

# TAKING ADVANTAGE OF E-COMMERCE

Legal, Regulatory, and Trade Facilitation Priorities for Lao PDR



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Legal, Regulatory, and Trade Facilitation Priorities  
for Lao PDR<sup>1</sup>

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# Summary and Key Recommendations

**T**he rapid growth of e-commerce globally, including in the Association of Southeast Asian Nations (ASEAN), helps lower the costs of trade for Lao PDR exporters, and reduces prices for consumers. E-commerce can reduce costs

for those who often face the greatest challenges in participating in “traditional” trade, including women, small firms, people with physical disabilities, and people in isolated communities. However, constraints in the e-commerce environment, such as limited Internet connectivity, high costs of payments, an incomplete regulatory infrastructure, and high trade facilitation and logistics costs, hold Lao PDR back, resulting in low levels of participation in e-commerce at the present, based on available data. These constraints will need to be addressed in order to foster greater e-commerce participation.

**This note sets out some of the key challenges Lao PDR faces in upgrading its competitiveness in e-commerce, based on indicators that compare its performance with other countries.** It does not provide an exhaustive coverage of all the constraints faced, but introduces more detailed analysis on two aspects of the e-commerce environment: (1) regulations that have specific relevance for e-commerce, e.g., in protection of personal data, consumer protection and privacy, and; (2) the trade facilitation environment affecting e-commerce.

**The legal and regulatory framework contains some elements necessary to support greater participation in e-commerce, but in other areas it needs strengthening.** Two important areas for further work are in strengthening the protection of consumers participating in e-commerce; and developing and implementing legislation for the protection of personal data. Taxation of e-commerce is an important policy area, and a focus for many governments in ASEAN, as well as globally. Aspects of the taxation regime require clarification (e.g., the application of a *de minimis* threshold for low-value goods shipments—see below). Such taxation reforms should be informed by a previous careful assessment of costs and benefits, based on actual flows of services and goods in Lao PDR, before introducing new taxes that might restrict the growth of e-commerce before it has begun.

**The earliest area of growth in international e-commerce is likely to be through cross-border trade in goods.** The trade facilitation regime needs further reform to avoid imposing undue costs on small firms or entrepreneurs seeking to participate in e-commerce. These groups are the least equipped to manage the costs associated with weak transparency, unpredictable regulations, and delays in clearing shipments. Lao PDR has made progress in addressing some of the most relevant costs for e-commerce facilitation, including improving transparency through the Lao Trade Portal, but much more work is needed. Clarification is required on the regulations in place for low-value goods imports, and a formal framework to streamline the processing of such imports is also necessary.



# Key Recommendations

- 1. Implement relevant ASEAN approaches addressing regulatory issues specific to e-commerce, especially those associated with the ASEAN Work Programme on E-commerce, with a focus on:**
  - a. Consumer protection:** Address any gaps relating to e-commerce in the 2010 Consumer protection law. Build capacity within government to implement consumer protection legislation, as well as awareness by consumers and firms of the rights and responsibilities involved.
  - b. Privacy:** Develop and implement regulation, including on a voluntary basis for the protection of data and privacy, based on the ASEAN Framework on Personal Data Protection (2016).
  - c. Electronic signatures:** Effectively implement the existing electronic signatures legislation (the Law on Electronic Transactions) to ensure electronic signatures are recognized by all public agencies as valid.
- 2. Lao PDR should take a cautious approach to imposing new taxes on e-commerce activities.** There are limited data available on how to determine the impact of new taxes, and there is no international consensus on e-commerce taxation. Lao PDR is encouraged to monitor international discussions on e-commerce taxation to identify areas where consensus may emerge, and understand implementation challenges on e-commerce taxation in other countries. If plans develop for new taxes, these should be based on a cost-benefit analysis, as well as drawing on other countries' experiences.
- 3. Establish a transparent and consistently applied procedure for handling low-value cross-border shipments,** in line with the World Trade Organization Trade Facilitation Agreement and World Customs Organization Immediate Release Guidelines. This should include a clear *de minimis* threshold, below which taxes and duties are not collected, along with simplified procedures for low-value shipments.
- 4. Move away from the physical submission of paper documents for trade clearances to the electronic submission of documents.** The goal should be to eliminate requirements for physical submission of documents for normal shipments, including low-value shipments typical in e-commerce. Paper-based clearance of cross-border shipments continues, despite the potential for electronic clearance through ASYCUDA World. Reforms that reduce the number of regulatory requirements for traders (e.g., reduction of licenses required to trade) would also be important. Electronic submission of documents not only reduces compliance costs

for traders, but also for the government, due to a reduction in the need for physical inspection of forms.

- 5. Intensify efforts to systematically apply risk management principles in processing cross-border shipments.** This is especially important as the volume of individual shipments grows, putting an additional burden on Customs and creating delays if risk-based approaches are not used. Risk-based approaches to cross-border shipments recognize that the majority of shipments are likely to pose minimal revenue, public safety, or other risks. By facilitating the clearance of low-risk shipments, Customs and other agencies can concentrate resources on other aspects of the screening process and on those shipments identified as posing greater risks.
- 6. Confirm the leadership role of the Ministry of Industry and Commerce (MOIC) in the coordination of the e-commerce agenda across government, working closely with other ministries, and bringing in the private sector.** The e-commerce agenda is one that cuts across the responsibilities of many different ministries, not just MOIC alone, so it needs to be acknowledged that a coordination role involves bringing a range of different stakeholders together from across government. Examples of ministries involved include finance (on taxation), telecommunications (on connectivity), or education (on skills).



# I. E-commerce: What Is It, and Why Is It Relevant for Lao PDR?

**E**-commerce refers to the buying and selling of goods and services through digital means, including the use of the Internet, as outlined in more detail in Box 1.<sup>2</sup> This has been a rapidly growing sector of many economies around the world, both developing and developed. Southeast Asia is no exception, meaning Lao PDR is situated within a dynamic region for e-commerce.

**Although there is little information on the extent of e-commerce participation by firms in Lao PDR, available information suggests that the country currently has minimal participation in e-commerce.** Lao PDR has not seen the kind of e-commerce growth that has taken place in the rest of ASEAN. For example:

- Of the top 30 websites (by traffic) in Lao PDR, none are e-commerce sites. The list is dominated by search engines, social media, entertainment, and news/discussion boards.<sup>3</sup>
- Few of the major platforms for e-commerce in the region offer to deliver goods, or make services available, to consumers in Lao PDR. For example, Grab (a ride-hailing service) is present in all ASEAN countries except Lao PDR and Brunei. Lazada, a retail platform operating in each of the ASEAN-6 countries, is also not present in Lao PDR. Some local equivalents are developing, such as eshopping.la (retail), vaivai (ride-hailing), or mydelivery (food delivery), but they do not yet appear to attract many users, nor have they grown significantly.<sup>4</sup>
- There does appear to be limited use of the Internet for consumer-to-consumer e-commerce. This reportedly involves direct buying and selling, using platforms like Facebook or WhatsApp.<sup>5</sup> This also takes place in other ASEAN countries, but

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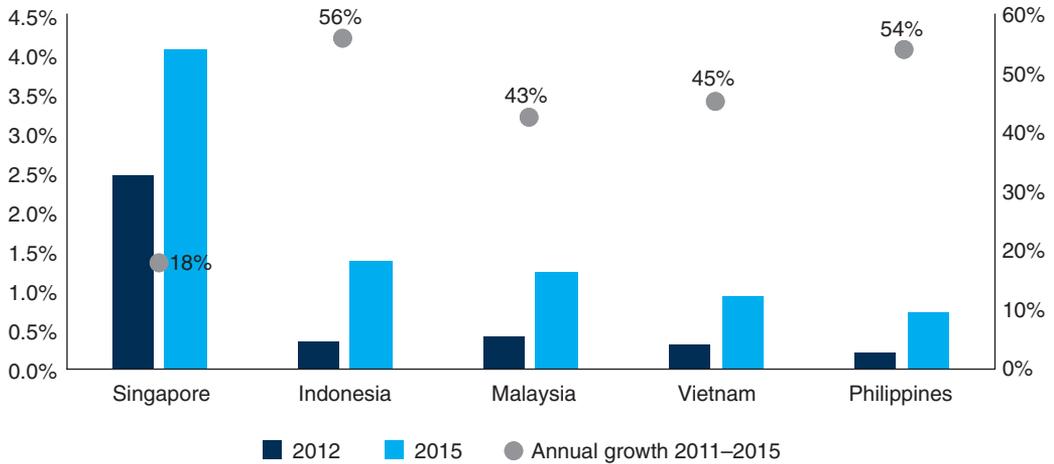
2 There is no globally agreed definition of “e-commerce.” The Bank refers to e-commerce as the buying and selling of traditional goods and services (e.g., shoes, accountancy services), as well as digital trade, which includes newer “digital goods and services” that would not exist without the Internet (e.g., cloud computing services, data management).

