



Supporting Regulatory Reforms in Southeast Asia



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Foreword

Improving laws and regulations will be essential to the recovery from the economic and social impacts of the COVID-19 pandemic and other crises. The pandemic demonstrated how inefficient, outdated, or obsolete regulations may place undue burdens on businesses and society; it also showed that changes can be made swiftly and have substantial positive impacts. Decision makers will be taking stock of what has worked during this extraordinary period to learn how to regulate faster, better, and more co-operatively to stimulate innovation and productivity.

As such, this report seeks to capture the dynamism of regulatory reforms in response to global challenges, with a focus on the Southeast Asian (SEA) region. It describes the current state of play in three key priority areas for regulatory reform: whole-of-government initiatives, use of good regulatory practices (GRPs), and regulatory innovations such as the use of digital tools. It builds on the robust high-level regional strategies to encourage regulatory reform by the Association of Southeast Asian Nations (ASEAN), as well as past OECD reports such as *Good regulatory practices to support small and medium enterprises in Southeast Asia* (2018), and *Regulatory responses to the COVID-19 pandemic in Southeast Asia* (2021).

Chapter 1 of this report presents an overview of key trends in regulatory reform across the SEA region; Part I provides the evidence base for this analysis with data collected from all 10 ASEAN Member States presented in fact-based country profiles. These data were collected through a survey with senior better regulation officials via the ASEAN-OECD Good Regulatory Practices Network (GRPN), further complemented with interviews and a workshop to test initial findings.

The report notes the solid efforts made by ASEAN Member States in various elements of regulatory reforms. Whole-of-government initiatives focus strongly on international regulatory co-operation, probably because of ASEAN strategies to foster regional integration, while national strategies for regulatory reform continue to focus mainly on business outcomes and less on whole-of-society benefits. Good regulatory practices – including regulatory impact assessments (RIAs), stakeholder consultation and *ex post* reviews – continue to be a priority, but still face implementation challenges and are often seen as a procedural requirement, which may require additional investments in regulatory oversight. Countries are investing strongly in digital tools to improve regulatory policy design and delivery, especially to reduce burdens. However, the unequal distribution of benefits from digitalisation need to be addressed. Various challenges and future priorities for reforms are discussed to support the further iteration of regulatory systems in the ASEAN region.

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Table of contents

Abbreviations and acronyms	8
Executive summary	10
1 Overview of trends in regulatory reform	12
Introduction	13
Major trends in regulatory reform	14
Challenges and opportunities for regulatory reform in Southeast Asia	20
Future of regulatory reforms	22
References	24
Notes	26
Part I Country profiles	27
2 Introduction	28
Horizontal concepts	28
Methodology	30
References	31
3 Brunei Darussalam	32
Whole-of-government perspective	33
Good regulatory practices	37
Digital	41
References	43
Notes	44
4 Cambodia	45
Whole-of-government perspective	46
Good regulatory practices	48
Digital	50
References	52
Notes	53
5 Indonesia	54
Whole-of-government initiatives	55
Good regulatory practices	56
Digital	58
References	59
Notes	61

6 Lao People’s Democratic Republic (PDR)	62
Whole-of-government perspective	63
References	70
Notes	72
7 Malaysia	73
Whole-of-government initiatives	74
References	86
Notes	88
8 Myanmar	89
Whole-of-government initiatives	90
References	94
Notes	95
9 Philippines	96
Whole-of-government perspective	97
References	106
Notes	107
10 Singapore	108
Whole-of-government initiatives	109
References	115
11 Thailand	116
Whole-of-government initiatives	117
References	124
Note	124
12 Viet Nam	125
Whole-of-government perspective	126
References	134
Notes	135

FIGURES

Figure 7.1. MPC’s PRIME framework for applying behavioural insights	76
Figure 7.2. National Fourth Industrial Revolution (4IR) policy thrusts	85

TABLES

Table 4.1. Key activities by ministries to promote ICT development in Cambodia	51
Table 7.1. Updates to the National Policy on Good Regulatory Practice	75
Table 7.2. MyDIGITAL national initiative	82
Table 9.1. Online portals in the Philippines	105
Table 10.1. Industry 4.0 Technologies	114

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Abbreviations and acronyms

4IR	Fourth Industrial Revolution
ACRA	Corporate Regulatory Authority
ASEAN	Association for Southeast Asian Nations
ASW	ASEAN Single Window
CCC	Certificate of Completion and Compliance
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CTC	Certified True Copy
DGB	Digital Government Blueprint
DRN	Digital Regulatory Notification
EAC	Economic Action Council
EGDI	E-Government Development Index
GRP	Good regulatory practices
IFC	International Finance Corporation
IRC	International regulatory co-operation
MDEB	Malaysia Digital Economy Blueprint
MIL	Myanmar Investment Law
MPB	Malaysia Productivity Blueprint
NeSR	National e-Commerce Strategic Roadmap
NPDIR	National Policy on the Development and Implementation of Regulations
NPGRP	National Policy on Good Regulatory Practices
PBRIS	Philippine Business Regulations Information System
PENJANA	Pelan Jana Semula Ekonomi Negara
RCEP	Regional Comprehensive Economic Partnership
RIA	Regulatory impact assessments
SC	Steering Committee
SME	Small and medium-sized enterprise
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
ToT	Training of Trainer
TWG	Technical Working Group

UPC	Unified Public Consultation
WTO	World Trade Organization
SIRI	Smart Industry Readiness Index
OCS	Office of the Council of State
MOJ	Ministry of Justice
ACAPR	Minister's Advisory Council for Administrative Procedures Reform
BI	Behavioural Insights
DIO	Digital Investment Office
EAC	Economic Action Council

Executive summary

A commitment to better regulation has been central to Southeast Asia's strong economic performance. At the regional level, the Association for Southeast Asian Nations (ASEAN) includes regulatory reforms as part of several high-level strategies to promote regional economic integration. These strategies guide ASEAN Member States in their efforts to support public governance reforms, including using regulation to create sustainable conditions for business while protecting citizens, society, and the environment.

Historically, Member States started by adopting good regulatory practices (GRPs) – such as *ex ante* regulatory impact assessments (RIAs), stakeholder consultation and *ex post* reviews – and more recently have intensified efforts to build a whole-of-government system of regulatory governance and adopt innovative approaches, such as digital tools.

This report presents the current state of play for regulatory reform in ASEAN Member States across these three areas. Its goal is to foster mutual learning, both among ASEAN Member States and with OECD constituencies, to support domestic regulatory reform efforts. More broadly, it seeks to highlight the important role regulatory reform can play in reinforcing democracy and fostering trust. A collection of country profiles from all 10 ASEAN Member States forms the factual basis for the trend analysis in the first chapter.

Major trends in regulatory reform

Whole-of-government initiatives

International regulatory co-operation (IRC) continues to have a strong impact on better regulation in Southeast Asia, especially given the strategic priority placed by ASEAN on implementing systems to foster regional economic integration. While this focus on better regulation is reflected in high-level national strategic priority documents such as National Plans, they tend to be focused on improving the business environment, and less on regulatory reforms that support the environment or society more broadly. Finally, harnessing regulatory oversight as a centralised institution to drive regulatory reforms across government is taking hold, but more can be done to strengthen this function with the necessary structures and powers to encourage government agencies to adopt regulatory reforms in practice.

Good regulatory practices

Regulatory impact assessment (RIA) is becoming more widely adopted as a way to drive evidence-based policy making but is often seen as a procedural barrier rather than a tool to fundamentally change the way policy makers approach a policy problem. Stakeholder consultation appears to be a constant in almost every ASEAN Member State, though fewer have it as a whole-of-government requirement and it is unclear how consultation changes regulation in practice. *Ex post* review continues to be dominated by burden-reduction programmes, reflecting early regulatory reform priorities in the region, with only half of the ASEAN Member States using post-implementation reviews or sunset clauses.

Digitalisation

There is a clear movement amongst ASEAN Member States to adopt digital tools to improve regulatory policy design and delivery. All Member States have a national policy or strategy for promoting digitalisation, with a broad focus on public administration reforms. Most Member States focus on improving the business climate and procedures around designing or delivering regulations. However, it was recognised that digitalisation is not a cure-all and the unequal distribution of benefits need to be carefully addressed with holistic approaches to policy making.

Challenges and opportunities for regulatory reform

In addition to the data collected in the profiles, ASEAN Member State also provided feedback on the challenges and opportunities for future regulatory reforms. These include:

- **Leadership:** Members identified the need for strong leadership as a pre-condition for regulatory reforms to overcome initial internal resistance and to encourage the uptake of reforms.
- **Powers and functions:** Members noted the need for clear legal and institutional authority to drive reforms and avoid stalling due to lack of internal will to adopt reforms.
- **Co-ordination:** Building and maintaining a constituency for change was seen as an important avenue for removing roadblocks and gaining support for reform implementation.
- **System change:** Reforms require governments to adapt current systems of policy making, which can be difficult and imposes new challenges, such as interoperability or long delays.
- **Resources:** Reforms require an extensive commitment to change, the right financial and human resources to carry them out, and resource stability over time.
- **Capacity building:** Agencies driving reform need to support public servants across government to learn and adopt new ways of working, which can be challenging to deliver on a large scale.
- **Fostering trust:** Low-trust environments can result in resistance to reforms, requiring investments in awareness raising and demonstrating the positive benefits of new reforms.

Future of regulatory reforms

Finally, ASEAN Member States identified some expectations for future regulatory reforms in their respective administrations. These include:

- **Improving the quality and delivery of online services:** There is a strong recognition that online services can greatly benefit citizens; this became especially clear during the COVID-19 pandemic. Improving one-stop shops is seen as a centre piece of this strategy for many governments.
- **Re-engineering government systems:** Whole-of-government reforms will require further investigation into the most effective and efficient ways to make reform happen at the domestic level. This includes appropriate oversight and scrutiny functions to create positive incentives for change and reviewing mandates and functions of entities to ensure they are fit-for-purpose.
- **Refining the use of good regulatory practice (GRPs):** Legal requirements to use GRPs continue to be enhanced, but practical use of GRPs is still lagging. Continued political will to implement and iterate GRPs and linking them to broader objectives, such as the Sustainable Development Goals, will be important to bring about positive change on a macro level.

1 Overview of trends in regulatory reform

This chapter highlights the major trends, common challenges and future opportunities for regulatory reforms in Southeast Asia, and connects these trends with research and knowledge gathered in the OECD. The chapter attempts to capture the dynamic nature of the reforms by bringing the understanding of regulatory reform in ASEAN up to date, especially given the impact on regulation from the COVID-19 pandemic observed in OECD members. The analysis presented in this chapter is based on data collected from all 10 ASEAN Member States, which can be found in Chapter 2 of this report.

Introduction

Southeast Asia is an economic powerhouse, in large part due to a region-wide effort to implement reforms aimed at unlocking business opportunities and boosting national productivity and competitiveness in its large market (OECD, 2018^[1]). Prior to the COVID-19 pandemic, the region experienced strong growth from 2013-17 with GDP across the 10 ASEAN Member States growing at 5.0%, which rose to 5.2% in 2018 before dropping to 4.6% in 2019 (OECD, 2019^[2]). Emerging from the global economic shocks induced by the crisis, the region is expected to return to strong growth with estimates suggesting GDP growth in the region to be at 5.2% in 2022 and 2023 respectively (OECD, 2022^[3]), compared to 3.9% in 2022 and 2.5% in 2023 for OECD countries (OECD, 2021^[4]). However, the pace of the forecasted recovery varies greatly within the ASEAN block, ranging from -0.3% for Myanmar to 7.0% for the Philippines in 2022 (OECD, 2022^[3]).

While the pandemic hampered banking sectors and labour markets in the region, international trade has witnessed a strong recovery following a severe contraction in early 2020 with ASEAN Member States such as Malaysia, Thailand and Viet Nam exporting more than before the pandemic (OECD, 2022^[3]). These are promising signs for the region, also in terms of investment, whose economies are highly integrated in global value chains. Still, threats to global markets remain stemming from further COVID-19 variants, inflation, volatile oil prices and uncertainty around the war in the Ukraine and its repercussions (OECD, 2022^[3]).

One key driver of this performance at the regional level is the Association of Southeast Asian Nations (ASEAN), which has developed several high-level strategies aimed at fostering the necessary reforms to promote regional economic integration. This includes the ASEAN Economic Community Blueprint (2008^[5]); (2015^[6]), the Consolidated Strategy on the Fourth Industrial Revolution for ASEAN (2021^[7]), and the ASEAN Comprehensive Recovery Framework (2020^[8]) and Implementation Plan (2020^[8]) that aim to support recovery from the COVID-19 pandemic. Collectively, these strategies guide Member States in their reforms to facilitate trade and investment, support public governance reforms, foster skilled labour, promote competition, protect consumers and intellectual property, and strengthen the region as an integrated economic hub.

A common element across all these strategies has been the need to implement better regulation reforms to create a business-friendly regulatory environment, including for small- to medium-sized enterprises (SMEs), while also protecting citizens, society and the environment. Commonly, this has taken the form of adopting good regulatory practices (GRPs) – such as *ex ante* regulatory impact assessments (RIAs), stakeholder consultation and *ex post* reviews aimed at administrative simplification – as tools to improve the quality of the regulatory environment (OECD, 2018^[1]). Mirroring the experience in OECD countries, ASEAN Member States are also moving towards reforms that build the broader system of regulatory governance to support the implementation of GRPs (OECD, 2021^[9]).

The objective of this report is to foster mutual learning to inform efforts in regulatory policy making and governance systems reforms, both within the ASEAN region and between ASEAN and OECD constituencies. In doing so, it aims to support further domestic regulatory reform efforts, but also more broadly position regulatory reform as an essential tool of public governance to reinforce democracy and foster trust in public institutions. Evidence from 22 OECD countries on the drivers of trust in public institutions suggest that OECD countries are performing reasonably well on average on many measures of governance, such as citizens' perceptions of government reliability, service provision and data openness (OECD, 2022^[10]). However, emerging from the largest health, economic and social crisis in decades, trust levels decreased in 2021 and public confidence is now evenly split between people who say they trust their national government and those who do not (OECD, 2022^[10]). Time is of the essence, as the OECD report further notes that it takes a long time to rebuild trust and, in doing so, suggests that governments cannot focus solely on the outcomes of policies but also on the processes. This suggests that improvements in the way regulations are designed and delivered can help contribute to the process of rebuilding trust. While similar data does not exist from ASEAN member states, discussions with better regulation officials in the

region have noted similar challenges and opportunities associated with the essential role that trust plays in the success of regulatory reforms.

This chapter highlights the current trends, common challenges and future opportunities for regulatory reforms in Southeast Asia, as well as connecting these trends with research and knowledge gathered in OECD countries. It attempts to capture the dynamic nature of these reforms by bringing the understanding of regulatory reform in ASEAN up to date, especially given the impact on regulation from the pandemic observed in OECD members (OECD, 2021^[9]). The analysis is based on data collection from all 10 ASEAN Member States, found in Chapter 2 of this report, which build off and deepen the case studies from the region (OECD, 2018^[1]). The data was collected via the ASEAN-OECD Good Regulatory Practices Network (GRPN),¹ which was followed up by interviews with GRPN members and a special workshop with the GRPN membership, held in March 2022, to discuss these findings and gather feedback. An explanation of key concepts and terms can be found in Chapter 2.

Major trends in regulatory reform

Whole of government initiatives

International regulatory co-operation continues to have a strong impact on better regulation in Southeast Asia

International regulatory co-operation (IRC)² has been a major driver of regulatory reforms in Southeast Asian countries by virtue of their membership in the Association of Southeast Asian Nations (ASEAN).³ This includes the *ASEAN Economic Community Blueprint 2025* that recognises the importance of good regulatory practices, as well as the ASEAN (2019^[11]) *Guidelines on Good Regulatory Practices* that provide advice to countries on implementing better regulation reforms at the domestic level. Better regulation also underpins the ASEAN Comprehensive Recovery Framework (ASEAN, 2020^[8]) and Implementation Plan (2020^[8]), which focus on COVID-19 pandemic recovery. The ASEAN Work Plan on Good Regulatory Practice (2016-2025) further aims to embed GRPs in both national and regional level contexts (OECD, 2018^[1]), with support by the Economic Research Institute for ASEAN and East Asia (ERIA) that produces policy-oriented economic research, including in the areas of regulation and governance (ERIA, n.d.^[12]).

Individual country profiles featured in this report illustrate the impact of IRC efforts stemming from regional ASEAN-led initiatives, such as through the strong drive behind implementing the ASEAN Single Window (ASW). The ASW originated from the Ninth ASEAN Summit (2003) as a regional initiative that connects and integrates the National Single Windows (NSW) of ASEAN member states to exchange electronic trade-related documents (ASEAN, 2018^[13]). By the end of 2019, all ten ASEAN member states had joined the ASW live operation. As part of the implementation of the ASW, it is required that the NSWs for each ASEAN member state are compatible with international open communication standards, thereby fostering predictability and transparency of trade-related procedures and regulations (ASEAN, 2015^[14]). The OECD *Best Practice Principles for Regulatory Policy: One-Stop Shops for Citizens and Businesses* (2020^[15]) notes that, when done well, one-stop shops such as national single windows can provide a “win-win” outcome for governments and stakeholders by improving both service delivery and compliance with regulations, a result of reducing burdens on citizens and businesses by helping them more easily locate forms, supply information and do business. In this way, they are often important parts of a broader administrative simplification strategy.

