

Expert Meeting on

CYBERLAWS AND REGULATIONS FOR ENHANCING E-COMMERCE:  
INCLUDING CASE STUDIES AND LESSONS LEARNED

25-27 March 2015

ASEAN e-Commerce and its Legal Infrastructure

By

Budi Yuwono

Association of Southeast Asian Nations

The views reflected are those of the author and do not necessarily reflect the views of UNCTAD



# ASEAN e-Commerce and Its Legal Infrastructure

**Budi Yuwono**  
*Infrastructure Division*  
*ASEAN Secretariat*

**Expert Meeting on Cyberlaws and Regulations for Enhancing e-Commerce**  
**25–27 March 2015, Geneva, Switzerland**



# KEY MESSAGES

- Overview of ASEAN
- E-Commerce Development and Challenges in ASEAN
- ASEAN e-Commerce Legal Infrastructure Harmonization.



# OVERVIEW OF ASEAN

- Founding: 8 August 1967 by Indonesia, Malaysia, the Philippines, Singapore and Thailand
- Enlargement: Brunei Darussalam (1984); Viet Nam (1995); Lao PDR and Myanmar (1997); and Cambodia (1999)
  
- The ASEAN Charter: 15 December 2008
  
- Ultimate goal: The ASEAN Community in 2015
- A Community based on three pillars:
  - ASEAN Political and Security Community (APSC)
  - ASEAN Socio-Cultural Community (ASCC)
  - ASEAN Economic Community (AEC)



# E-COMMERCE IN ASEAN

- Industry in its infancy



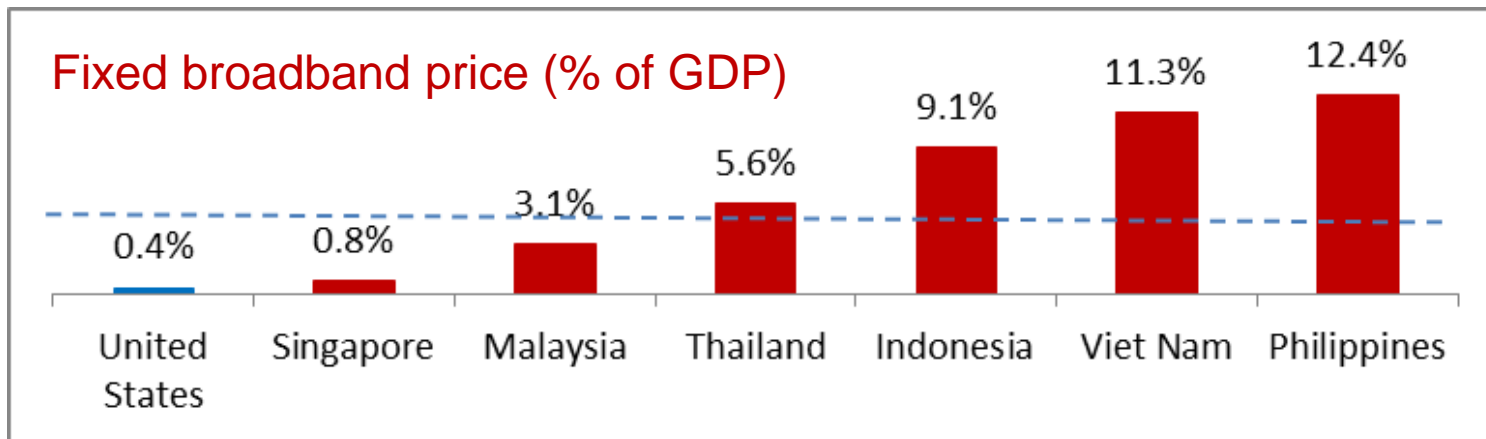
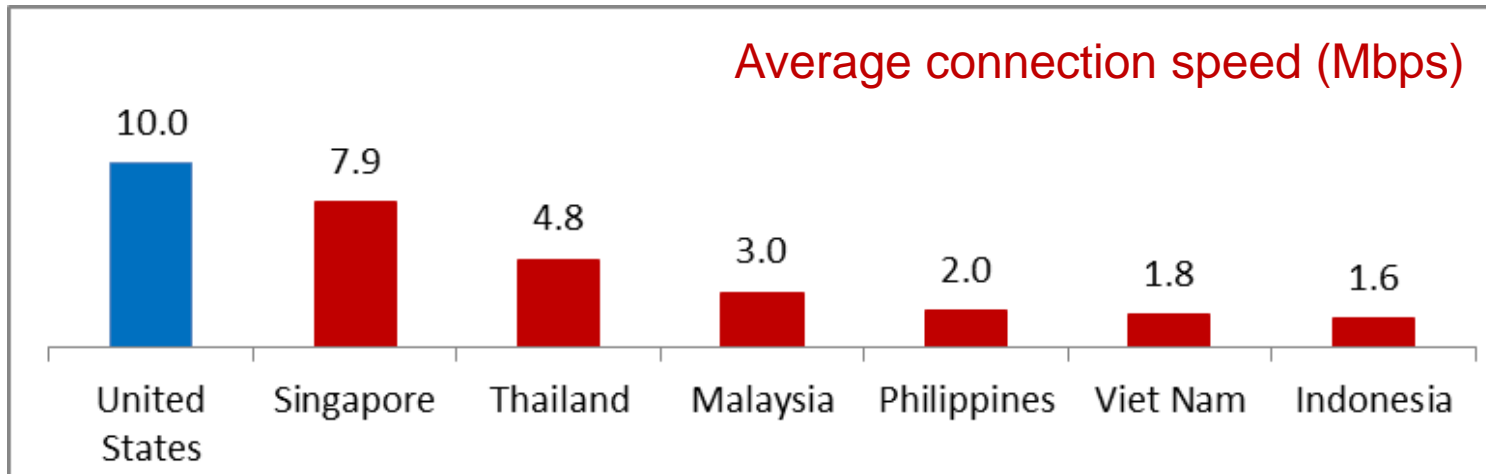
Sources: Frost & Sullivan, A.T. Kearney analysis