3 Source: Web traffic data from Alexa.com. In comparison, Thailand and Vietnam both have two e-commerce websites in their top 30 (Lazada and Shopee) and Cambodia has one (Khmer24.com).

4 According to an October 2017 presentation to UNESCAP, Lao PDR’s Department of Import and Export, supported by US\$560,000 of ADB financing, developed an “official e-commerce platform” for Lao PDR small and medium enterprises (SMEs) in 2015, and launched the website in 2017. As of 21 December 2017, only 18 products were listed on the website for sale. Web traffic data from Alexa.com indicates that the site receives minimal visitors.

5 Vientiane Times Article, August 2017: <http://jclao.com/e-commerce-set-to-boom-in-laos-but-no-laws-to-regulate-sector/>

**Figure 1: Growth in Retail E-Commerce: Retail E-Commerce Share of Retail Sales (LHS), and Annual Growth (RHS)**



Source: E-marketer.

they also participate in e-commerce through platforms for buying and selling, which facilitates participation in a much larger market of buyers and sellers.

**E-commerce in goods still only makes up between 1 and 4 percent of overall retail in selected ASEAN countries, but it has been growing at a very rapid rate (see Figure 1).**

## WHY DOES E-COMMERCE MATTER FOR LAO PDR?

**Although the limited data available suggest that e-commerce participation in Lao PDR is at the earliest stage, e-commerce comes with many opportunities that means it is important to facilitate its growth.**

**First, e-commerce lowers the costs that firms face in exporting to international markets.** Evidence from other countries shows that e-commerce not only increases the share of firms that export, but also the range of markets that they export to. They do so mainly by connecting and allowing transactions between distant sellers and buyers who,

without the e-commerce platform, would need to rely on intermediaries and other parties before, during, and after the transaction. This can be illustrated with a simple example: If an entrepreneur in Vientiane selling goods relies only on transacting with people with whom he/she can physically interact, or who become aware of his/her goods without using the Internet, he/she will almost certainly be limited to the immediate market. The entrepreneur might want to sell internationally, but potential buyers are very unlikely to be aware of what the entrepreneur is selling or trust the quality of the goods (among other challenges),

## Box 1: Defining Concepts

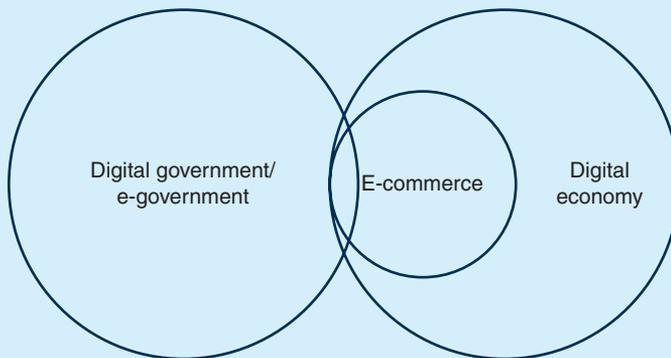
Discussions on e-commerce relate to a number of different concepts, potentially resulting in confusion. Three commonly used-terms are “digital economy,” “digital government,” and “e-commerce.” For the purposes of this note the World Bank uses the terms in the following way:

**Digital economy:** the use of digital technologies in the economy to facilitate growth, productivity increases, new business models, etc.

**E-commerce:** the use of the Internet to facilitate the buying and selling of goods and services, both domestically and across borders.

**Digital/e-government:** the use of information and communication technology (ICT) to improve government efficiency, including service delivery.

The relationship between these three concepts is illustrated in this diagram. E-commerce is shown as a subset of the wider digital economy. Digital government is shown as a distinct set of issues, but there is some potential overlap with the digital economy. For example, digital government projects that use ICT to make it easier for firms to comply with regulatory requirements can help to lower private sector compliance costs, contributing to the growth of the digital economy (as well as the economy more widely).



because of the physical distance and lack of any prior relationship between them. E-commerce helps overcome these challenges by using the Internet to connect the buyer and seller, significantly reducing the impact of physical separation.

**Small firms are the least equipped to deal with high costs of participating in trade, and e-commerce offers ways of reducing some of the key sources**

**of these costs, leading to increased participation in trade, increased survival rates for small firms, and greater diversification in export markets.**

Figure 2 shows evidence from a 2014 eBay study on SMEs participating in e-commerce through the eBay platform, comparing their export performance with that of the larger population of all “off-line” SMEs. Separate studies indicate that small firms participating in e-commerce have higher survival rates

**Figure 2: The Impact of E-Commerce Participation on Export Rates for Small Firms**

	Share of SME Vendors That Export (%)	
	eBay	Off-Line
Indonesia	100	3
Malaysia	99	55
Philippines	94	8
Thailand	100	48
Vietnam	100	15

Source: eBay 2014 using eBay data and World Bank Enterprise Surveys.

than off-line SMEs. By making it easier for small firms to participate in trade, e-commerce could contribute to the diversification of Lao PDR's export base.

**Greater use of online platforms for trade could support greater participation of women in trade, by reducing the gender bias in relationships between buyers and sellers through anonymity, and by allowing for more flexible working hours to overcome the time constraints women typically face in countries like Lao PDR.**

On Elance, a major global freelancing platform, 44 percent of workers are women, compared with 27 percent in the nonagricultural economy more widely.<sup>6</sup>

This contrasts with the situation in traditional trade, where the male-dominated business networks can result in women traders receiving less return for their goods and services than male traders. Analysis of male- and female-owned firms suggests that male-owned firms are more likely to find customers through traditional networks of contacts, but women-owned firms do not have access to these networks.<sup>7</sup> E-commerce offers a powerful way of overcoming this challenge by directly connecting sellers with consumers abroad.

**Second, e-commerce can have wider, positive effects on economic welfare.**

Expanding the range of goods and services available to domestic producers can lead to greater quality of inputs being available at lower costs for domestic firms. In Vietnam, one study showed that firms using e-commerce had on average 3.6 percentage points higher productivity growth<sup>8</sup> than firms that did not use e-commerce. In the same way as trade in general, e-commerce can improve consumer choice and lower the price of goods and services available in the domestic market. This could be especially important in an economy like Lao PDR where there is a reliance on imports for many inputs and consumer goods.

6 World Bank (2016), "Digital Dividends: World Development Report 2016," p108.

7 Bossuroy, T., et al (2012), "Shape Up and Ship Out? Gender Constraints to Growth and Exporting in South Africa" in Brenton, P., Gamberoni, E. and Sear, C. (eds) *Women and Trade in Africa: Realizing the Potential*, World Bank, Washington.

8 Total Factor Productivity. See World Bank 2017.

## THE CHALLENGES FOR LAO PDR

For Lao PDR to take advantage of the opportunities presented by e-commerce, it will need to take measures to improve the competitiveness of its e-commerce environment. A study based on indicators, compiled by UNCTAD and the World Bank, shows that the e-commerce environment in Lao PDR is the weakest in Southeast Asia in most categories.<sup>9</sup> This section showcases some of the main indicators.