All ASEAN Member States are signatories to international trade agreements. In the last decades, trade agreements have been increasingly used as a vehicle to promote effective regulation through the embedding of good regulatory practices (Kauffmann and Saffirio, 2021^[16]). This has included using trade instruments to address transparency in rulemaking and adopting international standards in technical

regulations, as well as more recent efforts to have more detailed and ambitious “standalone chapters” on good regulatory practices, IRC, or both (Kauffmann and Saffirio, 2021^[16]).

In Southeast Asia, the most recent major trade agreements include the Regional Comprehensive Economic Partnership (RCEP), which includes all 10 ASEAN member states, and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which include five ASEAN Member States. RCEP represents a more traditional approach to embedding improvements to regulatory quality in trade agreements as it contains chapters on standards, technical regulations and conformity assessment procedures, as well as various sub-sections on regulatory issues. However, it does not include references to GRPs specifically (OECD, 2021^[9]). On the other hand, the CPTPP contains a dedicated chapter on regulatory coherence that encourages good regulatory practices amongst signatories that aims to promote a minimum level of GRP and strengthen IRC amongst members (Kauffmann and Saffirio, 2021^[16]). While the CPTPP chapter contains stronger commitments than some other agreements, it still uses best efforts language (i.e. “should,” “to the extent appropriate and consistent with its law, each Party should encourage...”) and is not subject to the TPP Dispute Settlement Chapter (Kauffmann and Saffirio, 2021^[16]). Rather, it uses regular implementation reports by parties to monitor and encourage the enactment of the provisions in the agreement.

Better regulation, and public administration reform more broadly, are priorities for national development for all Southeast Asian countries but tend to focus on the business environment

Major better regulation reforms are often derived from broader whole-of-government efforts to transform government and modernise approaches. Public administration reforms feature prominently in every country profile covered in this report, and these often explicitly refer to better regulation as one of the elements. This includes integrating regulatory reforms into national visions and development plans. This has further trickled down to major legislative changes to improve regulations, which have occurred in nearly all ASEAN Member States.

Collectively, these make better regulation a whole-of-government priority for countries in the region. However, the strength, depth and breadth of the reform efforts vary considerably between countries. Some focus on improving property rights and legal systems to be on par with trading partners. In others, efforts extend further into reforms to improve the environment for investment and trade. Some jurisdictions notably have undertaken more systematic regulatory reforms, as the individual country profiles below will highlight.

Regardless of the intended policy outcomes, most reforms seem to be driven by efforts to improve economic performance, especially related to facilitating trade, investment and economic development. This is also consistent with the effects of IRC-led reforms via trade agreements. These reforms focus on the stock of existing regulations (i.e. burden reduction initiatives), and the flow of new regulations (i.e. *ex ante* RIA evaluations and, in some cases, oversight). Furthermore, this is consistent with a priority on improving the regulatory environment for businesses, which has been a hallmark of reforms in the region for many years.

There appears to be less of a focus on regulatory reforms in support of improvement to society more broadly, including protection for the environment. This may be linked to the fact that frameworks for calculating regulatory costs (often to businesses and the economy) are generally more developed than for calculating benefits. In practice, past OECD *Regulatory Policy Outlooks* (2015^[17]; 2018^[18]; 2021^[19]) have further noted that more countries measure costs than benefits.

Regulatory oversight is starting to take hold; however, more can still be done to strengthen this institutional anchor to support better regulation outcomes

OECD *Recommendation on Regulatory Policy and Governance* (OECD, 2012_[20]) notes the cornerstone role oversight plays in effective regulatory policy making. It stresses the importance of establishing mechanisms and institutions to incentivise government actors to use the processes and tools of better regulatory policy making to foster regulatory quality across government. Regulatory Oversight Bodies (ROBs) are the institutional embodiment of this function and often have the following core roles (OECD, 2021_[19]):

- Quality control of regulatory management tools (i.e. reviewing the quality of individual regulatory impact assessments, stakeholder engagement processes, and ex post evaluations);
- Issuance or provision of relevant guidance on the use of regulatory management tools;
- Co-ordination on regulatory policy; and
- Systematic evaluation of regulatory policy.

OECD research on ROBs suggest that they host strong competences in GRPs and better regulation reforms, including an understanding of why they are necessary and how they can have a positive influence on regulatory policy design and delivery. They also have a crucial role to play in the implementation and promotion of reform efforts (OECD, 2021_[19]). This is reflected in data collected on OECD countries, which note that all OECD members have at least one ROB in operation, but there is significant heterogeneity in terms of both their location in government and core functions performed (OECD, 2021_[19]). ERIA research on ASEAN Member States has noted the similar importance for ROBs in institutionalising and implementing GRPs.

The ASEAN member state country profiles in this report show a trend towards strengthening oversight, with similar heterogeneity as compared to OECD countries. Six ASEAN Member States have identified that they have some form of regulatory oversight body in operation. All of these have training functions, whereby they encourage the use of better regulation via capacity building, trainings, production and dissemination of guidance materials. Four of these six have a gatekeeping function, scrutinising regulatory proposals to evaluate the quality of regulatory impact assessments (RIAs), stakeholder engagement or *ex post* review efforts. It appears as though all the ROBs who undertake this function do so in an advisory fashion, without the powers or mandate to block a regulatory proposal on the grounds of insufficient evidence.

Of these ROBs, there is a split between the use of central agencies (often inside the Office of the Government/Prime Minister/President) and use of Ministerial or Agency level units. OECD-wide guidance on ROBs has yet to be developed; however, entities such as RegWatchEurope, a network of independent bodies,⁴ has issued recommendations for developing regulatory oversight further at the EU level (RegWatchEurope, 2020_[21]).

Good regulatory practices

Good regulatory practices (GRPs), also known as regulatory management tools, are tools and processes developed to help support policy makers in their efforts to use evidence-based decision making throughout the policy cycle. These tools include regulatory impact assessments (RIAs) that help decision makers to evaluate *ex ante* the various options for regulatory responses and choose the most optimal solution, stakeholder engagement that gathers evidence from those directly or indirectly affected by the proposed solution, and *ex post* review that evaluates the effectiveness of regulations to offer opportunities to revise regulations to improve their effectiveness and efficiency.

The analysis in this section relies on the methodology behind the OECD Indicators of Regulatory Policy and Governance (iREG) that are measured and presented every three years via the OECD *Regulatory Policy Outlook* (2015^[17]; 2018^[18]; 2021^[19]). iREG are composite indicators looking at four elements pertaining to the adoption and implementation of good regulatory practices:

- *Systematic adoption* records formal requirements and how often these requirements are conducted in practice.
- *Methodology* presents information on the methods used in each area, e.g. the type of impacts assessed or how frequently different forms of consultation are used.
- *Oversight and quality control* records the role of oversight bodies and publicly available evaluations.
- *Transparency* records information which relates to the principles of open government, e.g. whether government decisions are made publicly available.

The iREG indicators presented in the *Outlooks* are the result of a robust data collection and verification process conducted every three years. As this type of exercise is outside the scope of this paper, a more qualitative approach was taken to analyse the data in the profiles to achieve an initial indication of ASEAN Member States' progress towards implementing GRPs. An in-depth data collection and analysis by country would provide significantly more depth, and could be seen as a future priority for countries looking to advance their GRP reform agendas.

RIAs are becoming more widely adopted in ASEAN Member States, though still more focused on procedural applications than driving a thorough evaluation of regulatory options

In terms of systematic adoption, the country profiles indicate that seven of the ten ASEAN Member States have a formal requirement to conduct RIAs as part of regulatory policy making, with one additional country having the requirement to conduct RIA but on a voluntary basis. This demonstrates that ASEAN Member States do recognise the importance of this tool to improve regulatory policy making, tracking with similar trends in OECD countries (OECD, 2021^[19]). However, the profiles indicate that these formal requirements do not always lead to continuous use of RIAs in practice, which is an area of possible reform for ASEAN Member States going forward. Discussions at the GRPN and research by ERIA have noted similar trends.

Similarly, methodology seems to be an area of strength for ASEAN Member States in progressing their RIA systems. All countries that have RIA systems in place have also produced some form of guidance or manual for how to conduct RIA, combined with training initiatives. In some cases, this has been produced by the government alone while others were developed with the support of development partners, such as with United States Agency for International Development (USAID); the Foreign, Commonwealth and Development Office (FCDO); the World Bank; or the OECD.

RIA oversight and transparency are two areas where ASEAN Member States may still be in need of further development. As discussed previously, regulatory oversight is not yet systematically adopted in all ASEAN Member States as a tool for improving the system of regulatory governance. Only four countries that have an oversight body have indicated in their profiles that this oversight body also scrutinises RIAs. More often, the oversight body develops guidance and methodologies for conducting RIAs, as well as conducting training sessions for policy officials. Further, transparency was not highlighted strongly in the profiles, though OECD guidance recommends that RIAs be made public to both support stakeholder engagement and as part of publishing the final regulatory decision. Collectively, this may drive implementation issues whereby individual ministries and agencies may adopt some or all elements, while others do not, resulting in a piecemeal approach.

One possible way forward for ASEAN Member States in trying to develop further their RIA systems would be to focus on RIA as a “theory of change” rather than a procedural hurdle. Discussions at the GRPN have noted the perception that RIA takes significant resources in terms of time, expertise and data, which has emerged both in OECD and ERIA research on the region. This perception can be true when conducting

full cost-benefit analyses (CBA). However, RIA is not fundamentally about only conducting quantitative analyses and calculations; rather, it is a structured process that aims to give decision makers crucial information on whether and how to regulate to achieve a public policy goal (OECD, 2020^[22]).

OECD guidance notes the variety of methods that can be used to conduct RIA, ranging from faster and less time consuming qualitative methods to fully quantitative cost-benefit analyses, which offers a path forward for countries wanting to deepen their use of RIA. The OECD (2020^[22]) *Best Practice Principles on Regulatory Impact Assessments* notes that other key elements of RIA include problem definition, objective setting, description of the regulatory proposal, identification of alternatives and preferred solution, and setting out a monitoring and evaluation framework – all of which do not need specialised skills, knowledge or significant time commitments and, when done right, provide the necessary essential information to decision makers. Furthermore, the Principles note the use of proportionality and thresholds in some OECD countries, which establish impact requirements whereby above a certain threshold a full CBA is required but, under this threshold, less rigorous and resource intensive methods can be used. Therefore, establishing clear rules for choosing between shorter and longer forms of RIA can help increase the uptake of the tool.

Stakeholder consultation is a strong building block of GRPs in the region, but slightly less widely adopted from a whole-of-government perspective and may be less used in practice

Nine of ten ASEAN member states have stated that they have some type of formal requirement to conduct stakeholder engagement in regulatory processes, though this was split between having a whole-of-government policy requiring it (six of ten member states) and having individual ministries opting to conduct stakeholder consultations (three of ten member states). However, it is unclear from the information collected how systematically these consultations are undertaken in practice or at what stage in the process they occur. The later they occur in the policy making cycle, the less likely they are to have an impact on the final outcome.

Half of the countries indicated the use of guidelines, manuals or trainings to encourage stakeholder engagement. Similarly, five of ten ASEAN Member States have explicitly set up consultation groups to solicit regular feedback into regulatory policy making and evaluation, or identified groups of stakeholders to engage with on a regular basis when developing policies. These were often oriented towards business groups, such as chambers of commerce. The existence of such standing bodies to conduct ongoing consultation can be quite helpful in overcoming some of the difficulties in gathering evidence to support decision making as these stakeholders can provide immediate feedback on regulatory proposals and provide options for alternative solutions. However, without voices from a diverse set of backgrounds, there is a risk of overlooking benefits of the current proposal and/or possible alternatives that may be most efficient. A full analyses of these groups would be needed to come to an appropriate set of recommendations.

Transparency appears to be most advanced in stakeholder engagement, compared to the other GRPs. Seven of ten countries indicated the use of a public platform, such as a website, to run consultations and/or report on the results. Conversely, oversight seems to be least developed for stakeholder engagement, with only two countries indicating that the ROB was involved with some form of scrutiny in regards to consultations.

Ex post review is the least used GRP, similar to OECD trends

Of the three major types of *ex post* review examined by the questionnaire sent to members (post-implementation review, sunset clauses and burden reduction), burden reduction continues to be dominant with eight ASEAN Member States having explicit programmes underway. In all cases, these have been institutionalised into either central units responsible for whole-of-government initiatives, or ministry level units responsible for implementing and evaluating burden reduction. Comparatively, five countries require

either post-implementation reviews or sunset clauses, though nearly all identify this practice as being implemented on an ad hoc basis on the decision of individual ministries overseeing the policy.

In terms of methodology, three out of five countries who identified having a policy to conduct post-implementation reviews also have guidance for ministries to implement these reviews in practice. Four out of eight cases with burden reduction programmes have dedicated methodologies in place, such as through guidelines or units who provide support. The lesser adoption of methodologies with burden reduction may be linked to the establishments of units responsible for implement burden reduction initiatives, and thus not requiring others to do the burden reductions on their own. This would negate the need for developing guidance. It is unclear from the data collected what sort of cost calculation methodologies are used by burden reduction units to conduct their analysis.

Oversight seems to be consistently in place when countries do decide to implement *ex post* reviews, with eight countries having some sort of oversight mechanism to oversee the review process. For burden reduction, a dedicated unit is almost always responsible for implementing the initiative. For post-implementation reviews and sunset clauses, this is often under the purview of the ministry or agency overseeing the regulation, which is consistent with findings from the OECD (2020^[23]) *Best Practice Principles for Review the Stock of Regulation*. At least one country with a centralised ROB has also given this entity responsibility for scrutinising reviews. Burden reduction initiatives seem to be transparently communicated on, following countries' motivation to publicly display their progress on improving the business climate.

Digitalisation and innovation

Digitalisation is a clear driver of administrative reforms in the region

There is a general movement towards the use of digital tools to improve regulatory policy design and delivery in the ASEAN region. This both supports the implementation of GRPs, and occurs independently of GRP reforms to improve broader aspects of public governance including through the Consolidated Strategy on the Fourth Industrial Revolution for ASEAN (2021^[7]). All ASEAN Member States have a national policy or strategy for promoting digitalisation, with a broad focus including public administration reforms. In these cases, nearly all (8 of 10) include a focus on improving the business climate, while 7 involve digitalisation for improving procedures around designing or delivering regulations.

However, GRPN members also highlighted the need to recognise that technology is not a cure-all that will solve all problems. The gains from technology are often unevenly distributed, with many potentially feeling left behind if they do not have the skills and resources to access technology-based systems. This highlights the need to engage in digitalisation as a mode to improve governance, while still using targeted and assistive approaches with multiple channels to ensure inclusiveness.

A common tool used in this regard are one-stop shops (OSS) or national single windows (NSW). All ASEAN member states had at least one version of an OSS/NSW, in line with their commitments under the ASEAN Single Window programme as mentioned above, with several countries having several in operation at once. In terms of functions, 7 of 10 are branded as full one-stop shops; however, how much they align with good practices in terms of OSSs needs to be evaluated⁵. Similarly, 7 of 10 have online business registration and/or payment portals aimed at reducing burdens on businesses.

While countries appear to be highly committed to the use of digital tools to improve administrative processes, the use of more advanced forms of innovations to regulatory systems are less frequent. For example, only one country identified the use of regulatory sandboxes to support the digital transformation of their society. Another identified the use of artificial intelligence supporting administrative processes.

Challenges and opportunities for regulatory reform in Southeast Asia

The OECD conducted interviews with main contact points of the ASEAN-OECD Good Regulatory Practices Network (GRPN) and held a workshop with the network to further explore the challenges and opportunities in driving regulatory reforms in respective contexts. This section dives into some of the themes identified, which is not exhaustive but is meant to reflect priority views of GRPN members.

Leadership

GRPN members identified the need for strong leadership in implementing better regulation reforms. The success of these reforms is contingent upon the large number of public servants inside the regulatory policy making system shifting ways of working to adopt new approaches, which may take time and effort as well as often subjecting themselves to scrutiny in the process. For these reasons, there can often be a reluctance to adopt new reforms.

Strong leadership within government is often a pre-condition for successful GRP reforms. The lack thereof was identified as a major potential challenge. On the one hand, members identified a lack of leadership as one reason for why various ministries and agencies may not adopt new reform. That is, if their direct leadership did not initiate reforms, reform ideas, and the necessary steps, then they do not feel they have to abide by the requirements in the reform. On the other hand, members also noted that it is the role of the political leaders to debate issues and reach consensus about the best way forward. This will often involve compromises, and political leaders may not be ready to fully implement reforms as part of the consensus-making process. As a result, it can be difficult to drive strong reform agendas across government.

However, this is also seen as a source of solutions. Members noted that when leaders place their full weight behind reforms, it can overcome internal resistance. Often this support is generated by demonstrating to leaders the value of reforms, such as being a tool to advance their agendas and demonstrating how the reforms are having tangible impacts, which then can create more space and credibility for the better regulation unit.

Powers and functions

Members also noted the delineation of legal powers and functions of various ministries and agencies as a challenge to implementing regulatory reforms. In some instances, this is a legal issue from both the perspective of the centre of government “better regulation unit” charged with implementing the reform and the ministries and agencies who are being asked to adopt new ways of working.

For the former, some better regulation units are created by the current or recent governments inside central executive offices to carry out centrally-driven reform initiatives, but without the benefit of the legal standing of more codified government entities. When trying to implement reforms, these units have noted that they can face some resistance both from a perceived lack of legitimacy to enact system-wide change, as well as an assumption that any change in political leadership or focus could result in the unit no longer being in existence. As a result, ministries and agencies may take a “wait and see” approach to determine if they commit resources to implementing the reform or not.