- ASEAN e-commerce market is expected to grow at least twice as fast as markets in other regions.



# CHALLENGES

- Limited broadband access

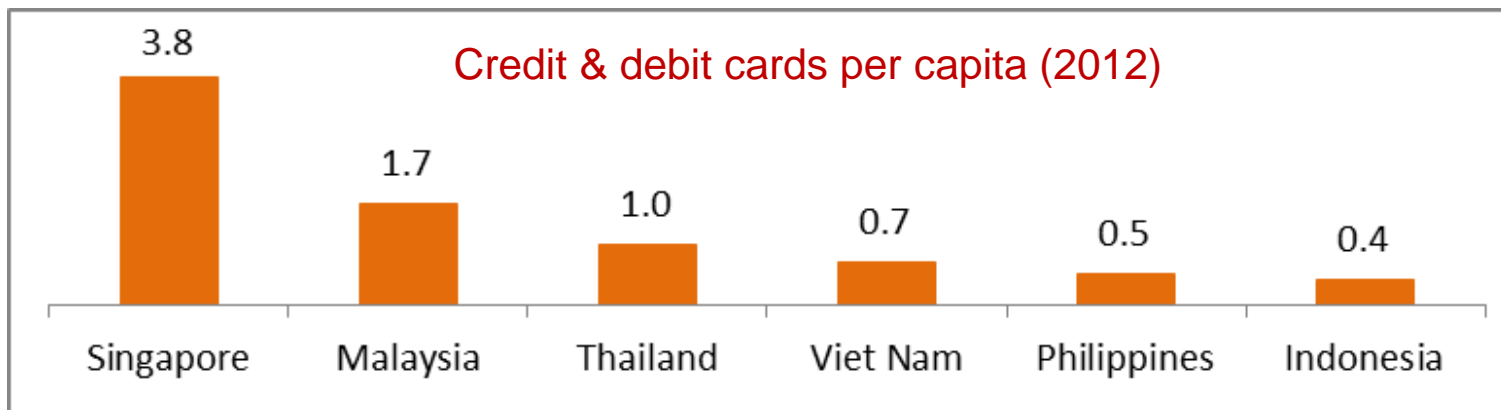
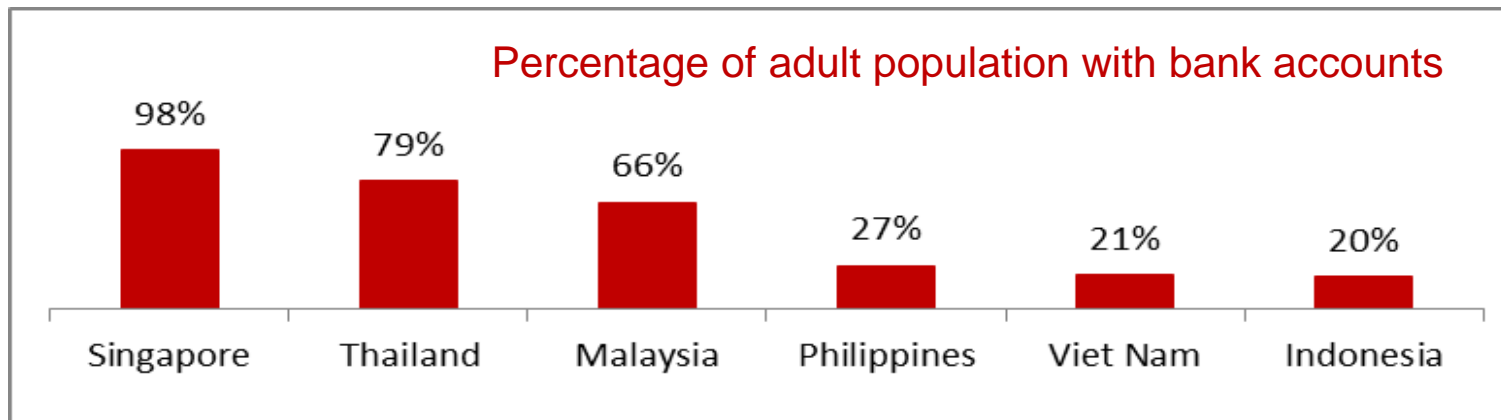


