



**Asia-Pacific
Economic Cooperation**

2021/CTI/WKSP9/006

Session 4.1

Indonesia's Experiences: E-Commerce Chapter of the Regional Comprehensive Economic Partnership

Submitted by: Indonesia



**Free Trade Area of Asia-Pacific Capacity
Building Workshop on E-Commerce
Elements in Free Trade Agreements and
Regional Trade Agreements
8-9 September 2021**



Asia-Pacific
Economic Cooperation



MINISTRY OF
COMMUNICATIONS AND INFORMATICS
REPUBLIC OF INDONESIA

Indonesia's Experiences: E-Commerce Chapter of the RCEP

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September 8th, 2021





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INTRODUCTORY

Principles & Objectives:

- WTO consistent and built upon existing ASEAN+1 FTAs
- Promote and facilitating the use of e-commerce in RCEP region
- Cover liberalization, facilitation and cooperation to engage in global & regional supply chains

HISTORICAL BACKGROUND



The total number of delegates participating in the negotiations grew from 85 people and peaked in 2017 as many as 827 people

- 28 Rounds of Negotiation
- 7 times of Intersessional TNC Meeting
- 7 times of Regular Ministerial Meeting
- 9 times of Intersessional Ministerial Meeting
- 3 times of ASEAN Summit

INTRODUCTORY (2): E-COMMERCE OPPORTUNITY ON RCEP

Mutual benefit

Encouraging development and digital inclusiveness (e-commerce) in ASEAN+5 RCEP's Parties

Comprehensive

Support cooperation, trusted ecosystem, and encouraging availability of technical cooperation and capacity building to address gaps of e-commerce implementation

Progressive

- Extending of ASEAN+1 FTAs
- Covering e-commerce important elements (consumer protection, cross border data flows, etc)
- New potential growth on global market

High Quality

- Encourage the establishment of conducive e-commerce ecosystem in the region
- Encourage productivity, sustainability, responsibility and fair competition among member



PROVISION OF RCEP E-COMMERCE CHAPTER

E-commerce chapter on RCEP agreement consists of **17 Articles**

General Provisions

Article 1 : Definitions

Article 2 : Principles and Objectives

Article 3 : Scope

Article 4 : Cooperation

Trade Facilitation

Article 5 : Paperless Trading

Article 6 : Electronic Authentication and
Electronic Signature

Creating A Conducive Environment For Electronic Commerce

Article 7 : Online Consumer Protection

Article 8 : Online Personal Information
Protection

Article 9 : Unsolicited Commercial
Electronic Messages

Creating A Conducive Environment For Electronic Commerce

Article 10 : Domestic Regulatory Framework

Article 11 : Customs Duties

Article 12 : Transparency

Article 13 : Cyber Security

Promoting Cross-Border Electronic Commerce

Article 14 : Location of Computing Facilities

Article 15 : Cross-border Transfer of
Information by Electronic Means

Other Provisions

Article 16 : Settlement of Disputes

Article 17 : Dialogue on Electronic
Commerce



DEVELOPMENT OF CONSOLIDATED TEXT ▼

2015 – 2nd WGEC

**Draft Consolidated Text of
RCEP E-Commerce Chapter
Consist of 20 Articles**



2018 – 13th WGEC

**Draft Consolidated Text of
RCEP E-Commerce Chapter
Consist of 24 Articles**



Oct 2019 - 7th ISSL RCEP-TNC

**Final Text of RCEP E-
Commerce Chapter
Consist of 17 Articles**

Provisions that has been taken out from E-Commerce Chapter:

1

Treatment on digital Products

3

**Promotion of Movement
Natural Person (MNP)**

2

Electronic Settlement

4

Disclosure of Source Code

DOMESTIC MEASURES (1): RELATED REGULATIONS ON E-COMMERCE



Paperless Trading

1. *Electronic Transaction Law 2008*
2. *Government Regulation 2019 on E-Commerce*
3. *Government Regulation 2019 on Electronic System and Transaction Operation*
4. *Trade Law 2014*

Electronic Authentication and Electronic Signature/Digital Signature

1. *Electronic Transaction Law 2008*
2. *Government Regulation 2019 on Electronic System and Transaction Operation*

Online Consumer Protection

1. *Consumer Protection Law 1999*
2. *Electronic Transaction Law 2008*
3. *Trade Law 2014*
4. *Government Regulation 2019 on E-Commerce*
5. *Government Regulation 2019 on Electronic System and Transaction Operation*
6. *Minister of Trade Decree Number 50/2020*

Online Personal Data/Information Protection

1. *Electronic Transaction Law 2008*
2. *Government Regulation 2019 on Electronic System and Transaction Operation*
3. *Draft Ministerial Regulation on Personal Data Protection*

Unsolicited Commercial Electronic Messages

1. *Government Regulation 2019 on Electronic System and Transaction Operation*
2. *Consumer Protection Law 1999*
3. *Ministerial Decree 9, 2017, on Content Provider on Mobile Cellular Network*
4. *Draft of ICT Minister's Decree on unsolicited electronic messages*

Domestic Regulatory Frameworks

1. *Electronic Information and Transaction Law 2008*
2. *Trade Law 2014*
3. *Consumer Protection Law 1999*
4. *Prohibition of Monopoly Practices and Unfair Business Competition Law 1999*

Location of Computing Facilities

1. *Electronic Information and Transaction Act 2008*
2. *Government Regulation on Electronic System and Transaction Operation 2012*

Disclosure of Source Code

Government Regulation on Electronic System and Transaction Operation 2019, only for government procurement.