For the latter, some ministries and agencies use their powers and functions, sometimes codified in law – such as agency creation acts – to resist reforms. Members noted that ministries and agencies often argue that, according to the law in some instances, the better regulation unit does not have the right to instruct on reform. As a result, the reforms stall. This is related to leadership, as some members noted that the common solution is to gain the support of the leadership, including often the Head of Government and/or State, who directs ministries and agencies to comply and resolves inter-Ministerial conflicts over the matter.

Co-ordination

Several members identified challenges associated with co-ordination, especially in building and maintaining a constituency for change that could help remove roadblocks and support reform implementation. Specifically, having the right skill sets internally and creating alliances of willing partners for change were highlighted as necessities for successful reform implementation. Members noted at least two perspectives where co-ordination challenges were remained.

First, there is co-ordination across the national government – often between “better regulation units” who create the processes, rules, guidelines and training to improve regulatory policy making and the “regulators” who have to use them in practice in their given sector. In addition to leadership, powers and functions discussed above, having the right type of co-ordination mechanisms is essential in promoting a whole-of-government approach to better regulation. Examples from ASEAN and OECD countries note a variety of ways to approach improving co-ordination, ranging from special bodies or task forces to formal institutional mechanisms.

Second, similar needs extend to sub-national governments, especially in the case of unitary systems where rules made at the centre are to be implemented at the sub-national level. However, harmonisation and alignment often does not always happen automatically and members identified gaps in co-ordination between levels of government that could help move forward better regulation reforms. Involvement of sub-national governments in regulation-making takes time, but medium-long term benefits outweigh the costs of co-ordination (OECD, 2012^[20]).

System change

Another challenge identified by the GRPN regards the need to update systems across government to ensure reforms work in practice. This includes changes to administrative processes, which need to account for the new ways of working imposed by the better regulation reforms. For instance, appropriate scrutiny often requires that the oversight body is granted sufficient responsibility to intervene, but also that this intervention is at the right moment in the policy making process and with sufficient ability to affect the outcomes. Similarly, the ability for RIAs and stakeholder engagements to have an effect is also linked to when they are conducted (OECD, 2020^[22]; 2021^[19]). When they are done too late, they will be mostly used to justify decisions that have already been taken rather than informing the decision over which decision to take.

Further system changes are also required to adapt to the wave of digital transformations occurring in country administrations of all ASEAN Member States. GRPN members noted that issues related to interoperability of systems or adapting digital systems to new requirements can pose challenges in implementing the reforms, including long delays.

Resources

Reforms require an extensive commitment to changing the behaviour and attitudes of the public service on a wide scale. For this reason, GRPN members cited having the right financial and human resources to carry out these duties and responsibilities over the long term as a central challenge. Internally, this means the ability to hire enough – and sufficiently qualified – staff to be able to appropriately deliver on the scrutiny and/or training functions. Externally, this means being able to deliver these functions across the wide array of ministries and agencies involved in the system of regulatory policy making. Some members noted that underfunding has reduced their ability to deliver the reforms entrusted to them.

Countries also noted the need to consider resources in parallel with delivering on efforts to improve governance via decentralisation. Members noted that reforms need to not only affect national government decision making, but also sub-national decision making as well. This can greatly expand the size and scope of resources needed to fully implement reforms.

A related challenge raised by several GRPN members was the impact of multiple funding streams in ASEAN Member States, including through Official Development Assistance (ODA). For many reasons, state budgets in many ASEAN Member States are often insufficient to carry out all national development goals. This is where ODA can help ASEAN Member States bridge resource gaps, especially to support strategic reform programmes. While this assistance is vital for many countries, uncertainty in the regularity and availability of development funds, compounded by co-ordination challenges among some donor initiatives can pose challenges in implementation. This can result in continuity challenges for reforms over time that, again, gives way to hesitance by ministries and agencies who are asked to implement the reform.

Capacity building

The implementation of better regulation reforms often requires extensive and sustained capacity building. This is aimed at introducing the wide variety of actors across government to the new tools and processes, as well as work with these actors to help them adopt these reforms in their day-to-day activities. Members noted challenges associated with delivering these sessions in practice.

On the one hand, this is related to the resource issue – having the budget and staff sizes to deliver training courses and work with ministries and agencies to answer their questions is difficult, especially to plan these activities over the long term if relying on ODA or other types of temporary funding. On the other hand, some GRPN members noted a more general challenge related to technical knowledge. Some of the analytical tools used in good regulatory practices require some base knowledge of economics and related disciplines, which is not always available internally or easily accessible without considerable cost externally.

Fostering trust

Finally, members highlighted the essential role of trust as both a driving factor of regulatory reforms, as well as a potential challenge to overcome. Members noted that reforms do not happen on their own, which has been a running theme of the challenges noted above. Rather, they are the result of concerted efforts to build and strengthen the system for the benefit of the whole of government, businesses and society at large.

They noted that, in low trust environments, such efforts can be difficult to push forward. Other government actors, businesses or members of society who lack trust may view these efforts negatively and resist coming along in the change process. Members highlighted two avenues to help improve trust in the reform process: first, internally by investing in effective capacity building and support mechanisms to help civil servants adopt new ways of working and, second, externally by demonstrating to citizens and businesses that the new systems are used equally (i.e. no preferential access or treatment) and lead to better outcomes for all. This aligns well with the key message of the OECD (2022^[10]) report on the drivers of trust in public institutions, which notes that rebuilding trust requires governments to not just focus on outcomes but also on processes.

Future of regulatory reforms

OECD interviews with GRPN main contact points and the workshop with GRPN members also honed in on some of the expectations for regulatory reforms in their respective administrations going forward. This section dives deeper into these areas of potential focus, including elements from the OECD (2021^[9])

COVID-19 Policy Paper on *Regulatory responses to the COVID-19 pandemic in Southeast Asia*. These are not government policy; rather, an assessment by GRPN members of trends they are observing and where they think the trends may lead to next. As with the challenges section, this is an overview from a limited sample size and project. More analysis via a dedicated research project would be needed to understand these trends further, identify missing elements, and offer recommendations for all ASEAN Member States.

Improving the quality and delivery of online services

GRPN members noted that they expect the movement towards improving the quality and delivery of online services to continue going forward. This is both a result of the pandemic, which OECD (2021^[9]) notes forced governments to adopt digital solutions *en masse* to alleviate government process oriented burdens, and pre-pandemic digital transformation efforts enshrined in national development strategies and regional efforts, such as the ASEAN Single Window. Two strong tailwinds provide momentum towards these reform efforts.

First, there is a strong recognition that citizens and businesses can benefit greatly from improved access to services online. This would help support burden reduction efforts, which are well established as areas of focus to help improve trade and investment environments, both domestically and in partner countries. Second, the COVID-19 pandemic and resulting crisis demonstrated that governments need to become more agile in order to handle future crises, including economic, social and environmental issues. Digital government is seen as an important part of government preparedness to handle such future crises. One-stop shops are a centre piece of many governments' efforts in these regards, and their continued development and iteration will likely be an important focus for ASEAN Member States in the short- to medium-term.

Re-engineering government systems

As part of both digital transformation and efforts to implement regulatory reforms, ASEAN Member States are realising that whole-of-government reforms will need a more intensive investigation into how the system of government can be re-engineered to deliver these reforms. This includes how to implement processes and tools to make better regulation, such as RIAs, but also how to deliver effective capacity building to help effectuate the desired behaviour change. This may be a reason why oversight was featured in recent reform efforts, and may be increasingly the focus as a means to drive such system-wide change via scrutiny and gatekeeping.

This will be interesting to evaluate further vis-à-vis the effects of the COVID-19 pandemic, as OECD (2021^[9]) analysis notes that scrutiny functions were at times side-lined during the early stages of the pandemic in favour of faster decision making. The analysis recommended a review of the mandates, roles and procedures of entities involved in the regulatory policy making system, especially in light of crisis preparedness, and to adjust reform efforts based on the findings.

To make this happen in practice, governments are likely to look again at the laws that govern both regulatory policy making and sectoral regulation via burden reduction efforts. On the former, there is a recognition that some investigation into formal functions and powers may be needed to determine where and how to optimise the regulatory policy making system. On the latter, various sectoral laws will need to be evaluated *ex post* to determine their fitness, and revised and improved accordingly to allow for more modern approaches to regulatory policy design and delivery.

Further refining the various systems of good regulatory practices

The country profiles note a gap between ASEAN Member States in terms of GRPs that have been implemented. In some contexts, countries have been iterating a full system of GRPs for several decades. In others, the focus has been on some of the GRPs over others, or on the creation of a legal requirement to use GRPs but with little practical use. Others still are at the very beginning of their GRP reform processes.

Because of this complex and diverse landscape, and the continued political will to promote better regulation, ASEAN Member States are expected to continue to focus on creating, implementing and iterating their GRP systems for the foreseeable future. The heterogeneity in the level of development in the region also offers many avenues for countries to share lessons, both bilaterally and through regional foras such as ASEAN and the ASEAN-OECD GRPN.

From a post-pandemic perspective, OECD (2021^[9]) further highlights the need to develop robust systems of *ex post* review. In the short term, evaluating what worked and what did not from rapid changes to regulatory policy making as a result of the pandemic can help “lock in the gains” and modernise regulatory systems. Longer term, *ex post* reviews will be vital to ensuring regulations remain fit for purpose in future crisis, as opposed to “set and forget” styles of regulatory management. But such review process should also be applied to the system of GRPs as well, which is where OECD normative guidance and best practice principles can serve as a resource to support the evolution of the GRP system across the ASEAN region.

Lessons learned from the pandemic can also help to link regulatory reform efforts with broader goals to bring about positive societal change on a more macro level, including towards achieving the sustainable development goals (SDGs) and gender inclusive practices. Regulation can be a key tool for policy makers in promoting these better outcomes, and incorporating SDG, gender and other relevant perspectives into the GRPs can help mainstream these considerations into policy decisions (OECD, 2019^[24]). *Ex post* reviews could also be an ideal place to begin with this analysis, as looking back on regulatory decisions and evaluating them through an sustainable development lens can help provide an opportunity to identify unnecessary costs on society and reduce unintended consequences (OECD, 2019^[25]).

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Notes

¹ ASEAN-OECD Good Regulatory Practice Network (GRPN), co-chaired by Malaysia and New Zealand, is comprised of around 70 senior officials responsible for Good Regulatory Practice initiatives in ASEAN Member States, OECD member countries as well as representatives from regional and international organisations. The GRPN fosters the exchange of good practice and mutual learning among policy makers. The Network builds upon the longstanding partnership of the OECD with Southeast Asia on regulatory reform both regionally through APEC and ASEAN and bilaterally with individual ASEAN member states. See more: <https://www.oecd.org/gov/regulatory-policy/asean-oecd-good-regulatory-practice-network.htm>.

² IRC is the consideration of the international environment – including international evidence, expertise, rules, and standards – in domestic regulatory frameworks and decisions to help support alignment between countries. For a more detailed explanation, see (OECD, 2020_[26]).

³ ASEAN was founded in 1967 as an inter-governmental organisation, and that aims to promote an ASEAN Community in accordance with the purposes and principles as stipulated in the ASEAN Charter (2008). There are 10 members of ASEAN: Brunei Darussalam, Cambodia, Indonesia, Lao DPR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam. More can be seen here: <https://asean.org/about-us/>.

⁴ RegWatchEurope is composed of oversight bodies from eight European countries (Czech Republic, Denmark, Finland, Germany, the Netherlands, Norway, the United Kingdom and Sweden) who meet to share good practices, advocate for better regulation, promote independent scrutiny, and advise on the quality of EU-level impact assessments.”

⁵ The OECD (2020_[15]) *Best Practice Principles on One-Stop Shops for Citizens and Businesses* may be helpful in supporting countries in evaluating and iterating their OSSs.

Part I Country profiles

2 Introduction

This part presents profiles for all 10 ASEAN Member States, which forms the basis for the analysis in Chapter 1. The information presented in this chapter is intended to be factual - an overview of the current *de jure* requirements to use the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice.

The universe of regulatory governance is vast, with many different institutions, tools and processes having been developed to support regulators design and delivery better regulation. Moreover, as countries, their governance arrangements, and markets evolve, so too does regulatory governance to support policy makers in constantly modernising their approaches to regulation.

Collecting full case studies on all these aspects of regulatory governance would require a significant investment of time, analysis and publication space to cover fully, which is outside the scope of this current work. For these reasons, the country profiles focus on three main aspects of regulatory governance pertinent to the past, current and near future of regulatory reforms in the ASEAN region:

- **Whole of governance approaches to regulatory policy making**, which is intended to highlight both national and international commitments to better regulation that are driving domestic reform processes.
- **Use of good regulatory practices**, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review, which are the foundation for better regulation reforms in both ASEAN and OECD communities.
- **Approaches to digitalisation**, which highlights how countries are using digital tools to respond to regulatory challenges and represents the newest frontier for better regulation reforms in both ASEAN and OECD communities.

These three topics thus represent both foundational and forward looking elements of better regulation, providing a thorough but precise set of profiles. To support these profiles, this introduction intends to give an introduction into the horizontal concepts that bridge across all profiles to avoid repetition of these concepts in the profiles themselves. In addition, this introduction provides an overview of the methodology and limitations of the country profiles.

Horizontal concepts

Profiles in general cover very similar topics, with specific details from each country. Below is an overview of the key horizontal concepts present in most profiles as definitions to guide the reader:

1. **International regulatory co-operation**: is the consideration of the international environment – including international evidence, expertise, rules, and standards – in domestic regulatory frameworks and decisions to help support alignment between countries. IRC is often equated with regulatory harmonisation i.e. the complete alignment of regulation across countries. This view on IRC is, however, incomplete. Policy makers can draw from a wide range of approaches, from unilateral action to multilateral co-operation, from informal dialogues among regulators to

supranational rule-making in international organisations. An increasingly common method for conducting IRC is through trade agreement, which can contain good regulatory practice (GRP) provisions to promote the effectiveness and efficiency of regulations (Kauffmann and Saffirio, 2021^[1]). Two such trade agreements highlighted in the profiles are:

- a. **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP):** Is a trade agreement between 11 countries, including four ASEAN Member States: Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Singapore and Viet Nam. The CPTPP includes a chapter on GRPs. Article 25.5 of the CPTPP in particular suggests that parties should encourage relevant regulatory agencies to conduct regulatory impact assessments when developing regulatory measures that exceed a threshold of economic or other regulatory impact.
 - b. **Regional Comprehensive Economic Partnership (RCEP):** Is a trade agreement amongst Asia-Pacific nations, including all 10 ASEAN Member States and Australia, China, Japan, South Korea, and New Zealand. RCEP contains a chapter on standards, technical regulations and conformity assessment procedures and various sub-sections on regulation.
2. **ASEAN Single Window (ASW):** Is a regional initiative that connects and integrates National Single Window (NSW) of ASEAN Member States via an electronic platform, with the objective of expediting cargo clearance and promote ASEAN economic integration by enabling the electronic exchange of border trade-related documents among ASEAN Member States. As of December 2019, all ASEAN Member States have joined the ASW Live Operation (ASEAN, 2022^[2]).
 3. **Good regulatory practices (GRPs):** Also known as regulatory management tools, these are internationally recognised processes, systems, tools and methods for improving the quality of regulations (OECD, 2018^[3]). While the number and type of GRPs has expanded in recent years, the core three are (OECD, 2021^[4]):
 - a. **Regulatory impact assessments (RIAs):** Is a central aid to decision making, helping to provide as much as possible objective information about the likely benefits and costs of particular regulatory approaches, as well as critically assessing alternative options – including non-regulatory ones. A well-functioning RIA system can assist in promoting policy effectiveness, efficiency, and coherence by clearly illustrating the inherent trade-offs within regulatory proposals.
 - b. **Stakeholder engagement:** Is granting members of the public sufficient opportunity to help shape, challenge, and reform the regulations that they encounter in their daily lives. Citizens can offer valuable inputs on the feasibility and practical implications of regulations. Meaningful stakeholder engagement can lead to higher compliance with regulations, in particular when stakeholders feel that their views have been considered.
 - c. **Ex post review:** Is the periodic review of regulations, acknowledging that the original environment justifying the regulation may have changed and serves as an opportunity to see how regulations have actually worked in practice. This is especially important considering that not all regulations have been rigorously assessed *ex ante*, such as through RIA, and even when they have, not all effects can be known with certainty in advance.
 4. **Digital technologies:** As part of the Fourth Industrial Revolution (4IR), digital technologies are affecting societies and economies in many ways, including via new means of communication and collaboration; new products that feature a strong service component; the role of data as driver of economic growth; the automation of tasks with artificial intelligence (AI); and the emergence of new business models such as platforms (OECD, 2019^[5]). Governments are not oblivious to this trend with great efforts being implemented to advance the digital transformation of public sectors across OECD countries through the trustworthy application of digital technologies and data in areas such as service design and delivery (OECD, 2020^[6]; 2019^[7]). Governments and regulators play a major

role in encouraging digital innovation and incentivising the development of technologies, regulating them when needed and utilising the same technologies to regulate better.