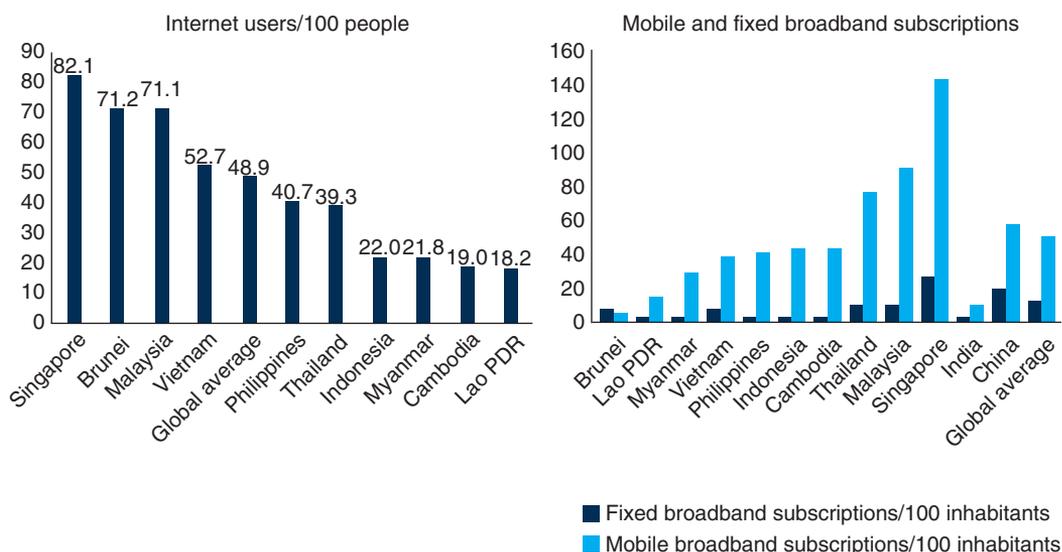
**Basic connectivity to the Internet is weak, with the lowest proportion of Internet connectivity in ASEAN.** Lao PDR has the second-lowest number of mobile broadband subscriptions per 100 people in the region, and minimal use of fixed broadband (see Figure 3), which is important for growing

technology-enabled business. The limited number of Internet providers is an additional challenge. It makes Internet connectivity expensive and not reliable. The issue also makes the Internet signal poor which compromises participation in e-commerce.

**Lao PDR's use of the means of electronic payment needed for e-commerce to grow is also limited.**

In ASEAN, Lao PDR has the third-lowest proportion of the population with bank accounts, with just under one-third of the population having an account at a financial institution, ahead of Cambodia and Myanmar. However, Lao PDR has the second lowest usage of digital means to access bank accounts (see Figure 4). This is an important indication of the

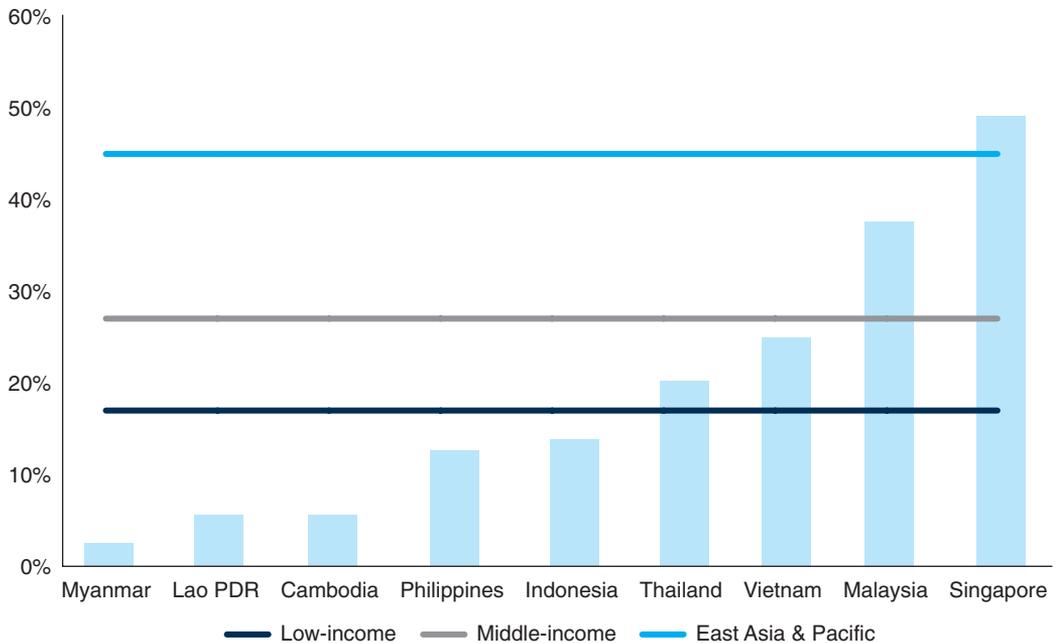
**Figure 3: Indicators on Connectivity**



Source: ITU.

9 UNCTAD (2018), Lao PDR's Rapid eTrade Readiness Assessment, [http://unctad.org/en/PublicationsLibrary/dtlstict2018d3\\_en.pdf](http://unctad.org/en/PublicationsLibrary/dtlstict2018d3_en.pdf)

**Figure 4: Share of Account Holders That Access Their Account Digitally (mobile/Internet)**



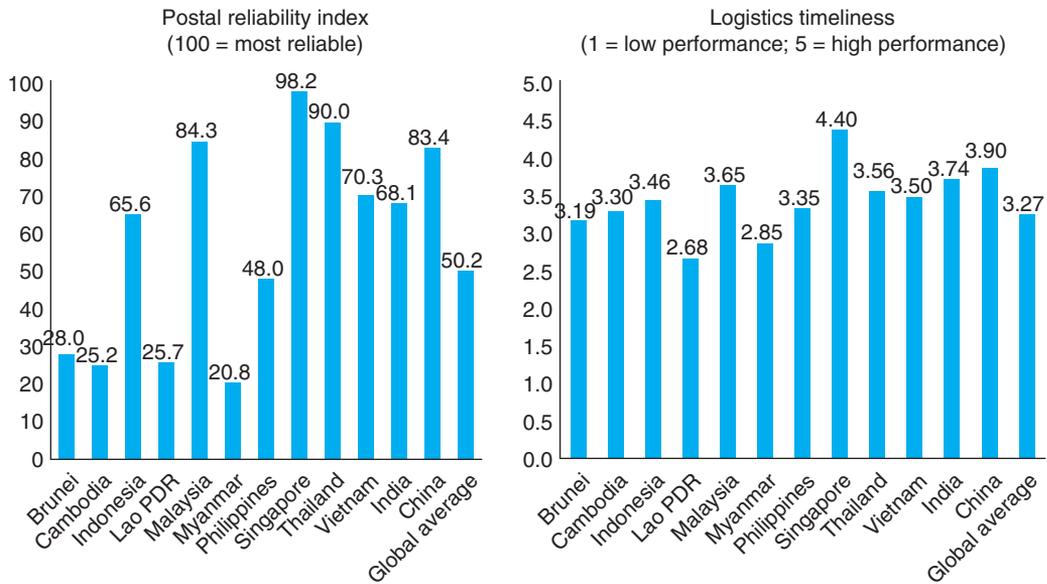
Source: World Bank Global Findex 2017.

capacity to use electronic payments and mobile banking, both of which are important for growing e-commerce.

