportunities for Indonesian entrepreneurs and businesses; as well as for policies that open wider opportunities for low-income Indonesians to access decent incomes and create wealth.

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