Methodology

The country profiles located in this section are the result of an extensive data collection by the OECD. This started with the creation of a questionnaire to obtain the current data on the three focus areas above, the content which was informed by OECD research on better regulation, regulatory reform reviews with various OECD member and partner countries, and discussions through the GRPN. To facilitate the data collection, the OECD pre-filled the questionnaire with publicly available data, including from the last OECD collection of country profiles in OECD (2018_[3]), presentations and interventions at the GRPN, and desk research into relevant OECD and non-OECD sources, including official government sources, which are reference and noted throughout.

The questionnaire was administered through the 10 Main Contact Points from the GRPN, who represent the better regulation units in each of the ASEAN Member States, in December 2021 and asked to be returned by the end of January 2022. Respondents were asked to confirm the information collected is correct, update the information where relevant, and answer any questions without entries. In February 2022, the OECD team held interviews with various Main Contact Points, based on their availability, to gain a deeper understanding of the data collected in the questionnaire.

Following the questionnaire and interview process, the OECD drafted the country profiles located below and distributed them to the Main Contact Points for initial fact checking in March 2022. In parallel, the OECD assembled a note on the initial trends identified in the profiles across three areas: recent trends in regulatory reforms, key common challenges amongst members, and what future reforms may be on the horizon. The OECD organised a special workshop of the GRPN on 24 March 2022 to discuss this initial trends note and facilitate a peer-to-peer discussion and mutual learning amongst GRPN members regarding its findings. The feedback generated from the workshop led to a further refining of the note, which informed Chapter 1 of this report. In addition, members were asked to submit any written comments to the note following the meeting, which were also incorporated.

Finally, Chapter 1 and each country's profile were sent for a final fact checking and comment in May 2022 to each country individually, who then provided sign off to publish their profile in this report.

Limitations

The main limitations of these profiles is that they represent a narrow set of elements of regulatory policy and governance, and from the perspective of better regulation units in ASEAN Member States. Moreover, the profiles represent data provided to the OECD either by the members or via publicly available sources; due to resource constraints, the profiles were not further fact checked or analysed. Therefore, the profiles represent a descriptive representation of the current situation in each ASEAN Member States that can inform the creation of broad trend analyses in Chapter 1, but care should be taken inferring any specific conclusions about an individual country vis-à-vis its profile and how it relates to concepts around better regulatory policy making and governance.

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3 Brunei Darussalam

This chapter presents the country profile for Brunei Darussalam. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government perspective

Regional focus

Brunei Darussalam is a signatory to two trade agreements, which include a variety of provisions on the use of better regulation, including chapters on the use of good regulatory practices, standards, technical regulations, conformity assessment, etc. Brunei Darussalam ratified the Regional Comprehensive Economic Partnership (RCEP) agreement in October 2021, becoming the sixth country to do so. Brunei Darussalam is also a signatory to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), although the ratification process has yet to be completed.

In addition, Brunei Darussalam has been taking steps to contribute to the ASEAN Single Window (ASW), which aims to expedite cargo clearance and promote ASEAN economic integration by enabling the electronic exchange of border trade-related documents among ASEAN Member states (ASEAN Single Window, 2018^[1]). Since its implementation in 2013, Brunei Darussalam has been using its Brunei Darussalam National Single Window (BDNSW) System to simplify trade-related processes and procedures through an integrated electronic platform, including an e-customs system (ERIA, 2021^[2]). The BDNSW is used to design, implement and operate Single Electronic Window for the Ministry of Finance and Economy (MOFE) of Brunei Darussalam for customs clearance of traded goods, thus creating a single point to submit standardised information and documents to meet legal import, export and customs-transit requirements (BDNSW, n.d.^[3]). The BDNSW helps reduce unnecessary burdens by simplifying trade-related processes.

Brunei Darussalam joined the ASW Live Operation in 2019. This has enabled preferential tariff treatment based on the ASEAN Trade in Goods Agreement electronic Certificate of Origin (ATIGA e-Form D) exchanged through the ASW (ASEAN Single Window, 2018^[1]). The implementation of the ASW provides benefits to each ASEAN member state in streamlining trade procedures and documentations particularly for the government agencies (i.e. customs and other relevant institutions), and in reducing cost and time of doing business for the traders (ASEAN Single Window, 2018^[4]).

Brunei has also reformed its intellectual property rights regime to enhance compliance with intellectual property. Brunei acceded to the Madrid Protocol, an international system for obtaining trademark protection in a number of countries or regions using a single application (Mewburn Ellis, 2020^[5]) in 2017. Subsequently, the then Ministry of Energy and Industry introduced Trade Marks (International Registration) Rules in 2018.

National focus

Brunei Darussalam has launched a number of national policies, institutional reforms and various programmes and initiatives with regulatory components. The highest level of these includes progress towards achieving *Wawasan Brunei 2035*, which is the country's national vision. It is aimed at supporting the development in the following areas:

- An educated highly skilled and accomplished people;
- Improving the quality of life; and,
- Dynamic and sustainable economy by 2035.

In January 2021, in relation to this national vision, Brunei Darussalam also launched its *Economic Blueprint: Towards a Dynamic and Sustainable Economy*. This Economic Blueprint provides both a screen shot of what objectives the country is aiming for the future, as well as serves as a guidance for ministries to consider how they could develop their future policies. In total, the Economic Blueprint focusses on six “aspirations” (Brunei Ministry of Finance and Economy, 2020^[6]):

1. Developing a productive and business environment by leveraging technology and innovation;
2. Promoting continuous learning, training, and reskilling of the workforce;
3. Ensuring the economy is open and globally connected;
4. Ensuring preservation of the environment;
5. Developing infrastructure to support and grow businesses; and,
6. Ensuring good governance and public service excellence.

Improving regulatory policy making is a prominent factor of objective six of the Blueprint. It includes a priority focused on policies, laws and regulations, which should be constantly updated and enforced with global standards and relevant to Brunei Darussalam's condition to promote a conducive business environment (Brunei Ministry of Finance and Economy, 2020^[6]). Ministries have been equipped with guidance materials to help implement the Blueprint.

Brunei Darussalam has also made amendments to business laws and regulations to support a more favourable business environment. The Ministry of Finance and Economy (MOFE) has introduced the Companies Act (Amendment) Order 2019, Companies (Composition of Offences) Rules 2019, and Companies (Corporate Governance) (Public Companies) (Amendment) Rules 2019 which came into effect in October 2019. These have had the effect of strengthening the Companies Act (Chapter 39) in relation to the compliance and corporate governance of a company with the legal requirements under the Act. (Begawan, 2019^[7]) Further amendments to the Companies Act (Chapter 39) were made in 2020. The Companies Act (Amendment) Order 2020 and Companies (Register of Controllers and Nominee Directors) Rules 2020 came into effect in October 2020 to further strengthen the provisions of the Act.

In addition to changes in national strategies, various other reforms, initiatives and partnerships have been created and implemented by respective ministries and agencies to support a more favourable business environment. In terms of new institutions, Brunei Darussalam has implemented the following reforms:

- **The Safety, Health and Environment National Authority (SHENA)** was created as a statutory body set up under the Safety, Health and Environment National Authority Order, 2018 and enforced 1 April 2017. It regulates and enforces all matters pertaining to workplace safety and health, environment and radiation in Brunei Darussalam.
- **The Petroleum Authority of Brunei Darussalam** was established on 31 December 2019 as a statutory body acting as a central authority to regulate and supervise the upstream, midstream and downstream oil and gas operations in Brunei Darussalam. Petroleum Authority is the technical arm to the Department of Energy advising on matters relevant to the oil and gas industry in Brunei Darussalam to ensure the sustainable development of all hydrocarbon resources and value chain. Petroleum Authority is also responsible in regulating and supervising the oil and gas operations in Brunei Darussalam to further maximise the positive impact to the country.
- **Autoriti Elektrik Negara Brunei Darussalam (AENBD)** was formed and mandated in June 2017 to enforce and oversee the implementation of Electricity Act, Chapter 223 ("EAC223"), particularly in regulating activities in the country's electricity industry. Brunei Darussalam notes that the move to implement the Order was to strengthen the law and safety aspects of electricity in terms of the generation, transmission, distribution and its use to enable the development of a more efficient, competitive and increasingly sustainable power industry in Negara Brunei Darussalam.
- **The Brunei Darussalam Food Authority (BDFa)** was established as a regulatory and competent authority for food safety and quality in Brunei Darussalam after the Brunei Darussalam Food Authority Order came into force on 1 January 2021. The BDFa's mandate consolidated some functions and responsibilities of divisions and units that was previously managed under the Food Safety and Quality Control of the Ministry of Health and the Department of Agriculture and Agrifood of the Ministry of Primary Resources and Tourism. It serves as a single point of contact in food related matters.

- **The Brunei Economic Development Board** was created in November 2001 as a statutory body. The BEDB also acts as a frontline agency to facilitate foreign investment into the country and works closely with investors to understand their business needs. Among others, it will assist in providing information on the local business climate, developmental requirements, laws and regulations, cost of doing business and project specific information.
- **The FDI Action and Support Centre** was created to provide complete facilitation to investors in obtaining their project requirements. Some of its functions are to introduce potential investors to Bruneian companies, to facilitate post approved foreign direct investment and co-ordinate with relevant stakeholders to ensure the successful development of investment projects as well as to monitor and support the implementation of investment projects.
- **Brunei's Ease of Doing Business Steering Committee** was also created in 2013¹ and has maintained its position of providing oversight to government systems linking business and citizens to online platforms. Some of the most recent reforms implemented were the improvement of enforcement of contracts through the publishing of performance measurement reports as well the ease of resolving insolvency by through increase of participation of creditors in insolvency proceedings (MOFA, 2019^[8]). Based on the Doing Business Report (2020), Brunei Darussalam also recorded the number 1 ranking in the Getting Credit indicator.

In addition to these institutional reforms, Brunei Darussalam as also created and implemented the following programmes, policies and partnerships to improve the business and regulatory climate in the country:

- **Brunei Darussalam Financial Sector Blueprint (2016-2025)** was introduced in 2016 sets out the vision of a dynamic and diversified financial sector for Brunei Darussalam by 2025. It identifies five core areas, which includes the maintenance of financial stability through the adoption of best practices and standards. Part of the Blueprint also aims to create regulatory frameworks that meet international standards such as the participation of the BDCB in the Islamic Financial Services Board (IFSB) working groups for formulation of the IFSB standards and guidelines.
- **Financial Sector Blueprint (2016-2025)**, which would promote a dynamic and diversified financial sector for the country as well as create regulatory frameworks that would heighten the country's capacity to align with international standards. The Brunei Darussalam Central Bank (BDCB) has noted significant progress towards the compliance of the Basel Core Principles (BCP) since its announcement in 2016 to commit to the implementation of the Basel II Framework by 2020. BDCB has successfully introduced all three pillars of the Basel II framework (which are recommendations on banking laws and regulations issued by the Basel Committee on Banking Supervision), where the pillars are complementary and mutually reinforces one another. They also note the roll out of various financial risk management guidelines, such as the BDCB Fraud Risk Management Guidelines, to strengthen risks management capabilities in addressing the inherent risks associated with banking businesses.
- **Darussalam Enterprise (DARe)** was established in 2016, which serves as a facilitator for the different MSME initiatives across government agencies. This aims to create a more co-ordinated approach to addressing specific issues faced by MSMEs (OECD, 2018^[9]). DARe has implemented various entrepreneurship initiatives (see Box 3.1).
- **The Code for Corporate Governance** was implemented by the MOFE to guide local companies to strengthen governance and support for their long-term growth and development (through the promotion of best international practices).
- **i-Usahawan** was created by the Department of Energy as part of the Youth Entrepreneurship Development Program, which aims to support young Bruneian entrepreneurs to start and grow their own business and secure their first contracts with the Government, Government Link Companies (GLC) and Statutory Bodies.

- **The Energy Efficiency (Standard and Labelling) Order 2021 (SLO)** was introduced on 6 July 2021 by the Department of Energy. The order, , aims to promote the use of highly efficient electrical appliances in compliance with the Minimum Energy Performance Standard (MEPS). The order will be implemented in stages, starting with air-conditioning system to be followed by other household electrical appliances. The order supports the Department’s vision for a sustainable energy sector using high efficiency appliances that are eco-friendly.
- **The Brunei Malay Chamber of Commerce and Industry** and The National Chamber of Commerce and Industry has worked with the Government to promote trade and economic development by providing guidance and support to businesses.
- **The Business Development Program** was created from the Initiative of Portfolio 2020 as an incubation program for the younger generation, which offers business planning support, advisory and mentoring services, and training programs for the younger generation (Brunei Ministry of Finance and Economy, 2020_[10]).
- **Two regulations in line with the formation of BDFA Order** were consequentially amended– the Wholesome Meat Order 2011 and its regulations, and the Public Health (Food) Act, (Chapter 182) and its regulations – to allow for the support of the BDFA’s mandate.

Box 3.1. Initiatives to support businesses under DARE

DARE has several initiatives that aim to assist businesses at varying stages of development, from start-ups to those looking to expand beyond Brunei Darussalam. Examples of DARE’s initiatives include:

Micro Bootcamp

A 4-week start-up development program aimed to assist individuals with business ideas to start their journey by learning fundamentals, including Strategic Business set-up, Marketing, and Financing.

Accelerate Bootcamp

Accelerate is a 100-day start-up development program aimed at early-stage businesses to help them grow by building their knowledge in product development, business plan creation, securing finance, making sales and the use of digital technology.

Industry Business Academy (IBA)

IBA is a developmental programme that provides knowledge to businesses in order for them to start, grow or export. This is done through various workshops where subject matter experts from the public and private sectors will provide industry specific knowledge.

Elevate Growth Program

This initiative aims to facilitate and grow promising MSMEs to be more capable of international expansion and collaboration in order to contribute towards Brunei Darussalam’s industrial development. This is done through tailored strategic roadmaps, various business coaching sessions and mentorship, networking, funding advice and solutions.

Market Access

DARE provides various programmes to facilitate businesses to expand their reach to overseas markets, through providing related opportunities, guidance and assistance. This includes free business advisory services, trainings, networking events and a Standards Consultancy Program to help local companies obtain certifications for international standards.

Brunei Mentors for Entrepreneurs Network (BMEN)

BMEN is a national network that brings together business mentors comprising of successful entrepreneurs, industry experts, professionals and academicians who are willing to share their knowledge and experience to growing businesses through co-ordinated and structured mentorship programs.

Industrial Space

DARe also provides spaces for local companies to rent at affordable rates, this includes industrial land and ready built factories. MSMEs also have the option to apply to use the various co-working spaces under DARe such as iCentre and Kontena Park.

Source: Information provided by Brunei Darussalam.

Focus on improving the regulatory process has additionally been linked to strengthening the civil service through the Civil Service Framework (CSF), through which the government aims to reform the civil service towards one that is responsive to global change and public expectations (OECD, 2018^[9]). Inclusive within the framework is the guidance to the civil service to implement policies and regulatory reforms that encourage economic activities as well as streamline government procedures to promote high-quality services (Abdullah and Yussof, 2018^[11]).

Good regulatory practices

Regulatory impact assessments

In line with OECD (2018^[9]), RIA is still developing momentum in Brunei Darussalam. It is not yet widely applied by government agencies and there is currently no regulatory oversight body implementing its application. This said, the BDCB is one government body that has demonstrated success in employing the use of RIA for advising their policy decision.

The BDCB notes that it practices a rigorous due diligence internal process to ensure the regulatory frameworks are well suited for the current state of the industry. To develop new regulations, the body has prioritised due diligence processes to ensure that their regulatory frameworks are of quality, are understandable and implementable. Between the periods of 2020-21, BDCB initiated their first RIA to support their proposal *on the Notice and Guidelines and Selling of Complex Securities*.

In preparing for the RIA process, BDCB applied good regulatory processes by first identifying the objectives of the policy issue, then identifying the target audience and finally collecting information to benchmark the conditions of the relevant jurisdictions to determine the need for the policy tool. Once all information was collected, BDCB then undertook the formal impact assessment by reviewing the following three areas:

1. Understanding the current environment and the state of condition (i.e. benchmarking and proposing the need for the regulation).
2. Identifying the impacts of the proposal.
3. Identifying what the expected outcomes of implementing the proposal would be, and which policy tool or alternative (if any) would best fitted and required.

Once the assessment was completed, the conclusions of the RIA were then used to help BCBG move forward with the review of *the Notice and Guidelines* and to provide policymakers with complete information to improve the regulation of the securities markets in Brunei Darussalam.

Stakeholder engagement

The use of stakeholder engagement has been directed through Brunei Darussalam's Prime Minister Office Circular 06/2018 (PMO Circular 06/2018). This document mandates that government agencies conduct regular public engagement with stakeholders to ensure that their views and opinions are integrated as part of the law-making process. The Prime Minister's Office chairs the Law Review Committee (Jawatankuasa Penelitian Semula Undang-Undang) with the role of, amongst others, facilitating a whole-of-government view in planning for future and proposed legal amendments. The Committee engages with ministries individually in reviewing laws and regulations. The Prime Minister's Office also organises an annual Law Seminar with government agencies to ensure a common approach to legal matters within the Government.

The PMO Circular 06/2018 also provides government agencies with a range of guidelines to structure and organise these consultations. The Regular Public Engagement (RPE) guideline in particular is the normative document that stresses the way consultations with the public should be held (for more information see Box 3.2). The RPE have also been acknowledge to be in line with the ASEAN core principles of good regulatory practice.