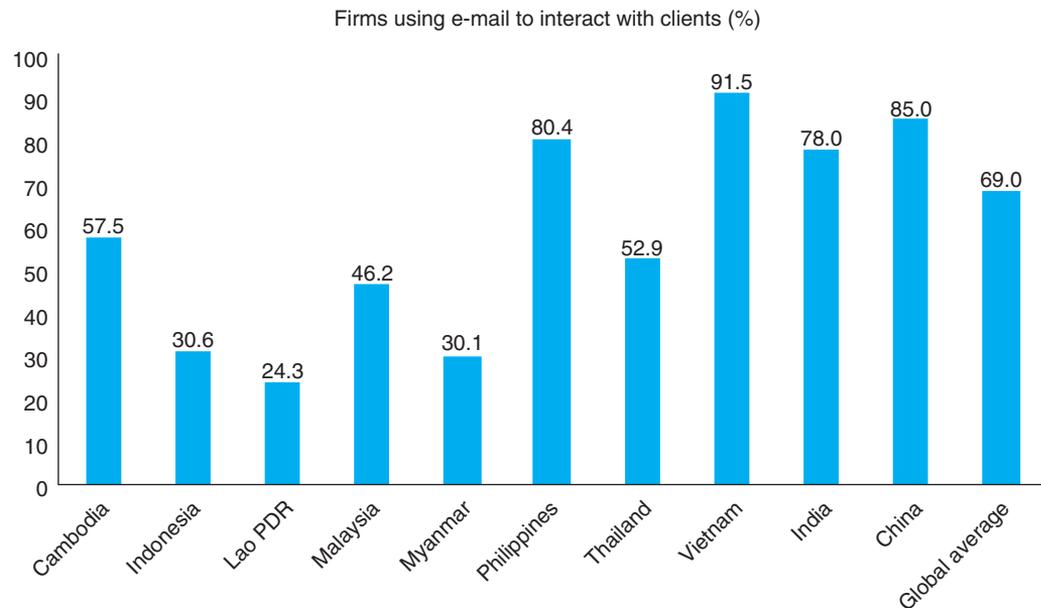
**Lao PDR also faces challenges in terms of logistics capability to ensure timely and reliable delivery of goods once e-commerce grows.** The two main means of delivering goods ordered through e-commerce are through logistics companies (e.g., DHL, Fedex) or the postal service (see Figure 5). On both fronts, the challenge for Lao PDR is

clear. Its logistics timeliness is the lowest in the region, and it has the third lowest score in the Universal Postal Union index of postal service reliability.

**Technology use by firms is also very limited.** World Bank Enterprise Survey data show that even on one of the most basic indicators of firm use of technology—use of e-mail to communicate with clients—Lao PDR is also the weakest in the region (see Figure 6).

**Figure 5: Indicators on Logistics**

Source: LPI and UPU.

**Figure 6: Indicators of Firm Use of Technology**

Source: Enterprise Surveys.

## CONCLUSION

**As the above indicators highlight, Lao PDR faces many challenges in growing its participation in e-commerce.**

The positive news is that Lao PDR has the potential to learn from the way many other countries have approached the challenge—it is also true that given the fast pace of technological change, and the continual decline in price, the barriers for entering this type of trade also continue to decline. With the right policy and regulatory framework in place, Lao PDR will be well placed to benefit,

especially due to its central geographic location in the dynamic ASEAN region.

The subsequent sections focus on two specific elements of the e-commerce, environment, regulatory issues specific to e-commerce; and aspects of trade facilitation that have a significant impact on Lao PDR's e-commerce competitiveness. Of course, there are many other issues that need to be examined in more detail, as the indicators above highlight.



## Specific Policy and Regulatory Issues for E-Commerce

The legal and regulatory framework in Lao PDR includes several of the key building blocks for growing e-commerce. However, there is room for greater regulatory certainty in specific areas, and also for ensuring regulation continues to be conducive to—and does not restrict—e-commerce. This section surveys the following policies:<sup>10</sup>

- Consumer protection measures such as restrictions on spam, right of withdrawal (e.g., procedures for returning products procured through e-commerce), and online dispute resolution;
- Full implementation of the legal regime for electronic signatures, ensuring electronic signatures are recognized by all public agencies as valid;
- Privacy and data protection, ensuring reasonable safeguards exist for the use of personal information, including consent on the use by third parties, and the “right to be forgotten”;<sup>11</sup>
- Laws and regulations on acceptance of electronic documents and e-signature; and
- Other specific regulations in intellectual property rights, intermediary liability, and taxation, that affect the participants engaged in e-commerce transactions.

**Lao PDR has taken meaningful initial steps in the regulation of e-commerce.** It has introduced a legal framework for the recognition of electronic documents and signatures, adopted provisions limiting intermediary liability, and maintains an open regime for the cross-border flow of data and localization of data centers. However, there are several areas where the necessary enabling regulation is yet to be developed and implemented. In addition, some of these regulations already implemented could be updated to ensure consistency with global trends, as well as complemented with regulations meant to foster trust in digital markets, such as the protection of online consumers and data privacy.

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10 This is not an exhaustive list of regulatory issues that affect the e-commerce environment. It is important to note that policy and regulation affect all aspects of the e-commerce environment introduced in the preceding section. For example, the level of liberalization and regulation of the telecommunications sector affects private investment in connectivity. Similarly, regulation on payments affects the entry of new players into this market. Detailed analysis of these areas will be the focus of a separate, forthcoming study by the World Bank.

11 The right to be forgotten refers to the claim of an individual to have certain data deleted so that third persons can no longer trace them (Weber, Rolf H. “The right to be forgotten.” More than a Pandora’s Box 2 (2011)).

In general, the objective should be to strike a balance of introducing rules that enable and promote e-commerce, while avoiding overburdening and creating unwarranted restrictions. Certain regulatory policies, if well-designed and well-implemented, can facilitate and incentivize e-commerce growth; while others can act as a deterrent to e-commerce.

## CONSUMER PROTECTION

**Lao PDR has basic consumer protection legislation in place through a 2010 law, but more is needed to ensure it addresses the additional requirements of the online economy, so that consumers have at least the same protections online as off-line.**

Regional standards have been developed that give a basis for this effort in Lao PDR, as well as in the OECD. Main steps ahead include providing for consumers of rights and guarantees that address the specific challenges of e-commerce, including redress and enforcement. Just as importantly, consumer protection legislation needs to be implemented effectively, and awareness raised of consumer rights and the obligations on firms.

**Consumer protection regulation helps boost trust in digital markets by leveling the playing field between the business and the consumer in online transactions.** Adequate regulations help reduce concerns consumers and providers encounter when buying and selling online, such as the rights and obligations they are subject to as a result of an electronic transaction.<sup>12</sup>

**The consumer protection law currently in place<sup>13</sup> covers both online**

**and off-line transactions, but does not feature provisions meant to regulate the specific concerns of participants in e-commerce.**

The law includes provisions on transparency that are important for e-commerce, but it does not include provisions on right of withdrawal (allowing consumers to withdraw from the agreement to purchase), redress (allowing consumers legal recourse in the case of problems), and online dispute resolution, that can help boost consumer confidence in e-commerce transactions. Updates to the legislation to address these issues in line with good international practice would strengthen consumer protection for e-commerce in Lao PDR, thereby facilitating its growth.

**At the regional level, ASEAN member states (including Lao PDR) set out the key aspects of a consumer protection framework in the 2025 Economic Community Blueprint.** The Blueprint flags the need for ASEAN member states to develop a:

“common ASEAN consumer protection framework through higher levels of consumer protection legislation, improve enforcement and monitoring of consumer protection legislation, and make available

<sup>12</sup> OECD Guidelines for Consumer Protection in the Context of Electronic Commerce, 2000.

<sup>13</sup> Consumer Protection Law No. 02/NA, dated 30 June 2010.

redress mechanisms, including alternative dispute resolution mechanisms.”<sup>14</sup>

**Dispute resolution recommendations provide for mechanisms to resolve domestic and cross-border disputes, including internal complaints handling and alternative dispute resolution.**

When goods or services are defective or do not meet the advertised quality criteria, governments should ensure there are enforcement authorities and relevant bodies to ensure cost-effective means are available for consumer redress. While some e-commerce platforms offer guaranteed returns for all their purchases, a regulatory framework for online dispute resolution can help generate trust in smaller vendors or nascent individual websites. Online dispute resolution (ODR) mechanisms offer an inexpensive and speedy procedure to solve disputes between buyers and sellers through arbitration or mediation, even if located in different jurisdictions. ODR mechanisms can be established by domestic authorities or as international initiatives. For instance, the International Consumer Protection and Enforcement Network (ICPEN), an international organization that brings together consumer protection agencies from different countries, offers an ODR procedure for cross-border e-commerce disputes that has been adopted by 36 countries around the world (<https://econsumer.gov/>).