Custom Duties

1. *Trade Law 2014*
2. *Customs Law 2006*



DOMESTIC MEASURES (2): GOVERNMENTAL ENTITIES ON E-COMMERCE



Ministries



- 1 Ministry of Trade (MOT)
- 2 Ministry of Communication and Informatics (MCI)
- 3 Ministry of Finance (MOF)
- 4 Coordinating Ministry of Economic Affairs (CMEA)



Non-Ministerial Entities



- 1 The National Cyber and Crypto Agency
- 2 The National Consumer Protection Agency
- 3 National Development Planning Agency
- 4 Financial Services Authority
- 5 Bank Indonesia



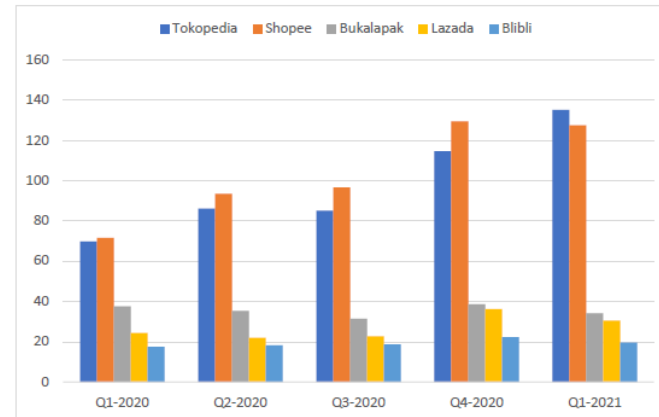
Coordination among related ministries and entities could assist adaptive domestic measures in the implementation of E-commerce Chapter in order to achieve benefits for all stakeholders in joining e-commerce (e.g location of computing facilities provision in amendment of Government Regulation Number 82/2012 to Government Regulations Number 71/2019 on Electronic System and Transaction Operation)

E-COMMERCE IN INDONESIA ▼

shoppers in Indonesia grew from **75 million pre-COVID-19** to **85 million people during the pandemic**

In 2020, total online market sales in Indonesia reached **US\$ 44 billion**, while the ecommerce sector accounted for **72 per cent of the total value of the digital economy***

Five Most Visited E-commerce Sites in Indonesia (million visitors)



the e-commerce sector has been further boosted by the rapid development of non-cash payment infrastructures such as **Ovo, GoPay, DANA, and ShopeePay.**



IDENTIFIED CHALLENGES AND IT'S APPROACHES DURING NEGOTIATIONS (1): CHALLENGES DURING NEGOTIATIONS



Different background, regulations, policies, and domestic measures.



Overlapping articles or provisions (eg. financial services provisions, promotion of skills relevant for electronic commerce)



Prudent discussions on some articles (scope and relation to other chapter).



Deep discussions on the articles being negotiated:

- Location of Computing Facilities
- Custom Duties
- Cross border transfer of information by electronic means
- Online personal information protection
- Disclosure of source code
- Dispute settlement



IDENTIFIED CHALLENGES AND IT'S APPROACHES DURING NEGOTIATIONS (2): NEGOTIATIONS APPROACH

- Public or stakeholder consultations for deadlock issues
- Mindful with negotiations timeline
- Disseminations of domestic regulations
- Prioritize relationships among members
- Pragmatically thinking
- Studying emerging e-commerce issues/topics



PROPOSED ELEMENTS UNDER NEW FTAs



New Spam



Comprehensive
Online Consumer
Protection



E-invoicing



E-Payment



Digital Trade
Standards



WAY FORWARD



E-Commerce policy and regulatory reorientation in order to form a holistic ecosystem



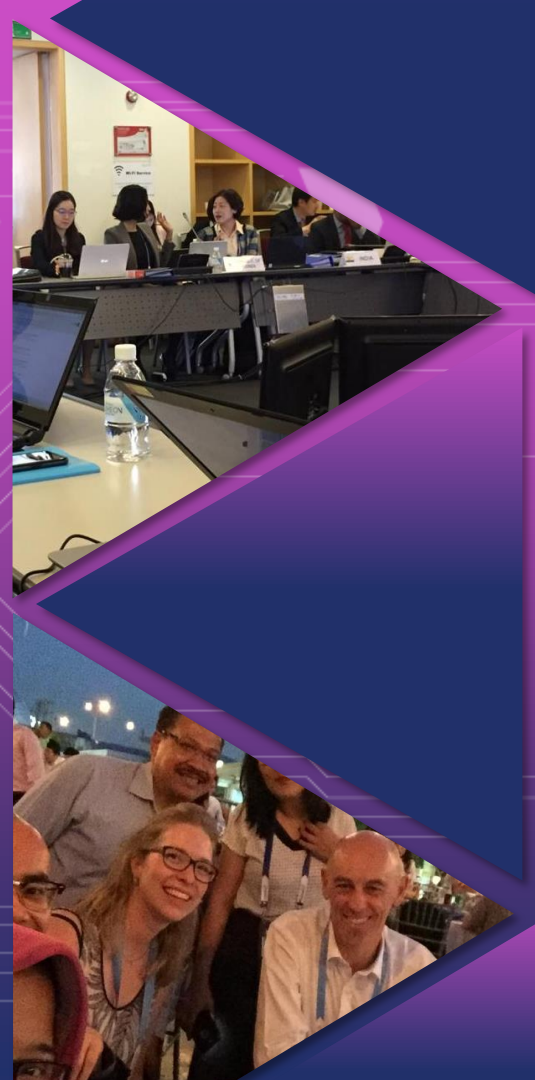
Promoting and facilitating stakeholders particularly MSME in joining e-commerce



Regulatory approach to support e-commerce innovation



Concrete action on cooperation and e-commerce dialogue under RCEP Forum





THANK YOU