Box 3.2. Regular Public Engagement (RPE) guidelines

At the whole-of-government level, Government agencies are mandated to consult with a broad range of stakeholders to ensure effective and efficient implementation of government policies, regulations, programs, and projects. To do so, the Government of Brunei Darussalam has developed the RPE guidelines. These guidelines serve the intention to:

- Act as a reference and provide guidance for government agencies wishing to engage with stakeholders;
- Assist government agencies in identifying appropriate public engagement; and
- Enable government agencies to nurture the relationship between government agencies and the public through sufficient engagement.

The Public Engagement Guideline also outline the following 7 steps as being key for stakeholder engagement:

1. Setting engagement/consultation objective
2. Identifying stakeholders
3. Choose the suitable engagement method
4. Budget setting / outlining other required resources
5. Inform and implementation
6. Report and review; and
7. Conduct assessment on stakeholder engagement.

Source: Based on the questionnaire response from Brunei Darussalam.

When organising stakeholder consultations, Ministries and departments are encouraged to consult stakeholders at any stage of the policy cycle (i.e. during the planning, implementation, monitoring or evaluation stage either of the regulatory cycle, or even throughout the entire policy cycle). The RPE guidelines also encourage policymakers to undertake multiple series of engagement with stakeholders to ensure they have understood the policy issue from all angles and through various different paradigms.

Upon completing stakeholder consultations, the information that is gained from this process is taken into consideration to strengthen the regulatory proposal or propose an alternative. For stakeholder consultations that are taken at an *ex post* stage, these insights can then be used to inform possible amendments. One example noted by Brunei Darussalam was through the attempt of the Ministry of Culture, Youth and Sports (MCYS) to review and suggest amendments to Brunei's National Youth Policy. Over a course of a year (2018-19), MCYS conducted activities such as national youth survey, roadshows, national youth policy workshop and national youth congress among the youth of Brunei Darussalam to receive inputs on the current priorities for this group of the population, and based on the input received was able to formulate a resolution to add to the policy.

Finally, in terms of evaluating stakeholder engagement within the country for policymaking, the PMO through the Management Services Department (MSD) requires Ministries and department to complete a "Reform Initiatives and Improvements in Civil Service for 21st Century Public Service Vision Information Form" to report on their consultation methods and frequency. Government agencies are also monitored continuously on the use of RPE, with a report on these findings submitted to the Prime Minister's Office annually on their application of stakeholder engagement through their Organizational Performance Grading Assessment Program, which is based on a Star Rating system (3PSA). The outcomes of these evaluations are then made available on the MSD website for openness and transparency.

The BDCB further notes its used of stakeholder engagement as a key part of its regulatory framework. The BDCB notes that it consults the financial sector by issuing written consultation papers through the respective financial association. The consultation usually comprises two stages, the first stage involves highlighting objectives, the policy options and the scope of the intended regulation. The BDCB notes that this allows them to have a sense of readiness of the industry and identify possible blind spots. At the second stage, after taking account of the feedback, BDCB will prepare regulatory instrument (notices/guidelines) and again consult the industry. Where necessary, BDCB also share clarifications to all parties.

Ex post review

Ex post reviews are conducted by the respective Ministry in charge for overseeing the policy area that the regulation corresponds too. In addition, regulations are also reviewed by the country's Civil Service Reform Committee. Brunei Darussalam does not currently have an institutionalised regulatory oversight body who oversees and regulates these processes.

In terms of when these evaluations are undertaken, *ex post* reviews are usually prescribed on a periodic and determined schedule. However, reviews can also be demand driven should there be issues raised on the regulation based on client charter audit reports, public inquiries, customer satisfaction reports, and/or public sector performance grading programmes. When instigating a review, policymakers can decide whether the assessment should be targeted towards one specific regulation² or extended to assess a whole policy area. Brunei Darussalam notes that reviews involving the engagement of stakeholders are always automatically prioritised.

An example of *ex post* review is from the Brunei Darussalam Food Authority (BDFA), who is currently reviewing the Public Health (Food) Act (Chapter 182) to ensure it better support the mandate of the authority. The aim is to have a new Order that will lead to the repeal of the aforementioned Act. In this process, a lawyer has been assigned to work with the BDFA to work on the preliminary draft for legal drafters to prepare the order. In this circumstance, the whole act is being reviewed. The BDFA is also reviewing the Wholesome Meat Order 2011 that, in this case, will be targeted towards reviewing specific sectors.

To support burden reduction efforts, Brunei Darussalam has made use of digital technology to support the simplification of their regulatory environment for businesses and citizens. Examples include:

- [Gov.bn](#), which is a gateway to information and services within and around the Government of Brunei, bringing them all together in one place for its stakeholders (citizens, businesses, or visitors). Gov.bn has many features designed to help its stakeholders to quickly and easily locate information to government resources anywhere and anytime and to engage with government. This includes the E-Darussalam portal, which is a “one-stop shop” government portal for citizens, businesses and visitors in Brunei Darussalam
- [The Online Registry of Companies and Business Names](#), which provides an online registration of companies and business names.
- [The Employee’s Trust Fund and Supplemental Contributory Pension Fund](#), which provides online payments for contributions to an employee’s government mandated trust fund.
- **The Brunei Darussalam National Single Window (BSNSW)**, which is a Common Online platform for electronic exchange and submission of trade information and documents by business and public to the controlling agencies. This allows forwarding agents and registered traders to apply for permits, declarations and other customs procedures.
- [The Systems for Tax Administration and Revenue Services](#) (STARS), which allows for online tax filing.
- **The e-Payment Gateway (ePG)**, which allows for online payment for government services.
- [BusinessBN](#), which serves as a single portal providing the Brunei business community access to information on a range of government procedures, legislation and services related to doing business. The portal also provides an easily accessible Business Guidelines Simulator to assist in identifying what licenses or permits are necessary for a company to comply with when undertaking their business activities. The Business Reporting page is also accessible through businessBN, which is used by companies to submit business data and performance reports.
- **One Common Billing System (OCBS)**, which is a platform to help ease the Government revenue collection process and at the same time to provide convenience for the public in making payment online.
- [Brunei Darussalam Open Data](#), a portal that enables government agencies to share non-sensitive information with the public and facilitates government agencies’ access to data.

In addition, Brunei Darussalam has also developed an online licensing system and a whole-of-government online service related to doing business in Brunei Darussalam. Other online systems and platforms have also been developed to reduce unnecessary regulatory burdens and these can be found as followed:

- **BruiPO**, an e-filing system for trade marks in Brunei Darussalam’s Intellectual Property Office (IPO)
- **Onebiz**, which aims to provide all entrepreneurs in Brunei with a single government window that allows them to access and apply for the required licenses online with greater ease and convenience. OneBiz has 15 online services for applying new, updating, renewing, terminating and enquiring licenses and permits (Ministry of Primary Resources and Tourism, n.d.^[12]).
- [One Common Portal \(OCP\)](#), which allows businesses to register in a single step. The OCP an initiative by MOFE which aims to bring their online services together onto a single platform and provide a more seamless user experience for the business community to manage their corporate obligations throughout the business lifecycle from setting up a company or business to managing tax affairs.
- The Authority for Info-communications Technology Industry of Brunei Darussalam (AITI)’s [Online Services](#), which is a fully digitalised end-to-end online portal where public can apply and submit selected AITI Licences. These applications are then assessed, clarified (if required) and the results

of the assessment are responded back to the public online. A payment gateway is also integrated with the system to allow convenience for the public to make any necessary payments for their respective applications.

In the future, Brunei Darussalam may also implement additional reforms to adhere to the recent trade agreements it has become a signatory towards. For example, the CPTPP incorporates broad language that promotes the adoption of *ex post* review through provisions that call on parties to review their regulatory measures, which are covered under the agreement (Kauffmann and Saffirio, 2021^[13]).

Digital

Brunei Darussalam has put forth whole-of-government strategies that utilises digital technologies to improve regulatory management and regulatory policy responses. For example, Brunei's Digital Economy Masterplan 2025, which was launched in June 2020 will serve as a roadmap for the country's Digital Economy initiatives and will aim to elevate Brunei to the status of a Smart Nation³. The Plan will also call for the co-operation between the Government, private sector agencies, higher learning institutions, non-governmental organisations (NGOs) and consumers to reach three strategic outcomes (Brunei Digital Economy Council, 2020^[14]):

- A digital and future-ready society;
- A vibrant and sustainable economy; and,
- A digitally conducive ecosystem.

The Digital Economy Masterplan 2025 will aim to leverage technology to achieve impactful incomes such as improved transparency and governance and facilitating official, business and personal transactions. By pushing Brunei Darussalam to become a Smart Nation, it is hoped that digital tools will be used to improve regulatory quality through a policy and regulatory framework. The Digital Economy Masterplan 2025 is overseen by the Digital Economy Council, which is co-chaired by the Minister at the Prime Minister's Office and Minister of Finance and Economy II with the Minister of Transport and Info-communications. Other Ministries may also have their adapted version of the Master Plan and a Digital Transformation Steering Committee to support its adoption, for the respective Ministry as well as its sector which are co-ordinated by the Smart Nation Office to ensure alignment to the Digital Economy Masterplan 2025. At present, the Digital Economy Masterplan 2025 comprises of four main elements:

- Government Digitalisation
- Industry Digitalisation
- A Thriving ICT industry
- Manpower and Talent Development

As part of strategic enabler two of the Digital Economy Masterplan 2025, Brunei Darussalam will focus on developing their Digital Data Policy and Governance Framework. Within this focus, Brunei Darussalam will establish a national data office, who will be responsible for overseeing the policy and governance of data for personal, commercial and official purposes.

Currently, AITI is also undertaking a Public Consultation Paper (PCP) to obtain feedback from Government agencies and private actors on how Brunei's data protection framework could be constructed. Given that presently, the country does not have any overarching comprehensive laws relating to data protection, this framework will attempt to improve trust between individuals and organisations by both recognising their rights and outlining when and how private sectors can collect, use and disclose such personal data. Ultimately, the conclusions drawn from this PCP should elevate Brunei's Data Protection Policy.

In terms of using digital technologies to improve regulatory policy development within Brunei, the Digital Economy Council has launched flagship projects to improve this area of work. For example, the National Information Hub (NIH) has been one of the many projects aimed at information integration among government agencies in support of the sharing information initiative. Other projects have also included the development of a National Centralised Database (NCDB), which has allowed the public to digitally make welfare applications, thus speeding up processes for payment. In the future, pilots under this flagship will also attempt to integrate AI into healthcare, to better determine the health level of citizens in duality of measuring infection rate to better map resources. The country is also developing a Centralised Statistical Systems (CSS) to offer a single online portal to collect data from relevant stakeholders and feedback into the assessment of new regulations. Brunei has also developed the *PenggunaBijak* mobile application feature to provide information on relevant legislations under the Department of Economic Planning and Statistics.

Brunei Darussalam has also invested towards other national strategies aimed at improving the digital ecosystem of the country. In particular, the Digital Payment Roadmap 2019–25, will focus on encouraging the digitisation of payments and competition, while strengthening consumer protection, whilst the Ministry of Development will use their 2018-23 Strategic Plan to focus elements towards leveraging Information Technology (IT) to streamline operational and process structures (Brunei Ministry of Development, 2018_[15]). In encouraging digital development across the nation, Brunei Darussalam has also noted that it is optimising public-private partnerships. Presently, DARE is co-operating with Acorn Aspirations, a UK-based enterprise, to promote the knowledge of artificial intelligence, machine learning, and big data among youth.

Finally, Brunei Darussalam also has a number of online databases that it uses to support its digitalisation efforts. In addition to the ones mentioned in the section above, the following have been developed to support government agencies with their regulatory processes:

- **Brulaw:** A platform under the Attorney General's Chambers (AGC) where it contains all Acts and Orders available to the public.
- **Surat Keliling:** A database of circulars issued by the Prime Minister's Office and Ministry of Finance and Economy in their respective websites that are available to the public. The circulars serve as rules, guidelines and guidance to all government agencies, which must be adhered to across the government.
- **EGNC Policies:** EGNC website that contains all nation-wide technology related policies issued by EGNC available to the public.
- **Draft Legislation Database (DLD):** The Prime Minister's Office together with the Attorney General's Chambers has developed the DLD, which is accessible to all focal persons from Ministries to ensure the proper and consistence practice in relation to the drafting processes and timeline of new legislations.

Other government agencies have also developed websites and systems to improve government process. For example, Brunei's Intellectual Property Office has developed an e-filing system for trademarks, while the BDCB and the Attorney General's Chambers have used their website to offer centralised information on legislation, publications, notices, and regulations. BDCB is also in the process of developing digital tools to improve regulatory management to further enhance their reporting standards and data collection for regulatory supervision.

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Notes

¹ The committee was chaired by the Minister of Energy, Manpower and Industry, and collectively delivered by respective 'Champion Groups' from Departments and Agencies under the Prime Minister's Office, Ministry of Finance and Economy, Ministry of Home Affairs, Ministry of Religious Affairs, Ministry of Primary Resources and Tourism, Ministry of Health, Ministry of Development, Ministry of Energy, Manpower and Industry, Ministry of Transport and Infocommunications, Autoriti Monetari Brunei Darussalam (AMBD), Darussalam Enterprise (DARe) as well as Management Service Department, Prime Minister's Office (MOFA, 2019^[8]).

² Typically, one review session is assigned for each regulation.

³ A Smart Nation means empowering people and businesses through increased access of data, more participatory approaches to law-making (through innovation and solutions), and a anticipatory government that uses technology to better serve citizen needs (GovTech Singapore, 2022^[16]).

4 Cambodia

This chapter presents the country profile for Cambodia. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government perspective

Regional focus

Cambodia is a signatory to several treaties that aim to promote trade and investment by reducing unnecessary burdens in trade and investment procedures, and improving regulatory compliance. In 2016, Cambodia ratified the WTO Trade Facilitation Agreement (TFA), which entered into force on 22 February 2017 (ASEAN, 2021^[1]). The TFA contains provisions for expediting the movement, release and clearance of goods, as well as measures for effective co-operation between customs and other appropriate authorities on trade facilitation and customs compliance issues (ASEAN, 2021^[1]). It is being implemented through ASEAN Regional Integration Support from the European Union (ARISE) Plus Cambodia, which is the Cambodian component of the ARISE Plus 2017-2022 Regional Programme¹. This is translated to Cambodia via three components, each with elements of better regulation embedded (ASEAN, 2021^[1]):

1. **Improving customs, trade facilitation and standards:** Project work streams include the Cambodia National Single Window (CNSW), Authorised Economic Operators, pre-arrival processing and product risk management.
2. **Strengthening institutional capacities and improving regulatory practices for international trade:** Focuses on capacity development of Cambodian government officials for the co-ordination, formulation and implementation of trade-related policies, negotiations and reforms.
3. **Enhancing private sector engagement in trade, notably of SMEs:** Seeks to enhance the Cambodian private sector's integration into regional and global value chains by providing SMEs with better access to trade information and public-private dialogue mechanisms, as well as assisting individual SMEs (especially in rural and semi-urban areas) with targeted technical support.

Cambodia has made efforts to integrate the Cambodia National Single Window (CNSW) into the ASEAN Single Window (ASW). The National Single Window Blueprint for the development and implementation of the National Single Window was completed with support of the World Bank in 2014. Since then, Cambodia has conducted a demonstration of the CNSW and required ATIGA e-Form D front-end applications and submitted a request to install ASW Gateway software in 2017 (ASEAN Single Window, n.d.^[2]). ATIGA e-Form D is a certificate of origin for exports and imports within ASEAN, with the objective of expediting the cargo clearance process, reducing costs and time, and of enhancing trade efficiency and competitiveness among ASEAN members through the ASW (Vannak, 2019^[3]). Following this procedure, Cambodia joined the ASW Live Operation in December 2019, enabling preferential tariff treatment based upon ATIG E-Form D. Furthermore, in 2020 Cambodia exchanged the ASEAN Customs Declaration Document (ACDD), the next trade document following the success of ATIGA e-Form D aimed at facilitating exchange of Export Declaration Information among AMS, live with Myanmar and Singapore (ASEAN Single Window, 2020^[4]).

Cambodia is also a signatory to the Regional Comprehensive Economic Partnership (RCEP), which includes provisions on the use of better regulation and standards. Cambodia ratified RCEP in 2021.

At a ministry level, Cambodia has taken various initiatives to reduce costs of doing business for international traders. These include: 1) Cambodia's national trade repository (NTR) established by Cambodia's Ministry of Economy and Finance in 2015, allowing traders to access trade-related information on a comprehensive online portal; 2) www.cambodiaip.gov.kh, the website launched by the Ministry of Commerce in 2014 which allows the public to search for trademarks registered in Cambodia and ASEAN; and 3) the Intellectual Property Automation System (IPAS), which enables trademark examiners to store and search trademark data (WTO, 2017^[5]).

National focus

OECD (2018) notes that Cambodia's Industrial Development Plan 2015-25 aims to improve the regulatory framework for areas including trade facilitation, export promotion, industrial standards, property rights, tax payment, labour market development and industrial relations. As part of the Plan, the government has supported the improvement of customs systems as well as the rollout of Cambodia's One Window Service Offices (OWSO) (OECD, 2018^[6]). The OWSO is an initiative to promote good governance at the sub-national level, including by bringing public services closer to citizens, providing a platform for complaints, promoting local participation in decision-making, promoting local development and responding to demands for more efficient, transparent and accountable local government. It began in the early 2000s in two trial municipalities, expanding in both 2009 and 2017, now being established in 52 of 197 target localities (Royal Government of Cambodia, 2019^[7]). According to the Ministry of the Interior, there are plans to expand the OWSO to all districts nationwide and they have noted positive effects in reducing corruption and facilitating service delivery (Samean, 2021^[8]).