Sources: ITU, Akamai, A.T. Kearney analysis



# CHALLENGES

- Low e-payment penetration and bankability



Sources: World Bank, Economist Intelligence Unit



# CHALLENGES

- Inefficient logistics
  - Inadequate infrastructure
  - Inconsistent and time-consuming custom procedures



Sources: Duty Calculator, A.T. Kearney analysis





# CHALLENGES

- Lack of trust and confidence
  - *Cybercrime*
    - Indonesia, Malaysia, Philippines, and Thailand are among the 10 countries most threatened by cyber attacks; Indonesia is the top source of cyber-attack traffic.
  - *Dispute resolution*
    - There is yet any common framework for cross-border dispute resolution and cybercrime enforcement.
  - *Regulatory gap among member states*
    - Important pieces of legislation are still missing in some member states, including e-payment regulation.



# CHALLENGES

- Bridging the regulation gap

**Table 1. Status of e-commerce law harmonization in ASEAN as of March 2013**

Member Country	Electronic Transactions	Privacy	Cybercrime	Consumer Protection	Content Regulation	Domain Names
Brunei Darussalam	Enacted	None	Enacted	Partial	Enacted	Enacted
Cambodia	Draft	None	Draft	None	Draft	Enacted
Indonesia	Enacted	Partial	Enacted	Partial	Enacted	Enacted
Lao People's Democratic Republic	Enacted	None	None	Draft	Enacted	Partial
Malaysia	Enacted	Enacted	Enacted	Enacted	Enacted	Enacted
Myanmar	Enacted	None	Enacted	Enacted	Enacted	Enacted
Philippines	Enacted	Enacted	Enacted	Enacted	None	Enacted
Singapore	Enacted	Enacted	Enacted	Enacted	Enacted	Enacted
Thailand	Enacted	Partial	Enacted	Enacted	Partial	Partial
Viet Nam	Enacted	Partial	Enacted	Enacted	Enacted	Enacted

Source: UNCTAD



# REGIONAL HARMONISATION

- Main approach: taking UNCITRAL Model Laws for electronic transaction and electronic signature as the common reference
  - The e-ASEAN Reference Framework for e-Commerce Legal Infrastructure (2001)
- Accelerated by the regional economic integration in the establishment of ASEAN Economic Community (AEC)
  - Towards a single market and production base
  - ASEAN Free Trade Agreement with Dialogue Partners (e.g., AANZFTA which includes a chapter on e-commerce)



# AEC BLUEPRINT

## ASEAN ECONOMIC COMMUNITY

### Strategic Schedule

#### SINGLE MARKET AND PRODUCTION BASE

Free flow of goods

Free flow of services

Free flow of investment

Freer flow of capital

Free flow of skilled labor

Priority Integration Sectors

Food, Agriculture and Forestry

#### COMPETITIVE ECONOMIC REGION

Competition policy

Consumer Protection

Intellectual Property Rights

Infrastructure development

Taxation

e-Commerce

#### EQUITABLE ECONOMIC DEVELOPMENT

SME development

Initiative for ASEAN Integration (IAI)

#### INTEGRATION INTO THE GLOBAL ECONOMY

Coherent Approach towards External Economic Relations

Enhanced participation in global supply networks

Human Resource Development

Research and Development



# CONCLUSION

- ASEAN cyberlaws development:
  - Taking the *soft agreement* approach to harmonization by agreeing on common principles and frameworks.
  - Framing the effort within the goal of business expansion: promoting ASEAN businesses' participation in regional/global market and supply chain.
  - Raising its priority through free trade negotiations with ASEAN dialogue partners.
  - Domestic challenge: requires leadership that spans across national agencies.



**THANK YOU**