

# Seizing Asean's digital moment

**Policies must promote further regional integration  
and national development**

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Much has been said about Asean's digital potential – the 2022 e-Conomy report (by Temasek, Bain and Google) predicts that the region's digital economy is poised to reach US\$1 trillion (RM4.65 trillion) by 2030, driven by a large young tech-savvy population, ubiquity of mobile internet and services-driven economies.

While the pandemic served as a catalyst, it also revealed vulnerabilities within and between Asean member states. This underscored the need for cohesive policies and regional frameworks to govern the growing digital economy.

To begin, several member states have either introduced or elaborated on various digital regulations after the pandemic, particularly privacy laws, in line with the 2016 Asean Framework on Personal Data Protection.

Indonesia's personal data protection law, which provides guidance on data ownership and usage, came into effect on 17 October 2022. The Personal Data Protection Committee of Thailand provided greater clarity on the guidelines of its Personal Data Protection Act, which came into effect on 1 June 2022 after being postponed for two years.

Similarly, Vietnam issued Decree 53 on 15 August 2022 to provide guidance on its controversial cybersecurity law and recently promulgated its Personal Data Protection Decree on 17 April 2023. In addition, some member states are also experimenting with regulatory and executive action on data traffic and platforms.

The shift towards services-driven trade has spurred the need for further mechanisms to facilitate our trade-dependent economies. For example, the duty-free movement of machinery, vehicles or electronics increasingly depends on data access – be it streamlining the verification of these goods at the customs checkpoints or cloud functionalities that enable them to function.

Existing Asean-level frameworks and external trade agreements must capture these developments or become obsolete. For instance, Asean mutual recognition agreements on tourism and regulated occupations are unable to operate fully without cross-border data flows, while the digitalisation of customs is essential for an operational Asean single window.

### **Leveraging on partners**

Individually, Asean member states recognise the importance of cooperation with dialogue partners



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to capitalise on opportunities to grow their digital economies. This includes addressing external divergences; leveraging on like-minded partners to protect and secure their interests in global governance; and drawing support for infrastructure development and innovation.

In relatively nascent areas like emerging technologies, such as AI and 5G networks, dialogue partners can offer R&D, capacity building and investments. These arrangements can also offer support in strategic objectives, especially on cooperation with binding commitments that provide greater certainty and clarity to trade.

This is exemplified through the various bilateral or plurilateral trade agreements adopted over the last few years. For example, Singapore pioneered the Digital Economy Partnership Agreement (DEPA) with New Zealand and Chile in 2020, which has since been acceded by Korea (2023).

There has also been progress in the ratification of regional agreements equipped with chapters on digital trade – albeit with different degrees of enforceability – like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and Regional Comprehensive Economic Partnership (RCEP).

Such enforceable contracts are atypical to Asean cooperation where consensus-building is the norm. Member states are also at different stages of their digitalisation journey, resulting in diverging national priorities and sensitivities. For example, despite the principal alignment among member states on privacy, its effective enforcement is an issue which must be addressed. Similarly, cybersecurity and domestic champions are issues that divide member states.

Paradoxically, such divergences may result in a scenario where Asean is better integrated with its external partners than with each other. As we have seen, many member states are currently at a turning point on digital rules and standards, which necessitates Asean-level mechanisms to manage our internal divergences from becoming unbridgeable.

Selectively and partially incorporating some Asean countries into external mechanisms driven by the US and the European Union will not suffice, given that these countries have different priorities.

For example, the Apec Cross-Border Privacy Rules and EU Adequacy Decisions under the General Data Protection Regulation differ significantly in their approaches to cross-border data flows. Similarly, the divergence between EU free-trade agreements (FTAs) and digital chapters in the Indo-Pacific Economic Framework and CPTPP enable vastly differently outcomes.

While member states are unable to and should not wait for Asean consensus to pursue bilateral FTAs or digital agreements, our internal mechanisms must keep even pace. Leveraging on Asean-led mechanisms will be powerful political signals.

This includes expanding on existing memorandums of understanding between member states to deepen cooperation and strengthen trust and utilising the Digital Economy Framework Agreement (DEFA) study to determine priorities and understand sensitivities between member states, establishing a baseline for negotiations in the coming year.

### Multi-track approach

Asean's digital future will be unleashed through a multi-track approach: building on external agreements involving dialogue partners, while working within Asean to strengthen internal mechanisms.

Conceptually, Asean member states will localise concepts like Society 5.0, Industry 4.0 and Data Free Flow with Trust (DFFT) and adapt them to its own circumstances through domestic policies. They will also continue to negotiate bilateral FTAs to ensure a certain level of openness so that local businesses can scale beyond national borders without unjustified and arbitrary barriers.

In particular, DEPA and similar bilateral Digital Economy Agreements (DEA) (e.g. signed by Singapore with Australia and the UK) will help serve as pathfinders to engage with strategic partners to

promote long-term convergence while country-specific transfer mechanisms will enable trusted data flows.

Concurrently, greater focus needs to be given to raising the standards on enforcement to build a pathway towards a Digital Asean. The launch of Digital Economic Framework Agreement, and the implementation of the Asean Model Contractual Clauses seek to reconcile member states' respective approaches to data governance.

This topic requires further discussion to ensure that data governance laws protect sufficiently national interests but do not become impediments to further Asean integration and national development, especially considering our unique challenges to create jobs, secure our infrastructure and boost productivity through AI. These discussions will be integral to not just DEFA, but common visions like the Asean Digital Community 2045.



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