The Cambodian National Action Plan for Public Administration Reform 2019-2030 aims to improve public service delivery by instilling a citizen-centric approach.

The Political Platform of the Royal Government of the Sixth Legislature of the National Assembly² defines strategic goals, prioritised policies, sectoral development policies, and specific measures to be implemented from 2019 onwards to guide the activities of the Royal Government of Cambodia (RGC) in the Sixth Legislature 2018-2023 of the National Assembly. For the Sixth Legislature, the RGC has focused on (Royal Government of Cambodia, 2018^[9]):

1. Institutional reform and capacity building,
2. Strengthening accountability and integrity in the public administration,
3. Strengthening of work effectiveness, and
4. Strengthening of private sector governance.

Improving the regulatory framework is a cross-cutting objective. Much of the focus on regulatory reform is in regard to sectoral applications of regulatory policy, with regulatory improvement mentioned as a critical component of areas such as: institutional reform and capacity building; integration into the regional and global economy; preparing for the Digital Economy and the Fourth Industrial Revolution; ensuring environmental sustainability; arranging and implementing the public-private partnership mechanism; and strengthening urban planning and management (Royal Government of Cambodia, 2018^[9]).

Improvement of regulatory frameworks is also mentioned in other strategic plans such as the Health Strategic Plan 2016-2020 and the Financial Sector Development Strategic Strategy 2016-2025. More recently, the Small and Medium Enterprise Development Policy and Five-year Implementation Plan 2020-2024 stipulates enhancing policy and the regulatory environment as one of its objectives. Other objectives of the Plan include promoting productivity, technology and innovation, promoting entrepreneurship and human capital development, enhancing foreign market access and internalisation, and increasing access to finance. (ADB, 2020^[10])

Cambodia's Rectangular Strategy³ guides implementation of the agenda of the Royal Government and selects key elements from the Millennium Development Goals, the Cambodia Socio-Economic Development Program, the Cambodia National Poverty Reduction Strategy, and the various policies, strategies, plans and other important reform programs, all of which have been formulated through broad consultation with all national and international stakeholders – including government ministries and institutions, representatives of civil society and the donor community (Cambodian Corner, n.d.^[11]). The Rectangular Strategy currently in progress is the Rectangular Strategy Phase 4, which was published in 2018.

The National Strategic Development Plan (NSDP) 2019-2030 has been formulated for the implementation of the Rectangular Strategy Phase 4 with the objectives of gaining high benefits from ASEAN Economic Integration, moving from a Lower-Middle Income Country to an Upper-Middle-Income Country in 2030 and contributing to the achieving the Cambodian Sustainable Development Goals 2016-2030 (Royal Government of Cambodia, 2019_[12]). The NSDP outlines policies and priority actions for 2019-2023 for each relevant ministry to carry out, and presents estimated values as well as the framework for monitoring and evaluation for 2019-2023 Plan (Open Development Cambodia, 2020_[13]). The NSDP clearly attaches significant importance to regulations, especially the need for updates to regulations and improve regulatory frameworks. These mostly pertain to priorities in specific policy sectors, as opposed to a whole-of-government approach to improving regulatory policy making.

Good regulatory practices

Regulatory impact assessments

A Regulatory Executive Team was created under the management of Cambodia's Economic, Social and Cultural Council (ECOSOCC), housed within the Office of the Council of Ministers (OCM). This team is currently co-ordinating the implementation of regulatory impact assessment (RIA) in Cambodia, specifically by providing advocacy information to line ministries on the principles of good practice in regulatory policy making, assist with training of the RIA methodology, and support line ministries in their implementation of RIAs.

The guideline entitled "Procedure and Rule of Draft Law and other Regulations of the Royal Government of Cambodia," dated 10 May 2013, notes that a draft law contain a Problem Statement, which shall include:

- The purpose and spirit of the draft laws and regulations, clearly explaining the essential content and benefits of the introduction of the draft or the reasons for the amendment of laws or regulations.
- Reasons and assessment of possible consequences.
- Contribution of the draft laws and regulations to the achievements of the Constitution, existing laws, action plans and political programs of the Royal Government and the actual situation of the nation.
- Summarise the main chapters, especially the penalties for the draft law.

RIA has gradually been introduced across Ministries in a step-by-step approach and on a voluntary basis, with a scope potentially covering primary and subordinate regulation, such as laws, Royal decrees, sub-decrees and Prakas⁴ (OECD, 2018_[6]). Currently, 18 ministries voluntarily undertake RIA, an increase from 13 at the end of 2016. In addition, 13 300 people have taken part in RIA workshops and conferences, representing government, businesses and community members. Further, 66 RIAs have been completed in Cambodia. Further, Cambodia notes that the pace of implementation of RIAs has slowed down somewhat due to the COVID-19 pandemic. The 2016 Decision to establish RIA working groups in all ministries mandated ECOSOCC to produce an annual report on RIA to the government (OECD, 2018_[14]). ECOSOCC provides training and coaching to the line ministries to support the implementation of RIA. Furthermore, the RIA Working Group at the level of line ministries are responsible for implementing RIA.

In addition to formal requirements for RIA, guidelines for impact assessment have also been produced in Cambodia. A Regulatory Impact Assessment Handbook describes the RIA process that applies in Cambodia and the requirements for completing each element of regulatory impact analysis adequately. Moreover, a RIA Pilot Program was in place from October 2011 to December 2018 under ADB funding.

Stakeholder engagement

The “Procedure and Rule of Draft Law and other Regulations of the Royal Government of Cambodia,” dated 10 May 2013, also notes that consultation should be conducted, as needed, with civil society, NGOs and the private sector on technical, social, cultural and political aspects of proposed laws. OECD (2018) notes that the PAS/RIS process intends that the submitted documents may be subject to public consultation. There is also a website for the publication of PAS/RIS, which includes a comment and feedback option and thus provides a mechanism for online consultation, although this is not yet common practice (OECD, 2018^[6]).

In Cambodia, two specific mechanisms have been identified for stakeholder consultation for the overall trade and transport facilitation initiatives (Khieng, 2009^[15]). The first is the Government Private Sector Forum (G-PSF), which was established in 1999 at the initiative of the Prime Minister of Cambodia to help carry out public consultations on regulatory issues. It was intended to provide a reliable dialogue mechanism for consultation between the government and the private sector on investment climate issues ranging from structural policies to day-to-day operations to encourage private sector initiatives. (CAMFEBA, n.d.^[16]) There are ten private sector working groups (PSWGs) that meet to identify common problems and to negotiate solutions with the Government, with the tourism working group being the most developed to date. G-PSF meetings, with the status of an enlarged Cabinet meeting and chaired by the Prime Minister, have generally been held bi-annually (Khieng, 2009^[15]).

The second is the Steering Committee for Private Sector Development (SCPSD), composed of seven ministers and chaired by the Minister of Economy and Finance. It was established in 2004 with three Sub-Steering Committees (SSC): SSC on Investment Climate and Private Participation in Infrastructure, SSC on Trade Development and Trade Related Investment and SSC on SMEs (Khieng, 2009^[15]). The Private Sector Development Steering Committee provides opportunities for ongoing dialogue involving the government, private sector, development partners, civil society, and the academic community on the economic reform agenda and ways development partners can assist with implementation (ADB, n.d.^[17])

Public consultations to support regulatory policy development nevertheless are neither formalised nor consistent across all sectors.

Ex post review

Administrative burden reduction in Cambodia has been a focus at both the national and regional level. In 2017, Cambodia joined the UNESCAP Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific, which has the objective of promoting cross-border paperless trade by enabling exchange and mutual recognition of trade-related data and electronic documents, and facilitating interoperability among national and sub-regional single windows (WTO, 2017^[5]).

Reducing unnecessary regulatory burdens is included as one of the development objectives identified by the RGC in its 2013 Rectangular Strategy, Phase 3, and its National Strategic Development Plan 2014-2018 (ERIA, 2018^[18]). The Rectangular Strategy Phase 4 and the National Strategic Development Plan 2019-2023 also pay attention to cutting unnecessary procedures, particularly to facilitate trade. The Industrial Development Policy 2015–2025 has emphasised improving both the legal environment to enhance competitiveness and the investment climate by promoting trade facilitation, providing market information, and reducing business transactional fees. It specifically set a target to reduce and abolish repetitive and non-transparent procedures (ERIA, 2018^[18]).

While there is a general focus on reducing unnecessary regulatory burdens, there is yet to be a specific policy in Cambodia regarding administrative simplification. Nonetheless, OECD (2018) notes that administrative simplification is implemented in a targeted, regulation by regulation way that is driven by identifying needs and is mostly focused on customs clearance and business registration. Development partners have also aided with support for administrative simplification efforts (OECD, 2018^[6]).

OECD (2018) notes that there is a methodology for measuring administrative burden in the PAS/RIS process, but this is not how areas of focus are identified. Those have come from international benchmarking or from consultations with development partners that support global best practice areas (OECD, 2018^[6]). There is a checklist of compliance costs for PAS/RIS, which includes both costs for the government and costs for businesses.

Monitoring and evaluation of regulatory reduction initiatives have been undertaken on a project-by-project basis (OECD, 2018^[6]). There have been examples where progress monitoring has shown significant regulatory improvements resulting from the implementation of good regulatory practice, such as the One Window Service Office. Monitoring mechanisms are also in place in the form of internal audits for the National Strategic Development Plan and the IDP (OECD, 2018^[6]).

Digital

The RGC aims to make Cambodia an ICT-driven upper middle-income country by 2030, with several ICT-related policies, such as the ICT Master Plan (2020), the Industrial Development Policy 2015–2025, the Law on e-Commerce (2019), and Consumer Protection Law (2019) currently in force (ADB, 2020^[19]). More recently, the Cambodia Digital Economy and Society Policy Framework was introduced in 2021. The framework sets out the vision of “building a vibrant digital economy and society to accelerate new economic growth and promote social well-being based on the path of new normal” in line with the three principles of 1) building digital foundations; 2) digital adoption; and 3) digital transformation. (Royal Government of Cambodia, 2021^[20]) Regulation is mentioned substantially throughout the document. Creating regulatory frameworks is mentioned as a way to enhance reliability and confidence and to create interoperable digital systems of line ministries and institutions, while the power of regulatory sandboxes to drive innovation is mentioned for start-ups and the FinTech sector.

Cambodia continues to put forth policies that promote the use of digital tools to support a better regulatory environment. The ICT development agenda is embodied in its Rectangular Strategy Phase 4 and the National Strategic Development Plan (NSDP) 2019-2023. In the Rectangular Strategy, the government has set a plan to prepare for the digital economy and the Fourth Industrial Revolution (Rectangle II: Economic Diversification and Competition strengthening) through mechanisms such as sufficient and effective laws and regulations, ICT and internet infrastructure, ICT in education and skill development, tech entrepreneurship and ecosystem, and research and development. (OECD, 2018^[6]) The NSDP stipulates preparing for digital economy and the Fourth Industrial Revolution as one of its actions to achieve the key policy priority of economic diversification. The priorities of the RGC of the sixth Legislature aims to further update and implement the telecommunication and ICT development policy, Master Plan for Information and Communication Technology as well as Law on Telecommunication, and relevant regulations, along with the development and implementation of a long-term ICT strategic framework. (Royal Government of Cambodia, 2019^[12])

Efforts to both improve the regulatory environment to promote digitalisation and to utilise digital tools to improve regulatory outcomes have also been carried out by different ministries. The NSDP 2019-2023 stipulates actions by separate ministries to implement the RGC’s priority policies in the Sixth Legislature of the National Assembly. Viewed from a regulatory angle, the key activities set out by separate ministries in particular focus on improving regulatory outcomes using digital tools. Key activities by ministries to promote ICT development that may improve regulatory outcomes include (Royal Government of Cambodia, 2019^[12]) (see Table 4.1).

Table 4.1. Key activities by ministries to promote ICT development in Cambodia

Ministry of Post and Telecommunication (MPTC)	Developing the policy on digital government; Creating new management software system and creating a common national website; Expanding server capability, website, e-mail server, and setting up a digital signature certification mechanism for ministries and agencies, capital/provinces, and the national and sub-national authorities; and Setting up a licensing mechanism, digital signature for businesses, and registering permits for businesses in ICT.
Ministry of Commerce	Developing policy, both legal and regulatory, in the field of trade, while responding to digital economy and industrial revolution 4.0: 1) developing trade policies in line with national, regional and global context, 2) promoting the establishment of a law on Ecommerce, 3) co-ordinating, strengthening and promoting the implementation of laws and regulations related to business activities through electronic system and management of market activities by issuing licenses and monitoring of risks, 4) continuing to manage system and filling of notices of secure transaction (www.setfo.gov.kh) to be more effective, safe, secure and reliability, and 5) developing the establishment, analysis, and evaluation of laws and legal regulations related to trade in line with the global context; Developing entrepreneurship and business practices in the digital economy and responding to the Industrial Revolution 4.0: 1) strengthening the work of the Chamber of Commerce in all centers and disseminating the benefits of organizing and forming business associations through regulatory documents as well as strengthening the capacity of existing business associations, 2) continuing to promote and attract local and foreign traders and investors to participate in developing and producing of potential products, and 3) strengthening and expanding the number of workshops or training on packaging quality, base price, standards, and trademarks which showcase the idea of creating new products and how products circulate in the market.

Source: (Royal Government of Cambodia, 2019^[12]).

Cambodia has also introduced several databases for regulations, including the ECOSOCC database, which includes laws, decrees and sub-decrees (OECD, 2018^[6]). However, OECD (2018^[6]) notes that legislation at the level of Prakas or below is not included, meaning that a significant body of regulatory and procedural information is omitted.

The Cambodian National Single Window (CNSW) is an initiative of the RGC. Cambodia engaged in preparations for the CNSW to fulfil its obligations under the ASEAN Single Window agreement signed in 2006 and requested assistance from the ASEAN Secretariat to develop a legal analysis that focused on identifying potential gaps in its domestic legal framework to be addressed for the full implementation of the National Single Window and its cross-border interoperability in an electronic environment (USAID, 2015^[21]).

A blueprint was created for the CNSW by the Prime Minister Group in 2014, followed by establishment of the CNSW Steering Committee in 2015 and a Cambodia Needs Assessment Technical Assistance (TA) IN 2016. (CNSW Secretariat, 2019^[22]) In the Needs Assessment TA Report, the recommended approach in establishing the full-fledged CNSW was to implement it in the following three phases (USAID, 2015^[21]):

- Phase 1- Connect to the ASEAN Single Window by 2017
- Phase 2- Integrate the Line Agencies by 2018
- Phase 3- Implement the Full CNSW by 2021

The implementation of the CNSW has resulted in better regulatory outcomes. Key benefits resulting from the CNSW include (CNSW Secretariat, 2019^[22]):

- reduced time in applying for licenses, permits and certificates due to electronic submission
- reduced costs as a result of no need to travel between the office of various departments and agencies during submission
- familiarity due to the standardisation of forms across departments and agencies, as well as reduction of complexity of the application processes
- increased transparency of issuance processes
- regulatory and data conformance ensured by immediate validation during the submission process.

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Notes

¹ ARISE Plus has three components: i) high level capacity building; ii) support to the realisation of the single market for goods; and iii) ASEAN Secretariat capacity building and was funded by a global EU contribution of 22 million (ARISE+, 2022^[23]).

² The legislative term of Cambodia's National Assembly is of five years and terminates on the day when the new National Assembly convenes (Government of Cambodia, 2008^[24]). The sixth legislative term began in 2018 and is referred to as the "Sixth Legislature of the National Assembly", or "Sixth Legislature", in governmental documents.

³ The Rectangular Strategy is the successor of the Triangular Strategy of the Royal Government in the Second Legislature of the National Assembly, and thereby establishes the key facets of the Royal Government of Cambodia's development strategy. (Cambodian Corner, n.d.^[11])

⁴ Prakas is a Cambodian term which means official proclamation. It is a ministerial or inter-ministerial decision signed by the relevant Minister(s). A proclamation must conform to the Constitution and to the law or sub-decree to which it refers (Law Insider, n.d.^[25]).

5 Indonesia

This chapter presents the country profile for Indonesia. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government initiatives

Regional focus

Indonesia has made significant efforts to integrate its National Single Window into the ASEAN Single Window (ASW). The Indonesia National Single Window (INSW) was launched in 2010 and since then, Indonesia has also joined the ASW Live Operation in December 2019. They currently have a two-pillar approach to the single window: the Trade System (which promotes the smooth issuance of import-export licenses and customs clearance), and the Port System (facilitates flow of goods at the port, especially in relation to cargo release processes). At present, the Trade System is registered as part of the INSW while the Port System is not (JASTPRO, 2012^[1]).

Indonesia is also a signatory to several regional trade agreements. The Regional Comprehensive Economic Partnership, the Indonesia-Australia Comprehensive Economic Partnership Agreement, and possible agreements with the European Union and EFTA aim to ease the flow of goods, services, investment and people between Indonesia and some of its major partners (OECD, 2021^[2]). Indonesia has also committed to ratify the ASEAN Comprehensive Investment Agreement (ACIA), ASEAN Framework Agreement on Services (AFAS), and the ASEAN Mutual Recognition Arrangement (U.S. Department of State, 2020^[3]). These trade agreements will likely be grounded with chapters that relate to regulatory quality to ensure that all trade partners are aware of their obligations and that the trading of goods are monitored for their quality and assurance (OECD, 2021^[2]).