**ASEAN countries have committed to improving consumer protection for cross-border purchases under the ASEAN Strategic Plan for Consumer**

**Protection (ASAPCP), including by establishing an ASEAN-wide ODR mechanism by 2025.** This initiative, adopted in Vientiane in 2016, can increase confidence in Lao sellers by consumers across the region, thus supporting their access to regional markets.

*Privacy and data protection*

**Lao PDR does not have a regulatory framework in place for the protection of personal data and privacy.** Along with consumer protection, this will be important in boosting consumer trust in e-commerce as it grows.

**Lack of consumer trust in the way their personal data are used has a negative impact on e-commerce, and privacy protection laws are necessary to prevent unlawful uses of personal data.**

Lao PDR currently has no regulatory framework in place for data protection in digital markets. While a solid regulatory framework for privacy protection can be an important pillar to support digital markets, comprehensive regulation and oversight of privacy rules are usually demanding in terms of technical and human resources. However, as an intermediate step, Lao PDR may consider other regulatory practices, such as promoting voluntary codes of conduct by companies. These codes of conduct can be developed by businesses in consultation with government and other stakeholders. This can be paired with a certification scheme. For instance, under the Privacy Shield agreement with the United States, the EU has recognized that US-based firms (who face less stringent regulatory requirements

14 ASEAN Economic Community Blueprint 2025.

than EU firms when it comes to privacy) may comply voluntarily with EU requirements, which would make them eligible to handle EU citizens' data.

**The ASEAN Framework on Personal Data Protection (2016) is an approach to managing data privacy that Lao PDR has agreed to as an ASEAN member state.** Although it is nonbinding, it provides an appropriate framework for developing data privacy legislation and its implementation in Lao PDR. The framework sets out key principles and aspects of a data privacy regime, including:

- Notification and consent on the use of personal data;
- Accuracy of personal data collected by organizations;
- Security with which personal data are held to avoid breaches;
- Allowing individuals to request corrections to personal data;
- Permitting transfers of personal data to other jurisdictions, on the basis of notification to and consent of the individual, and on the basis that the jurisdiction/s to which the data is transferred also has a legal framework for the protection of personal data;
- Limiting retention of personal data beyond the period for which it is needed; and
- Holding organizations accountable for the use of personal data.

### *Data flows and localization regulation*

**Lao PDR does not impose significant restrictions on cross-border flows of data.** This is positive given the importance of data moving freely for the growth of e-commerce, and the establishment of restrictions is not recommended. If Lao PDR makes a policy decision in the future to impose restrictions on cross-border data flows, this should be developed in close consultation with the private sector, and implemented cautiously. It should also follow the best practice of requiring data localization. One current example of a data localization requirement applied on the basis of "classification" is the law requiring securities companies to store data on domestic servers. This should be reviewed as it may introduce unnecessary costs for meeting Lao PDR's regulatory objectives.

**The ability to transfer data across borders is not only essential for e-commerce, but is also an increasingly important pillar of economic competitiveness.** Cloud computing allows users to store, manage, and process data remotely. It eliminates infrastructure costs, which is highly beneficial to users who can choose to pay only for the quantity and time needed. Data localization is the requirement imposed upon data providers to locate their servers domestically. This is costly for businesses and ultimately for consumers, as companies have to build additional data centers, and it limits cloud-based services that are available domestically.

**Although there is no broad requirement in Lao PDR to localize data, Lao PDR does require securities companies to store all their data in domestic IT systems.**<sup>15</sup> Although this measure may be based on the desire to protect sensitive financial information, data localization does not necessarily offer any guarantees that the consumer information is better protected in servers in Lao PDR than elsewhere, and it also tends to increase the investment and operation costs for the companies concerned. Data centers are costly and can entail prohibitive barriers to entry, especially for small, nascent markets, such as the Lao securities market. Lao PDR may consider reviewing the current regime and assessing whether such requirements are justified.

### Taxation

**Lao PDR does not have a clearly defined policy on the taxation of goods and services exchanged through e-commerce.** Discussions around taxing such exchanges are taking place in many countries, but there are few best practice examples globally. Similar discussions are taking place in Lao PDR, but it will be critical that government first thoroughly assesses the costs and benefits of any new approach before making changes to relevant tax legislation. Such changes should only be implemented once the scope and growth of e-commerce and its economic impact can be clearly understood. Such analysis will have to compare the costs involved in collecting any additional taxes levied on goods and services traded through e-commerce, as well as

impacts on prices and therefore on Lao PDR consumers and producers.

**The growth of e-commerce has led to new taxation issues since parties to a commercial transaction tend to be located in different countries.** The taxation of the increased number of low-value goods crossing borders is also a topic of discussion in many countries—both in terms of duties levied, and value-added tax/goods and services tax (VAT/GST). Currently, Lao PDR law has not established a special regime for the taxation of goods and services traded cross-border through electronic means.

**Before contemplating any changes to taxation policies, it would be necessary to obtain better data on the extent of e-commerce in Lao PDR to thoroughly assess the costs and benefits of different policy approaches.**

This should take into account the full range of costs and benefits involved, including:

- *The revenue implications of growing e-commerce:* a number of governments perceive an increased risk of revenue leakage through an expansion in e-commerce. This needs to be analyzed carefully. In terms of trade in goods, given the low value of most e-commerce shipments, even if there is incorrect declaration of the value of goods, the actual revenue loss is likely to be very small.
- *Collection and compliance costs:* the costs of trying to collect tax revenue related to e-commerce would need to be taken into account.

15 Announcement on IT system of securities company No. 371/SECO, dated 24 February 2012.

Because of the limited data availability, this is a difficult area in which to conduct analysis, but studies in other countries have found that it is difficult to collect taxes and duties on the low-value cross-border goods trade without the collection costs exceeding the revenue generated.<sup>16</sup>

- *Impact of “de minimis” on consumers and producers:* lower thresholds for the application of custom duties can lead to higher consumer prices, thus diminishing consumer welfare. They may also reduce competitiveness, as producers who acquire inputs through e-commerce face higher prices. New Zealand, for instance, estimated that if the threshold was lowered to a point at which common consumer goods would be subject to duties and GST, some goods could see hikes of between 39 and 45 percent.<sup>17</sup>
- *Producer gains/losses of not facilitating e-commerce:* e-commerce can be used to facilitate imported inputs that may then be exported in final products. Increasing the duties/taxes levied on such inputs can negatively affect the competitiveness of Lao PDR producers.

### *E-documents and e-signatures*

**Lao PDR has the basic legal framework in place that recognizes electronic and paper documents, as well**

### **as electronic and digital signatures.**

This largely follows international guidance; however, there is significant room to improve the practical implementation of some regulations and policies that are meant to recognize electronic documents—for example, in complying with border clearance requirements (see section on trade facilitation).

### **Ensuring electronic documents and signatures are recognized by all public agencies facilitates remote electronic transactions, especially B2B (business to business) deals.**

The requirement of paper contracts and handwritten signatures presents an obstacle to efficient individual deals between domestic and foreign business, especially for business relations that require a degree of customization of the products and services and that are provided over time, such as those that allow suppliers to connect to global value chains and/or services that require peripatetic delivery over extended contract periods. While Lao PDR has laws in place that give legal validity to e-documents and e-signatures, these follow older models and are not effectively implemented, limiting adoption by stakeholders.

### **Lao PDR’s Decree and Law on Electronic Transactions<sup>18</sup> (LET) of 2012 sets the rules for the use of electronic documents and digital signatures.**

The LET gives legal validity to electronic documents and the information

<sup>16</sup> For example, Australian Treasury 2012, “Final Report: Low Value Threshold Taskforce.”

<sup>17</sup> New Zealand Customs, Cabinet Paper presented to NZ Government on 27 June 2016, <https://www.customs.govt.nz/globalassets/documents/legal-documents/low-value-imported-goods-update-and-next-steps.pdf> and <https://www.customs.govt.nz/globalassets/documents/legal-documents/low-value-imported-goods-update-and-next-steps.pdf> (accessed 20 February 2018).

<sup>18</sup> Decree and Law on Electronic Transactions No. 20/NA, dated 7 December 2012.

they contain. E-documents meet legal requirements for being considered a written document, an original document, as well as a valid form for document retention where needed. Additionally, an e-document issued with a secure digital signature fulfills the legal requirement of a signed and stamped document. Electronic contracts in compliance with the LET and other relevant laws are legally enforceable. For the formation of an e-contract the parties must agree on the technological means, electronic communications modes, and e-signature rules.

### **The LET differentiates between three types of electronic signatures:**

1. the *basic electronic signature* is defined as electronic data associated with a data message which identifies the signatory and indicates the signatory's intention in relation to the information in the data message;
2. the *basic digital signature* is uniquely linked to the signatory, able to identify the signatory, and created using a method under the sole control of the signatory, and any subsequent change of the data is detectable; and
3. the *secure digital signature* is created using a method which ensures protection against forgery in compliance with the procedures and requirements set out by the Ministry for Science and Technology.

The main difference between these models is that while the *basic electronic signature* can be the simple writing of the name in text or image, the two types of *digital signatures* entail the use of encryption technology to ensure the

authenticity of the signature. In turn, a secure digital signature differs from a basic digital signature in that, in the former, the identity of the users and the encryption technology has been certified by a legally recognized entity.

**It is important to note that for most e-commerce transactions, especially those involving business-to-consumer (B2C) e-commerce, the legal basis that the LET gives for basic electronic signatures is sufficient.** For example, in a typical B2C purchase of goods online, a user will indicate their agreement with the terms and conditions of the website/platform by clicking on a consent form, and then will agree to pay using the relevant payment mechanism (e.g., a credit card).

**For international e-commerce, which involves border clearance by Customs and other government agencies, the practice of not fully accepting electronic documents is a barrier to the growth of e-commerce (see next section on trade facilitation).** In this context, however, the immediate priorities for Lao PDR are to ensure universal acceptance of electronic signatures where they meet the criteria set in the LET. This should be for the appropriate level of electronic signature for the transaction involved; for the majority of e-commerce transactions, including international e-commerce, the basic electronic signature will suffice.

### *Other regulatory issues on e-commerce*

**The development of a sound regulatory framework for e-commerce requires ensuring a large number of policies are considered.** Some of these

policies might not appear to be directly related to electronic transactions, but they can inadvertently impact digital trade. Some policy areas that are particularly relevant include:

- **Intermediary liability:** social platforms allow individuals to share content of their own creation in the form of text (blogs, tweets, articles, etc.), images, or video. For this reason, these platforms are described as “intermediaries.” In order for them to provide this content, a regime is required where such intermediary services can offer content created by third parties without being directly responsible for it. Following international practices, Part V of the Law on Electronic Transaction provides that intermediaries are only subject to liability if they have information in data messages or electronic records which give rise to civil or criminal activity, and imposes on the intermediary the obligation to remove criminal or harmful information. Importantly, this regime should be complemented with specific procedures for intermediaries to follow for the prompt removal of unlawful information. This does not limit intermediaries from putting their own standards in place that regulate the type of content that can be shared, beyond any requirements under law.
- **Patents, copyright, and fair use of intellectual property:** an intellectual property regime must balance the capacity of content developers (whether they are musicians, writers, or code developers) to legally

protect their creations, while ensuring some flexibility for the sharing of knowledge and information. Lao PDR Law on Intellectual Property of 2011 sets out the basis for the protection of patents and copyright, as well as recognizing acts permitted without consent of the author and without valuable consideration, such as quoting published works, as long as the use is compatible with fair practice. The law adopts the concept of “fair use” as a limitation to copyright, following the practice in U.S. law and other jurisdictions.<sup>19</sup>

**Finally, a growing number of Lao PDR’s international and regional trade agreement commitments contain provisions on e-commerce, which generate an impetus for reform but also require implementation.**

In terms of existing agreements, the ASEAN Australia-New Zealand FTA (AANZFTA) contains an e-commerce chapter, although it is nonbinding. The AANZFTA chapter sets a framework for ASEAN members, as well as Australian and New Zealand, to put laws and policies in place that address many of the issues identified above, including rules on electronic authentication and digital signatures, online consumer protection, data privacy, and paperless trading.

**In terms of agreements under negotiation, in September 2017, ASEAN Economic Ministers agreed to launch negotiations for an ASEAN Framework Agreement on E-commerce.** This process is ongoing but it is expected to cover the main topics addressed in this report. The Regional Comprehensive

19 Law on Intellectual Property (Amended) No. 01/NA, dated 20 December 2011.

Economic Partnership negotiations also contain a chapter on this topic. While these negotiations are ongoing, it is not possible to determine what obligations will be created, but it is likely they will be at least at the level of AANZFTA, identified above.

**As with trade agreements in general, implementing commitments related to e-commerce could be a driver of reform.** At the same time, implementation can be a challenge and stretch the

capacity of officials, cover areas of limited understanding for the government, and generate new issues for the private sector. The new agreements are likely to build upon but go beyond the existing ASEAN commitments through AANZFTA. Lao PDR is likely to benefit from international support to understand the potential impact of these commitments, successfully implement them, and take advantage of a more open regional market for e-commerce.



## E-commerce Facilitation

**One of the key shifts in trade brought about by rapidly growing e-commerce<sup>20</sup> has been a large increase in the volume of low-value, small-parcel shipments crossing borders.** This is because e-commerce has facilitated the order and delivery of individual products, or small rather than large consignments, at greatly reduced costs.

**Available data indicate that levels of cross-border e-commerce in Lao PDR remain low, meaning the challenge for Lao PDR is to put in place the policies and procedures that will facilitate growth.** This will be accomplished through a combination of more effective implementation of existing reform initiatives to lower trade transaction costs, as well as addressing aspects of e-commerce that relate to particular trade facilitation processes or requirements. It would allow firms and consumers to benefit from e-commerce as the enabling environment improves in mobile connectivity, logistics, access to payments, and other areas where Lao PDR lags behind other countries in the region. This is particularly important for a landlocked developing country such as Lao PDR which already faces high transport costs relative to competitors.

**The objective for Lao PDR should be to balance the facilitation of e-commerce trade with maintaining its control over the border, in ways that do not generate excessive costs for the government, traders, and consumers.** The only way of doing this is by intensifying the effort made so far to adopt a modern trade facilitation regime, which provides transparency and certainty, uses risk-based approaches to facilitating trade, ensures all relevant agencies are contributing to trade facilitation improvement, and increases the use of ICT and automation in the border clearance process.

**Information from other countries makes clear the extent of the rapid growth in small parcel trade.** In Japan, small parcel deliveries by express services have almost doubled in the past 10 years, and the number would almost certainly be higher if postal shipments were also included. In Australia, around 10 million parcels valued at below AUD 1000 (US\$800) are delivered annually by air cargo. Approximately 75 percent of these parcels are valued at less than AUD 100 (US\$80).<sup>21</sup> From 2008 to 2011, express cargo delivery of parcels valued at under AUD 100 grew by more than 41 percent,<sup>22</sup> from 5.07 million to 7.21 million annually. Data from New Zealand suggest a similar clustering of small parcels associated with e-commerce below a value of around US\$80.

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20 Cross-border trade in traditional, physical goods.

21 *Economic Structure and Performance of the Australian Retail Industry*, Australian Productivity Commission, 2011.

22 *Low-Value Threshold Taskforce Final Report*, Australian Treasury, 2012.

## Figure 7: Some, but Limited, Growth in Cross-Border Small Parcel Delivery, with More than Half of Total Shipments Valued at Under US\$150

2015	11,679	4,362	6,720	22,761
2016	13,020	4,357	6,915	24,292
2017	13,958	4,554	7,025	25,537
YoY Change (2015–2017)	19.5%	4.4%	4.5%	12.2%

Source: DHL Lao PDR.

Note: YoY = year over year

**Available data for Lao PDR show a modest increase in low-value shipments associated with e-commerce.** Between 2015 and 2017, shipments valued at below US\$150 expanded by only 12.2 percent, according to data provided by DHL (see Figure 7). Parcels valued at US\$150 account for more than half of all small parcel shipments delivered by DHL—and it could be expected that other carriers delivering goods by air do so with comparable values, given most express companies globally are experiencing the same trend of increasing e-commerce deliveries.