Indonesia has also worked bilaterally with other countries to conduct regulatory reforms. The Indonesia Prosperity Fund Regulatory Reform Bilateral Programme 2018-2023 is being led by the UK's Office for Product Safety and Standards, which is located within the Department of Business, Energy and Industrial Strategy (BEIS) and leads the work for the Government's agenda on regulatory reform (Foreign&Commonwealth Office, 2018^[4]). This co-operation with the UK government has been aimed at improving the central regulatory reform to overcome obstacles such as a complicated regulatory environment and insufficient cross-government co-ordination and collaboration between public and private sector (Foreign&Commonwealth Office, 2018^[4]).

National focus

Regulation plays a key role the Indonesian government's policy priorities. OECD (2021^[2]) notes that simplifying, cutting down on and trimming all forms of obstructive regulation and improving the bureaucracy are two of the 2019-2023 medium-term priorities set out by President Jokowi Widodo in his October 2019 inauguration speech for his second term. The medium-term priorities are part of Indonesia's objectives to increase its GDP and to become an advanced country by 2045.

Since 2018, Indonesia has adopted various strategies to improve their national regulatory environment. Indonesia's 16th economic policy package, launched in August 2017, targeted regulatory reform of business licensing and permitting processes (OECD, 2018^[5]). In October 2020, the Indonesian Parliament enacted the Omnibus Law on Job Creation, which focused on strengthening the country's economy through promoting job stimulus as well as reducing regulatory requirements around attracting foreign and domestic investments¹ (UNCTAD, 2020^[6]). The law aims to streamline the current regulatory framework for investment and includes key measures ostensibly lifting restrictions and conditions placed on FDI, centralising and simplifying business licensing and land acquisition procedures, significantly reforming Indonesia's labour market and relaxing certain environmental regulations (UNCTAD, 2020^[6]). The law had wide effects on multiple sectors in Indonesia, as it contains 186 articles, amends 79 laws and eliminates thousands of regulations in ten main areas, including labour reform, ease of doing business, investment, tax, and land procurement (OECD, 2021^[2]). In November 2021, the Indonesian Constitutional Court ruled that the law is conditionally unconstitutional on procedural grounds and set a deadline of two years for

lawmakers to redo the legislative process, whereby the law will remain valid during the two-year period but the government cannot take further actions related to the law in the meantime (Omar and Bakker, 2021^[7]).

Indonesia has also undertaken other governmental strategies to improve their regulatory environment such as the 2020-22 Open Government Indonesia (OGI) National Action Plan² (NAP) and the 2020-24 National Medium-Term Development Plan³ (RPJMN).

In terms of intergovernmental developments to support their national regulatory development, Indonesia's Investment Coordinating Board (BKPM) was transformed from a government agency charged with implementing and supervising investment policy into a ministry, now known as the Ministry of Investment/BKPM, as of April 2021 (Abednego, 2021^[8]). This was also part of the Omnibus Law described above. The Ministry is the focal point for connecting all investment sectors from the technical ministries as well as serves as the "one stop shop" for helping investors with their business licensing. As the main link between business and government, the ministry is responsible for creating a conducive investment climate in Indonesia (Ministry of Investment/BKPM, n.d.^[9]).

Governmental strategies and plans have also committed to improving the regulatory environment. These include:

- The Open Government Indonesia (OGI) National Action Plan (NAP) 2020-2022 is part of the development agenda in the 2020-2024 Medium-Term National Development and contains commitments reflecting OGI's values of 1) transparency, 2) participation, 3) innovation, 4) accountability, and 5) inclusion (Open Government Indonesia, 2020^[10]).
- The 2020 Government Work Plan (RKP) was the initial achievement of the first year of implementing the 2020-2024 National Medium-Term Development Plan (RPJMN). The 2021 RKP focuses on seven national development priorities under the 2020-2024 National Medium-Term Development Plan (RPJMN), namely strengthening economic resilience, developing regions, improving human resources, spreading the spirit of "mental revolution", improving infrastructure, preserving the environment, improving disaster resilience and climate change, as well as maintaining stability of political, legal and security affairs and public services (Cabinet Secretariat of the Republic of Indonesia, 2020^[11]).

The authorities also took measures to improve regulations related to business competition, including through the Indonesian Competition Commission (KPPU). In 2019, KPPU focused on reforming procedural law, easing notification of merger and acquisition transactions, and improving legal protection for SMEs (OECD, 2020^[12]).

Good regulatory practices

Regulatory impact assessments

As described in OECD (2018^[5]), draft regulations may be proposed or initiated by any ministry and it is the responsibility of that ministry to undertake all evaluations relevant to the proposal before it is approved. This includes an explanatory description and/or academic research paper, including an introduction (background, problem identification, objectives and methods), theoretical studies and empirical practices, evaluation and analysis of regulations, the range, the direction of the regulation, sociological and juridical aspects, the scope of material content of local laws and regulations, and the conclusions and suggestions. Once these have been prepared, the Ministry of Law and Human Rights proceeds with the preparation of the Bill.

Regulatory impact analysis was introduced to the Indonesian national government, via the then Ministry of Industry and Trade by the 2002 ADB Deregulation and Competition Project, which produced a training manual and trained some Ministry officials in the methodology (USAID, 2009^[13]). Indonesia's Presidential

Instruction 7/2017, effective as of 1 November 2017, indicates that a RIA must be undertaken before a new regulation can be imposed and Indonesia's Cabinet Secretary Regulation 1/2018 further reinforces this protocol by stating that RIAs should be done both at the *ex ante* and *ex post* stages of the regulatory policy cycle. The National Development Planning Agency (BAPPENAS) offer both guidelines to conduct RIA, as well as training with the support of external networks such as the Asian Development Bank and the Asia Foundation are also available (USAID, 2009^[13]).

In terms of organising RIAs, the Ministry of Law and Human Rights co-ordinates the lawmaking processes within Indonesia (OECD, 2018^[5]). The Ministry oversees activities related to regulatory reform, ensures the quality of legislations and offers other services related to public administration and law. The Ministry of Law and Human Rights also delivers regular training on Regulatory Impact Assessments (RIA Law No. 12), cost-benefit analysis (in partnership with academia) and provides advice and support to governments on SME issues and smart regulation when needed (OECD, 2018^[5]).

The RIA process in Indonesia requires that regulators identify the impacts of a regulatory proposal and explain all of their analysis through an academic paper. In general, a complete regulatory proposal in Indonesia should comprise of an introduction to the policy problem, a review of theoretical studies that support the issue, any empirical evidence, evaluation and analysis of regulations, the range, the direction of the regulation, any sociological and juridical aspects, the scope of material content of local laws and regulations, and the final conclusions and suggestions based on the overall analysis. Once these have been prepared, the Ministry of Law and Human Rights can then proceed preparing the draft Bill. Draft bills are to the House by the House itself, the President or the Regional Representative Council (OECD, 2018^[5]).

Stakeholder engagement

As noted in OECD (2018^[5]), stakeholder engagement is identified an important part of Indonesia's law-making processes. The requirement to convene these consultations are outlined in Presidential Instruction 7/2017, whereby it stipulates that consultations must be conducted for new regulations. When a new regulation is proposed, a legislative session is organised and these sessions are often inclusive of inter-ministerial committee members, experts and relevant stakeholders. These sessions offer a platform for these members to deliberate the draft regulation as well as evaluate the accompanying academic paper.

In some cases, a public hearing can also be arranged to obtain input from community members on draft regulations (OECD, 2018^[5]). Indonesia has also employed the use of several online databases to create a wider scope on who can engage with existing and upcoming regulations (OECD, 2018^[5]). Some of the noted public consultation website are as followed:

- Partisipasi Publiik (Ministry of Law and Human Rights)
- Legal Smart Channel
- Konsultasi Hukum Online
- Hukum Online

In the context of the 2030 Agenda and Voluntary National Reviews (VNRs), Indonesia established a mechanism that gathers key sectors of society, including the office of the president, to participate in the implementation, follow-up, and review of the SDGs (UNESCAP, 2018^[14]). Stakeholders were consulted throughout the process, including through online platforms. Online consultations were even used during the country's formulation National and Subnational Action Plans for the 2030 Agenda (UNESCAP, 2018^[14]).

Presidential Regulation Number 18 of 2020 on the National Medium Term Development Plan (RPJMN) 2020-2024 was signed in January 2020 and stipulates that a Ministry/Institution should carry out consultation and co-ordination with the Minister when drafting or revising Strategic Plans and Regional RPJMs (Cabinet Secretariat of the Republic of Indonesia, 2020_[15]).

Burden reduction/Ex post review

Ex post reviews and burden reduction mandates have been noted throughout Indonesia's national mandates. Not only has Cabinet Secretary Regulation 1/2018 reinforced the need to also undertake *ex post* evaluations as part of the country's regulatory policy cycle, but tenants of Indonesia's most recent Economic Policy Package (16th) also outline the importance of administrative simplification. According to a monitoring report from the Office of the Presidential Staff (KSP) in 2018, of the 8 811 regulations affected by the policy packages, 324 were revoked and 75 were revised.

Other national plans of Indonesia have also contribute to strategies of administrative burden reduction. For example, as part of the implementation of the Omnibus Job Creation Law, 77 Indonesia laws were revised into a single law which would regulate various sectors of the country's economy and the creation of the Online Single Submission (OSS) licensing system would support a stronger integrated system for business licensing.⁴ More information on the OSS licensing system can be found in Box 5.1. Last, monitoring on Indonesia's National RPJM is carried out regularly, whereas the evaluation of the plan is carried out in the midterm and final year of its implementation (Cabinet Secretariat of the Republic of Indonesia, 2020_[15]).

Digital

Indonesia has identified that digital transformation is one of the key areas that the government should invest resources towards in order to maximise public service efficiency and the operations of the government. In October 2018, the government issued Presidential Regulation No. 95/2018 on e-government, which required all levels of government (central, provincial, and municipal) to implement online governance tools (e-budgeting, e-procurement, e-planning) to improve budget management, government transparency, and the provision of public services (U.S. Department of State, 2020_[3]). This direction was one the stimulus that supported the introduction of the OSS systems (see Box 5.1), as well as the development of new electronic tax invoicing and e-filing systems.

Box 5.1. Indonesia's Online Single Submission (OSS) system

Indonesia's Online Single Submission (OSS) system has made business registration in Indonesia easier as several key permits - the location permit, environmental permit and building permit - can be obtained within one hour of submitting all required data (Indonesia Investments, 2018_[16]). After these permits are completed, then the business permit and the operational/commercial permit are activated, allowing investors to immediately start preparations to run their business in Indonesia while awaiting formal documents (Indonesia Investments, 2018_[16]). The OSS system streamlines 492 licensing and permitting processes through the issuance of Government Regulation No.24/2018 on Electronic Integrated Business Licensing Services (U.S. Department of State, 2020_[3]). The OSS has integrated 21 line ministries and institutions, and has delegated 325 licensing products and services to BKPM (Indonesia Investment Coordinating Board, 2021_[17]). Moreover, it has introduced a risk-based licensing process. The system is based on (1) Presidential Regulation No. 91/2017 on the Acceleration of Business Implementation and (2) Government Regulation No. 24/2018 on the Electronically Integrated Business Licensing Service, which was designed to cut lengthy bureaucratic procedures (red tape), thus attracting more direct investment (Indonesia Investments, 2021_[18]). The risk-based licensing

process establishes separate categories of risk for the license and confers different requirements upon businesses in accordance with these risk levels (Indonesia Investment Coordinating Board, 2021^[17]):

Risk Level	Requirements
Low risk	NIB as the single license for preparation, operational, and commercial stages
Lower middle risk	NIB and Standard Certificate (SS) as the license for preparation, operational, and commercial stages
Upper middle	Standard Certificate in the form of self-declaration to meet business activity standards NIB + SS (self-declaration) as the license for preparation stage SS (verified) issued after verification of compliance with business standards by the Government NIB + SS (verified) as a business license is valid for operational and commercial stages
High	NIB as the business license for the preparation stage Companies must meet all the requirements before license is issued NIB + Permit as business license for the operational and commercial stages

Source: (Indonesia Investment Coordinating Board, 2021^[17]).

Since 2018, other developments supporting regulatory progress and digital transformation within the country have been related to the INSW and a Presidential Regulation that has focused on harmonizing data to improve government efficiency.

With regards to the INSW, new developments have been proposed for the creation of a digital platform that provides an integrated environment for doing business that are in line with international standards (i.e. handling customs documents, quarantine documents, licensing documents, port/airport documents, and other documents, related to exports and/or imports electronically). In terms of the new Presidential Regulation announced in 2019 that would support the development of the One Data program, Indonesia would focus in the upcoming years on how to support digital transformation within the country to better plan, implement and monitor government processes. At present, this program has been notable in supporting the 2020-2024 RPJMN, by encouraging stakeholders to use interconnected, standardised, and shareable data, to improve the accuracy of planning and performance within the development strategies of the country (Open Government Indonesia, 2020^[10]). Already the program has deployed pilots in several regions to measure the success of the initiative (Open Government Indonesia, 2020^[10]).

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Notes

¹ In November 2021, the Indonesian Constitutional Court ruled that the Omnibus Law was conditionally unconstitutional on procedural grounds and set a deadline of two years for lawmakers to amend the legislation. At present, the Omnibus Law is still undergoing review by policymakers, but remains legally active (Omar and Bakker, 2021^[7])

² The OGI NAP has suggested potential of regulation to mitigate legal uncertainty and to increase transparency and accountability in law-making processes (Open Government Indonesia, 2020^[10])

³ Regulatory efforts within the RPJMN have partially improved regulations related to business competition(OECD, 2020). The RPJMN is also the fourth phase of implementation of Indonesia's National Long Term Development Plan (RPJPN) 2005-2025.

⁴ OSS system simplified processes for obtaining a business identity number (NIB) from three days to one day upon completion of prerequisites (U.S. Department of State, 2020^[3]).

6 Lao People's Democratic Republic (PDR)

This chapter presents the country profile for Lao People's Democratic Republic (PDR). It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government perspective

Regional focus

Lao PDR has continued to focus on strengthening regional economic integration ties and thus promoting trade and investment through whole-of-government strategies and participation in international treaties. Lao PDR committed to implementing more trade facilitation measures with ratification of the WTO Trade Facilitation Agreement (TFA) in 2015, which took effect from February 2017. The TFA contains provisions for expediting the movement, release and clearance of goods, as well as measures for effective co-operation between customs and other appropriate authorities on trade facilitation and customs compliance issues (ASEAN, 2021^[1]).

The TFA is being implemented through ASEAN Regional Integration Support from the European Union (ARISE) Plus Lao PDR, which is the Lao PDR component of the ARISE Plus 2017-2022 Regional Programme¹. The project is geared towards improving the country's overall business environment and increasing its participation in global value chains in two sectors: wood processing and coffee (ITC, n.d.^[2]). This is translated to Lao PDR via three components, each with elements of better regulation embedded (ITC, n.d.^[2]):

1. Increased regional economic integration: by addressing specific constraints in selected sectors implementing measures contained in the ASEAN Trade in Goods Agreement and the ASEAN Economic Community Blueprint 2025;
2. Increased awareness on trade preferences for exports: including to the EU, with greater use of Everything But Arms, and on the requirements for placing products on the EU market; advanced preparation of the Lao People's Democratic Republic to shift to a new trade preference scheme; and
3. Strengthened support services (especially for smallholders and MSMEs, with a focus on women), reduced supply-side constraints and trade and investment promotion in targeted sectors (e.g. wood processing and agro-based products).

With the support of the International Trade Centre (ITC), 2021-25 Export Roadmaps have been produced for both wood (ITC, 2021^[3]) and coffee (ITC, 2021^[4]). Improving the regulatory environment figures prominently in both, noting a need to improve the country's legal, regulatory and institutional frameworks to support the outcomes envisioned from ARISE plus. These roadmaps note several enabling factors, such as predictable regulatory frameworks, better access to regulatory and market information, streamlined procedures, greater use of digital tools, and promoting public-private dialogue and transparency. They also note the deterring factors associated with permit constraints, burdensome regulations, and export and transportation costs.

Furthermore, the Ministry of Industry and Commerce (MoIC) published a Trade Facilitation Road Map (TFRM) of Lao PDR for 2017-2022, which builds on the Trade Facilitation Strategic Plan for 2011-15 (WTO, 2019^[5]). The Trade Facilitation Strategic Plan 2011-2015 had recommended the following strategic measures (WTO, 2011^[6]):

- Mainstream Trade Facilitation across line ministries
- Simplification, harmonisation and modernisation of trade and customs procedures
- Implement WTO, ASEAN and GMS commitments
- Develop private sector capacity to trade efficiently in compliance with rules and regulations
- Provide the right equipment and facilities to ensure the smooth and efficient administration of trade and customs procedures
- Create a national trade facilitation body.

The Road Map aims to integrate Lao PDR's economy into the region by simplifying and streamlining clearance procedures as well as reducing the time and cost related to trade (Ministry of Industry & Commerce, 2017^[7]). It recommends seven strategic measures, which include developing an institutional mechanism to improve co-ordination with line departments and strengthening the governance structure at the sub-national level (Ministry of Industry & Commerce, 2017^[7]). The Road Map is currently in its last phase of implementation, which began January 2020 and ends in December 2022. Provisions regarding the exercise of the mid-term and final evaluation of the Road Map are included within the document. The mid-term evaluation of the Road Map is required to start in early 2020 while the final evaluation is required to begin towards the end of 2021 so that the findings are available by March 2022 (Ministry of Industry & Commerce, 2017^[7]).