**This growth in small parcel trade is positive, but it comes with challenges for Customs, other border agencies, and ultimately for other traders, too.** Where inefficiencies exist, for example, in the use of paper-based rather than automated systems, their impact is compounded by the rapidly-growing small parcel trade. This can also push up costs for Customs and border agencies, especially if they try to maintain inefficient procedures, such as paper-based clearance or high levels of physical inspection. This also pushes up costs for traders. If the costs for traders are high enough or the regulatory complexity is significant, this can act as a major brake on growth in e-commerce, especially given the relatively small size of the Lao PDR market, compared with more developed e-commerce markets in neighboring countries such as Thailand and Vietnam. There would be a risk that e-commerce in Lao PDR would be restricted before growth even begins.

### DE MINIMIS THRESHOLDS AND SIMPLIFIED PROCEDURES

As e-commerce grows, one of the most relevant areas of trade facilitation policy is the use of *de minimis* thresholds, below which goods are exempt from duties and other taxes and are subject to streamlined clearance procedures, including minimal documentary requirements.

In Lao PDR, the *de minimis* regime is not clearly defined, with a *de facto* threshold of US\$50 being implemented, although the regulation underpinning this does not seem applicable to this type of cross-border trade. This *de facto* level of US\$50 is being implemented based

on interpretation by Customs of a 2016 regulation issued by the Ministry of Finance.<sup>23</sup> This regulation requires that (i) less frequent travelers (two trips per month) who possess any artefact or goods of about US\$50 in value for noncommercial purpose will be exempt from import taxes, and (ii) more frequent travelers (more than two trips per month) will not be exempt from import taxes even if the value of goods is US\$50 or less. An actual value for the latter will be determined by Customs, and import taxes will be applied. It should be noted that the regulation appears intended for goods carried by passengers, not for wider trade, so its interpretation by Customs seems to be broader than intended. This underlines the importance of establishing legal clarity on the *de minimis* regime.

**Customs clearance of goods under this *de facto* US\$50 threshold is relatively simple in most cases but is not clearly defined or consistently applied.** Goods imported with a value of less than US\$50 have been reported cleared for release by Customs after the waybill and inventory records were checked, without a full customs declaration and requirement of supporting documents. However, this practice has not been formalized into a clearly defined regulation that is fully in line with the World Customs Organization (WCO)'s Immediate Release Guidelines (IRG—see below). A simple regulation could be established to formalize all processes to ensure transparency and predictability in handling *de minimis* goods in order to avoid any discretionary actions.

**There are also no streamlined clearance procedures for express small value parcels and cargos valued above US\$50.** Any parcels or cargos with the value exceeding US\$50 are required to follow the formal customs declaration process through the ASYC-UDA system. This clearance process often frustrates importers with unnecessary transaction costs and processing times for small value parcels. According to express delivery companies, low-value parcels and cargos imported into Lao PDR are currently mostly trade samples and for noncommercial purposes. International experience shows that Customs spends more money on this administrative process than it collects in import taxes. Due to the high transaction costs for individual importers to self-clear their low-value packages through Customs, freight forwarders and customs brokers are often used to handle customs clearance, generating costs for small firms and individual consumers.

**An in-depth assessment on costs and benefits of the *de minimis* regime in Lao PDR is crucial to formalize and increase the *de minimis* threshold and to establish well-defined streamlined clearance procedures.** Lao PDR's *de minimis* threshold is one of the lowest in ASEAN countries, and it would benefit from raising the threshold to facilitate a growing e-commerce in small and low value packages and offset its high logistics costs. There is still a lack of understanding of the *de minimis* regime among policymakers, customs officers, and stakeholders, and how it is important to stimulate e-commerce for small

23 MOF Regulation # 2834, dated 30 August 2016 on collecting value-added tax (VAT) at 10 percent for passenger's artifacts or carried goods.

and medium enterprises in the country. Lao PDR needs to determine an appropriate *de minimis* value by taking into account its own circumstances and international good practice. If the country could establish a formal *de minimis* level, it is likely to have a positive impact on small and medium enterprises and provide opportunities for increased e-commerce.

**International guidelines set out good practices for managing the cross-border delivery of low-value goods.** The World Trade Organization (WTO) Trade Facilitation Agreement (TFA) procedures on Expedited Shipments (Article 8) as well as the WCO Immediate Release Guidelines are relevant to Lao PDR, as a member of both organizations. The provisions of Article 8 of the WTO TFA set out a number of procedures that are good practice for facilitating a growing e-commerce goods trade. These include:

- minimizing documentary requirements;
- expediting the clearance of goods on arrival; and
- setting a *de minimis* threshold below which duties and charges will not apply.

The WCO Immediate Release guidelines set out four categories for the clearance of goods: Category 1 for documents; Category 2 for low-value goods where no duties/charges apply; Category 3 for goods where duties and charges are applicable but simplified procedures apply; and Category 4 for higher-value goods where duties and charges are applicable. There is a wide variation

globally of the thresholds at which these categories apply. The global express industry advocates that a threshold of US\$200 is set for Category 2 goods, allowing them to cross borders with simplified procedures and no duties/charges.

**Reflecting the global divergence in practice, there is no common approach in ASEAN, and governments have different views on the merits of raising or lowering *de minimis* thresholds.**

For example, Figure 8 shows the wide variation in thresholds in ASEAN, although there is potentially an emerging trend toward raising the thresholds—for example, Indonesia, the Philippines, and Malaysia recently raised their thresholds. The level at which the threshold is set has implications for the costs associated with assessing risk, inspecting parcels, collecting revenue, and so on. Setting the threshold involves a policy choice on whether revenue should be collected on low-value shipments, but it needs to be weighed against the capacity to collect these revenues given the high volume of low-value goods as e-commerce grows. The benefits for consumers of facilitating e-commerce also need to be taken into account.

**Lao PDR should put into place a clear framework for handling the importation of low-value goods, drawing on these standards as they apply to Lao PDR as a WTO and WCO member, as well as practices in other countries.**

The *de minimis* value should be set at a level where it does not result in excessive compliance costs for traders, or excessive collection costs for the Lao authorities. Consideration should be given to raising the *de facto* level of

**Figure 8: *De Minimis* Thresholds in ASEAN Economies**

<i>De minimis, i.e., no duty/tax collection (US\$ equivalent, converted from local currencies)</i>	
Brunei	295
Cambodia	50
Indonesia	100 (Note: Only for delivery through courier services. Increased in June 2017 from US\$50)
Lao PDR	50 (Note: <i>De facto</i> level with legal basis unclear)
Malaysia	128 (Note: Increased from US\$76 in October 2017)
Philippines	200 (Note: Increased from US\$100 in October 2016)
Singapore	296
Thailand	28
Vietnam	40
<b>Average</b>	131

Source: Authors; and GEA Data on *De Minimis* Regimes World Wide, global-express.org. Data not available for Myanmar at time of drafting.

US\$50 to a value at approximately the ASEAN average of US\$131. Simplified clearance procedures should also be put in place for goods below this

threshold. These procedures could also apply to goods below a certain higher threshold (e.g., US\$500), even if duties/charges apply to them.

## REBUILDING MOMENTUM ON OTHER TRADE FACILITATION REFORMS

**Lao PDR has made some progress in its trade facilitation performance in recent years, but further improvement is needed to establish clear and efficient procedures that facilitate e-commerce.** Improvements have been made in customs clearance reforms and the introduction of an automated customs declaration processing system (ASYCUDA World). Results from the Time Release Studies (TRS) show that the mean customs clearance time has decreased from 17.9 hours in 2010, to 11.2 hours in 2012, and to 6.5 hours in 2016. These results are consistent with World Bank Enterprise Survey data,

which also show manufacturing firms reporting that the average number of days to import and export has fallen. However, despite this reduction in clearance time, Lao PDR is not making full use of systems and processes required to make further substantial progress in facilitating trade. This is reflected in declining relative performance in ASEAN on key international benchmarks such as the Logistics Performance Index. The regulatory framework for a large number of products also remains cumbersome and nontariff measures drive up compliance costs and paperwork.

### *Use of ICT*

#### **Customs is not making use of the potential for the ASYCUDA World system to allow for paperless clearance.**

Customs clearance still requires physical submission of the paper customs declaration form and its supporting documents, in parallel with electronic submission of customs declaration data. An electronic signature in support of electronic submission of customs data for clearance is not yet widely recognized in practice, although it is allowed by the Law on Electronic Transaction.

Optimal use of electronic customs clearance and streamlined procedures will help reduce unnecessary delays and abuse of dedicated customs rules and procedures. While the development of the Lao PDR National Single Window (LNSW) is under way, its longstanding delay has affected the government's appetite and momentum for sustaining meaningful reforms in trade regulations on predictability and transparency. It is essential to ensure, as articulated in a 2013 LNSW Blueprint, that the establishment of the LNSW connects multiple government agencies, providing for a single submission point for trade-related approvals. It is essential that this effort goes beyond automating existing procedures without properly re-engineering business processes and reforming inconsistent regulations. To date, the LNSW is still not operational, and recent advice suggests it will not offer the kind of comprehensive functionality outlined in the Blueprint. Even in the case of the Customs ASYCUDA system, which would technically allow for paperless trade transactions, the authorities have been reluctant to eliminate the manual submission of documents, even for trusted traders.

#### **A fully functioning LNSW, consistent with the vision set in the 2013 Blueprint, would deliver a major benefit for all traders, and would address a key constraint on e-commerce growth, while also lowering compliance costs for the government.**

The excessive use of paper-based processes results in high costs for the public sector, with staff undertaking routine document-checking tasks where these resources could be used more effectively in other roles. Experience shows that the greater use of automation in border clearance processes involves a shift in staff roles and responsibility from routine checking functions, to a more efficient use of resources, i.e., tasks that focus on higher-risk shipments.

### *Risk management*

#### **The use of risk management is still at an early stage, although it is central to the efficient management of growing cross-border trade.**

In principle, Lao Customs is making some use of ASYCUDA World to define shipments for screening based on risk. However, its capability to frequently analyze and update the risk profiles remains limited, and Customs officers tend to inspect shipments regardless of the risk-based screening. For example, there are reports of rerouting low-risk cargos to the high-risk channel without proper quantification and justification. In March 2017, Customs attempted to improve compliance of front-line officers by limiting the number of officers able to channel goods for inspection. However, the initiative was met with significant internal resistance and implementation has been inconsistent. Clearance by customs officers often opens door for negotiation and discretionary actions that lead to unnecessary delays and transaction costs for traders.

Addressing these fundamental issues will improve the environment for general trade and for e-commerce.

### *Streamlining trade-related approval procedures*

**Some improvements have also been made in the transparency of trade regulations through the launch of the Lao Trade Portal (the country's national trade repository).** Lao PDR has implemented a Trade Information Portal in goods, with a solid user base and ongoing effort to keep the content updated. It has recently added to this a portal for information on trade in services.

**Ensuring this content is updated regularly, thereby making information readily accessible to entrepreneurs and SMEs, would assist in facilitating e-commerce.** Functional tools like duty calculators and plain language searching for product classification—complemented by the greater use of advance rulings by Customs on product classification, value, and origin—can be useful in providing more information to SMEs. This can also create an incentive for voluntary compliance with trade-related regulations, mitigating the risk of revenue loss through false declarations of value (even if the low value of e-commerce goods means the potential impact of this risk is low). However, without the application of *de minimis* thresholds and simplified procedures for small shipments, the relative costs for individual consumers and entrepreneurs of accessing information will continue to be high.

**The portal should be used to its full potential as a tool for streamlining**

**and simplifying regulatory requirements.** This is especially the case for requirements administered by agencies other than Customs. Lao PDR maintains a complex regime of Non-Tariff Measures (NTMs) that affect many imports and exports. Further analysis is required to identify the extent to which NTMs affect goods typically imported through e-commerce. However, NTMs, like import licenses that generate little revenue but generate complexity and cost for traders, affect the kind of goods (small size, relatively low value per product) that may be imported through e-commerce. For example, import licenses are in place for: parts for motor vehicles, motorcycles, and bicycles; and material for food preparation. Import licenses that appear to generate minimal revenue are also in place for goods that are important inputs for improving information technology (IT) connectivity, thereby enabling e-commerce. This includes optical fiber, insulated wire, and electrical apparatus for telephony. Complying with these NTMs generates unnecessary delays and puts financial burdens on importers and exporters to obtain documentary compliance. This is reflected in private sector complaints about the time required to comply with documentary procedures for trade: the World Bank Group's Doing Business Report 2018<sup>24</sup> shows that obtaining documentary compliance still takes about 216 hours, or 9 working days, for import as well as export. The NTM Review Sub-Working Group, for which the Ministry of Industry and Commerce is the Secretariat, should play a role in assessing and streamlining the role of NTMs in e-commerce.

24 WBG Doing Business Report 2018.



## Conclusion

**T**his report has surveyed two key aspects of the e-commerce environment where reforms would help Lao PDR boost its e-commerce competitiveness.

**First, in terms of the legal and regulatory framework for e-commerce, some of the basic building blocks are in place, but gaps also exist.** There are three notable areas for further work. First, implementation of the standards set through the ASEAN Framework on Personal Data Protection would support consumer confidence in e-commerce. Addressing gaps in the existing Lao PDR consumer protection legislation to ensure it applies fully to e-commerce is the second priority. Third, Lao PDR needs to fully implement the provisions in the Law on Electronic Transactions to ensure electronic signatures are recognized by all public agencies.

**The second broad challenge addressed in this report is facilitating e-commerce in goods.** Lao PDR has made some progress in reducing the transaction costs associated with accessing information and processing cross-border shipments. However, there is a need for further work in a number of areas. The *de minimis* regime needs to be clarified, with simplified procedures for low-value shipments put in place. The transition to full electronic processing of shipments needs to be completed, and the simplification of and transparency in the trade regulatory framework needs to be further improved. Finally, the risk-based processing of imports needs to be fully implemented.

**Although e-commerce is currently at low levels in Lao PDR, reforms in these areas—as well as in other aspects of its e-commerce environment—will make it easier for its producers and consumers to benefit.** For a landlocked country that faces high trade costs in “traditional” trade, the potential offered to lower the costs of connecting to international markets is especially important.

**Effectively tackling the challenges of e-commerce requires a strong leading voice within government, as well as close cooperation among multiple government agencies.** MOIC has been identified as the focal point for e-commerce in the Lao government. As such, MOIC’s initial actions should focus on three channels: (i) taking stock of the different elements of the “digital ecosystem,” including infrastructure, entrepreneurship, regulation, etc., and understanding where the main challenges lie; (ii) identifying the main public and private actors relevant in the field, and; (iii) identifying the main e-commerce opportunities for Lao PDR.

**As the leading agency on e-commerce, MOIC must ensure all agencies understand the potential for e-commerce and are in agreement on how to support it.** For instance, MOIC must work closely with:

- The Ministry of Telecommunications, which plays a central role in ensuring the infrastructure is in place (and is affordable) to support the development of digital business;
- The Ministry of Finance, in providing for effective revenue collection, in a manner that fosters rather than restricts e-commerce;
- Customs, in establishing efficient channels for e-commerce of goods;
- Ministry of Education, in ensuring a healthy number of young people are interested and well prepared in areas related to digital technologies; and
- Other agencies as required.

**MOIC will also need to work closely with key private sector stakeholders in this area in Lao PDR, to identify the main business interests for e-commerce in the country and implement policy reforms that have an impact on e-commerce.** The private sector should be seen as a partner in upgrading Lao PDR's e-commerce competitiveness.

**For a landlocked country like Lao PDR, digital technologies offer new channels for integration with international markets.** As such, the potential for e-commerce as a tool for export diversification and increased competitiveness cannot be dismissed. By providing an open regime for foreign investment and cross-border goods and services—and data—, Lao has taken steps toward creating a conducive regime for e-commerce. However, much remains to be done, both within the public sector and with the private sector.