Lao PDR has successfully achieved a number of these strategic goals, including simplification of customs procedures, provision of equipment & facilities, implementation of WTO, ASEAN & GMS commitments and creation of national trade facilitation body (Ministry of Industry & Commerce, 2017^[7]). Limited progress was also made in mainstreaming of trade facilitation across the line ministries and development of private sector capacity (Ministry of Industry & Commerce, 2017^[7]).

Meanwhile, Lao PDR is a signatory to the Regional Comprehensive Economic Partnership (RCEP), which includes provisions on better regulation. RCEP came into force for Lao PDR in January 2022. In November 2021, a workshop for Lao PDR officials regarding rules of origin (ROO) under RCEP was held under the ERIA Capacity Building Programme, with support from the Department of Foreign Affairs and Trade, Australia (ERIA, 2021^[8]). The ROO applies to businesses seeking to qualify their goods as originating for RCEP purposes and allows for increased flexibility and greater integration of supply chains across the region (Bakermckenzie, 2020^[9]).

Lao PDR has also made efforts to develop and eventually integrate the Lao National Single Window (LNSW) into the ASEAN Single Window (ASW). The LNSW is still regarded as being 'under development' (ERIA, 2021^[10]), but efforts to implement LNSW are under way under the Lao Customs agency. The Trade Facilitation Road Map of Lao PDR for 2017-2022 notes that once the Lao PDR National Window is established and functional, it should be connected quickly with the ASW (Ministry of Industry & Commerce, 2017^[7]). According to the implementation plan laid out in the Trade Facilitation Road Map, the Lao PDR plans to set up an NSW with five key departments by 2019, increasing to 10 departments by 2020, and then to all line departments by 2022 (ERIA, 2021^[10]).

National focus

The 9th five-year National Socio-Economic Development Plan for 2021-2025 was developed to be in line with the National Strategy on Socio-Economic Development 2016-2025 and Vision 2030 of the Lao PDR. Improvement of public governance and administration is one of the six outcomes under the Plan. Measures to improve the quality of regulation are emphasised throughout the document. These include implementing an e-government system, improving public services under the One-Door service mechanism, increasing the proportion of streamlined ministerial departments and divisions to 20% of the total, and increasing the proportion of streamlined sections, units and sub-units at the local administrative level to 30% of the total in line with the Sam Sang Directive² (Lao PDR, 2021^[11]). The emphasis on public governance and administration continues from the 8th five-year National Socio-Economic Development Plan for 2016-2020, which had set strengthening public governance and administration as a cross-cutting output to achieve socio-economic development.

Progressively updating legal and administrative frameworks to bring them in line with government policies has also been a focus in recent years for the government of Lao PDR. This includes amendments to the Law on Government to clarify laws and mandates of the administration, in line with the Sam Sang Directive, and establish new ministries, reassign functions, and/or merging existing ministries with similar functions with the aim of improving access, transparency and accountability of public service delivery at the national

level. In addition, as part of the decentralisation reform efforts, the Law on Local Administration was also amended, which affects regulations at the sub-national level. Decentralisation aims to strengthen and integrate financial, administrative, and service delivery systems for the benefit of local citizens. Providing guidance regarding these sub-national functions have been assigned to local administration. Finally, progress has also been made in establishing laws and compliance mechanisms in alignment with international standards.

To implement the ASEAN Economic Community Blueprint 2025, Lao PDR created the Regional Economic Integration of Laos into ASEAN, Trade and Entrepreneurship Development (RELATED) project, with the support of the German Corporation for International Development (GIZ), to assist in the elaboration of the National Work Plan of Lao PDR 2018-2020 (GIZ, n.d.^[12]). This was under the realisation that the vast majority of Lao businesses are small and medium-sized enterprises (SMEs). Strengthening SME development would therefore enable Laos to integrate more inclusively and sustainably into the AEC. RELATED aimed to (GIZ, n.d.^[12]):

1. Improve AEC-related policy framework conditions in the areas of trade in goods, trade in services and investments.
2. Develop and provide demand-oriented AEC-related services for the private sector.
3. Improve the conditions for an increased competitiveness of AEC-oriented private enterprises.

The Project notes a number of results, including several with impacts for better regulations. These include supporting the identification and prioritisation of regulatory and procedural reforms to improve the business climate to be implemented by 2022, as well as amending the Lao regulatory framework for e-commerce in line with the ASEAN Agreement on Electronic Commerce (GIZ, n.d.^[12]). The Project also notes strengthened regulatory frameworks for transport and logistics, the launch of the national SME Service Centre (SSC), two provincial SCCs, SCC Breakfast talks to support public-private dialogues, and one-on-one coaching for SMEs and start-ups (GIZ, n.d.^[12]). Information has also been supplied, such as practice-oriented manuals for Lao coffee trade procedures to enter the ASEAN market to help reduce farmer's dependency on traders and sell directly to markets, as well as other materials, trainings and coaching to support competitiveness (GIZ, n.d.^[12]).

Efforts to improve the quality of one-stop services have also been made by the government. The 2016 Law on Investment Promotion stipulates that the Central Investment Promotion and Supervision Committee is responsible for directing the implementation of an one-stop-service to promote and attract investment (UNCTAD, 2022^[13]). Following implementation of the Law, the government issued the Decree on the Establishment and Operation of the Investment Promotion and Management Committee No. 05/PMO in 2018, which provides further clarification on the establishment and operations of the Investment Promotion and Management Committee (Tilleke&Gibbins, 2018^[14]). The Committee oversees investments in controlled activities, concessions and special economic zones (WTO, 2019^[5]) in addition to providing One-Stop Services.

Good regulatory practices

Regulatory impact assessments

RIA is governed by the Law on Making Legislation (No. 19/NA 12/7/2012) and the Decision on the Impact Assessment of Draft Legislation (No. 517/MOJ 7/7/2014). The Law (Article 29) requires analysis, public consultation, an explanatory note and impact assessments of regulatory and budgetary impacts to accompany draft legislation (OECD, 2018^[15]). This information should be reported in an Impact Assessment Note (IA Note), which is required for all draft laws that go to the National Legislative Assembly (OECD, 2018^[15]). RIA is mandated for all draft laws, including (OECD, 2018^[15]):

- Draft Laws
- Draft Presidential Ordinances
- Draft Government Decrees, except decrees to implement Resolutions of the National Assembly, of the Standing Committee of the National Assembly, the national socio-economic development plan and decrees on establishment and activities of a ministry or a government organisation
- Draft Decisions of the Prime Minister, Ministers, Head of Government Authorities, provincial governors or Vientiane.

The Ministry of Justice (MOJ) is the legal scrutiny body, which conducts a comprehensive review and research on draft laws, particularly in regards to legal structure, and can send back comments to the drafting authority (Ministry) (OECD, 2018_[15]). It can also invite the drafting committee and relevant sectors to review and edit to ensure consensus before submission to the government (OECD, 2018_[15]).

In 2011, an Inter-Ministry RIA Task Force was established to guide the introduction of RIA into the pilot ministries and design the system (OECD, 2018_[15]). Subsequently, a Centre for RIA was established within the MOJ in 2014 to advocate for, support and quality control the RIA system (OECD, 2018_[15]). In addition, the centre also has a responsibility to inform and train line ministries as well as the public on RIA (OECD, 2018_[15]). The Centre published a set of Regulatory Impact Assessment Guidelines in 2016 in partnership with the Asian Development Bank. The guidelines provide guidance to authorities making and amending legislation to (Centre for Regulatory Impact Assessment for Draft Legislation, 2016_[16]):

- Meet the requirements for impact assessment under the Law on Making Legislation and the MOJ Minister Decision on the Impact Assessment of Draft Legislation; and
- Produce better legislation in accordance with best practice principles.

The Guidelines support the Lao PDR National Socio-Economic Development Plans and the aim of the Legal Sector Master Plan to establish a rule of law state by 2020 (Centre for Regulatory Impact Assessment for Draft Legislation, 2016_[16]). The Guidelines are of general application, and they state that authorities should also consider sector and regional specific requirements when making and amending legislation.

RIA does not cover district or village regulation, resolutions, or other government decrees (e.g. to implement the resolution of the National Assembly, socio-economic development plans or strategic plans) (OECD, 2018_[15]). A light form of RIA is currently used and assessed impacts must be projected for the next five years (OECD, 2018_[15]). To date, over 600 training and awareness fora have been conducted on RIA but there remains limited compliance among ministries.

Stakeholder engagement

The Law on Making Legislation 2012 states that when making a draft law, the authority in charge must conduct public consultations. For all new draft regulations, there is a requirement that stakeholders should be consulted at least twice. According to the Law, upon approval from the head of the authority in charge of law making, the drafting committee must submit a draft law with focal questions to [relevant] sectors, local administrations and other concerned parties for comments that are related to matters under their jurisdiction (Lao PDR, 2012_[17]).

OECD (OECD, 2018_[15]) notes that the Decision on Impact Assessment underlines the importance of consultation and makes the specific minimum requirement of a 60-day consultation period for the draft Impact Assessment Note with draft legislation and draft explanatory note. The Legal Unit publishes draft documents including the Impact Assessment Note for public consultation, and also approves documents on the Official Gazette or drafting authority website (Centre for Regulatory Impact Assessment for Draft Legislation, 2016_[16]). The IA Note also includes a section on comments received, which can potentially explain why inputs have been taken into account or rejected (OECD, 2018_[15]). However, there is yet to be

a guideline to inform ministries about the process needed to undertake this. There is limited but increasing compliance with this requirement. The Impact Assessment Note is not currently published with the final promulgated legislation.

The Lao National Chamber of Commerce and Industry (LNCCI)³ is regularly consulted on draft regulations and receives support from professional legal advisory firms to comment on them (OECD, 2018_[15]). They may also funnel draft legislation to other Chambers for comment (OECD, 2018_[15]). The LNCCI worked with the Ministry of Industry and Commerce (MOIC) to create the SME Service Centre (SSC), an independent organisation to support small and medium-sized enterprises in Laos to access training and information (SSC, n.d._[18]). The project, supported by several foreign development aid organisations, such as the ILO or GIZ, the SME Service Center (SSC) was officially established on 17 February 2017 with an office within the LNCCI in the capital of Vientiane (SSC, n.d._[18]). The Centre for Regulatory Impact Assessment for Draft Legislation is expected to play a role in regulatory consultation. The LNCCI hopes to use their new SME Centre as a forum for SME consultation.

The LNCCI is responsible for overall co-ordination and facilitation of the Lao Business Forum, which was launched in March 2005 as a joint initiative between the International Finance Corporation (IFC) and the Ministry of Planning and Investment (MPI) (LNCCI, n.d._[19]). Public-private consultation is conducted each year between government agencies and members of private sector working groups, with the Department of Planning and Cooperation of the Ministry of Industry and Commerce acting as the main co-ordinating body (ERIA, 2021_[20]).

The public may also call hotlines to the Prime Minister's Office and some ministries, such as the Ministry of Finance to express concerns (OECD, 2018_[15]).

Burden reduction/ex post review

The 2016 Guidelines on RIA include a section on the review of laws. It states that legislation should be reviewed regularly to ensure it remains relevant and effective over time. In determining when the legislation should be reviewed, the Guidelines advise that drafting committees should consider (Centre for Regulatory Impact Assessment for Draft Legislation, 2016_[16]):

1. Whether there needs to be a post-implementation review conducted to ensure that the legislation delivers the policy objective in accordance with regulatory best practice principles. For example, a post-implementation review could be very useful where the legislation was implemented urgently and the drafting committee did not have sufficient time to complete an appropriate level of consultation and analysis, or there is a high level of uncertainty with the impact assessment conducted; and
2. If no post-implementation review is necessary, then a regular review of the legislation should be conducted to ensure it is still relevant and effective.

Further efforts for burden reduction were achieved when the government amended the Investment Promotion Law No. 15/NA in 2016. By this amendment, the Central Investment Promotion and Supervision Committee, chaired by the Deputy Prime Minister, was established as an integrated control mechanism of investment promotion (KSP, n.d._[21]). In addition, One-Stop Services were improved to support the investment process and an Ombudsman system was introduced.

OECD (2017_[22]) stated that these amendments align with international best practices, expecting they will have a positive impact on the effective implementation of existing policy. Previously, three different entry points for investors in Lao PDR were defined as one-stop shops by the government (OECD, 2017_[22]). Consequently, three distinct one-stop shops have co-existed in the country, which the Review notes as contrary to the principle behind One Stop Shops. The newly amended Law on Investment Promotion has reduced the number of entry points for investors from three to two (OECD, 2017_[22]).

To improve the investment climate and ease of doing business, Prime Minister Order No. 02/PM, 1 February 2018, for improving the effectiveness of the business registration and approval process was issued (WTO, 2019^[5]). The Order focuses on addressing and minimizing difficulties in doing business within the country through the reduction of procedures and time for the issuance of authorisations by the sectors concerned to ensure speediness, transparency, effectiveness and reduced cost in the operations of the business sector.

Under the Decision on Enterprise Registration No. 0023/MOIC.DERM of January 2019, the process to obtain an Enterprise Registration Certificate (ERC) was simplified, moving from *ex ante* enterprise registration to an *ex post* system. Companies now no longer need approval from line Ministries before registering as enterprises, which has reduced the time to register a business to less than 10 working days on average (WTO, 2019^[5]).

Progress has been made to develop one-stop shops within the country. This includes the review of relevant legislation and regulations related to the establishment of One-Door Service Centres (ODSCs), evaluation of the implementation of the ODSCs throughout the country, as well as research on the mechanisms, regulations and standards of new modern One-Door Service Centres (Lao PDR, 2021^[11]). The purpose of ODSCs is to create a streamlined and easy-to-use interface between government and citizens, offering a number of services in one location and thus reducing unnecessary paperwork, time and effort (UNDP, 2021^[23]). The Ministry of Home Affairs is responsible for strengthening the capacity of ODSCs in each district, with the goal of making them citizen-centric centres that take a strategic approach to providing good service delivery.

Digital

The government has a number of policies and regulations that are meant to support the use of digital technologies in Lao PDR. These include (E-Government Center of Lao PDR, n.d.^[24]):

- Draft of National ICT Policy 2015-2025
- Draft of National Broadband Plan 2012-2020
- Draft e-Government Master Plan 2013-2020
- MPT Vision 2030, Strategy 2025 and Development Plan 2020
- E-Transaction Law (2012)
- Telecommunication Law (2011)
- Decree on Online Information Management (2014)
- Law on Prevention and Combating Cyber Crime (2016)

The E-Government Center is in charge of 1) centralisation of the government computer service; 2) managing and developing administration and service; 3) building, managing and providing services on the centralisation of government information; 4) building and providing services to increase access to information for the government, business sector and citizens; and 5) providing software training and promoting of E-Government (E-Government Center of Lao PDR, n.d.^[24]).

The establishment of the e-Government portal has been completed to support the transformation towards electronic public administration and a modern digital government, with the current system now able to integrate information and services of ministries and government offices in various sectors at a basic level (Lao PDR, 2021^[11]).

The Trade Facilitation Road Map 2017-2022 has as its priority measures publication of Service Charters, establishment of a National Single Window, issue of enabling regulations for digital signatures, centralisation of payments and one-stop inspections (Ministry of Industry & Commerce, 2017^[7]). The Lao

National Single Window (LNSW) was developed by the Ministry of Finance and the Lao Customs Department. Using Cloud computing, the portal covers all the processes between Government entities and the Laotian Trade Community, relative to trade regulations formalities in Lao PDR (LNSW, n.d.^[25]). Its main objectives include:

- Simplifying and accelerating procedures and formalities,
- Improving logistic chain efficiency by generalizing the use of effective IT exchange data tools between all actors,
- Reducing costs and timeframes execution

As of 2018, the system was undergoing pilot testing with issuing e-permits by the Ministry of Industry and Commerce. It has plans to continue, in the next phase, to link Ministry of Public Work and Transport, Ministry of Agriculture and economic operators. The Customs Department was preparing to sign the MOU with the Department of Transport exchange information, through the National Single Window System, on the Certificate of Automobile Technical Specification issued by the Department of Transport (ASW, n.d.^[26]).

In conjunction with development of the system, the legal framework has also been developed to support the implementation of the LNSW. In January 2019, the Minister of Finance issued an administrative decision on implementation of the LNSW such regulation serves as a legal base for government agencies to develop their own administrative instructions/guidelines on streamline and seamless procedures for issuing permit/license/certificate through the LNSW (ASW, n.d.^[26]).

The Trade Facilitation Road Map also requires that line departments publish the details of documents required, fees payable and standard procedures to be followed for various services such as issuing licenses, permits, and quality approvals online, as well as on the Lao Trade Portal (LTP) (Ministry of Industry & Commerce, 2017^[7]).

Use of digital tools to improve the regulatory environment has also been carried out by separate ministries. The Ministry of Technology and Communications (MTC), in partnership with the United Nations Development Programme (UNDP), launched the Digital Government Transformation project in July 2021 as a collaboration towards shaping the digital transformation agenda in Lao PDR (UNDP, 2021^[27]). The project is expected to contribute to the development of Digital Government Master Plan, Standards Framework of Digital Government as well as the pilot initiatives on Digital Government services in Lao PDR, which will become a significant tool for line ministries and government organisations to digitalise their administration and services (UNDP, 2021^[27]).

To implement the Government policy in promoting and attracting investment from private sectors in the social-economic development of the country, in April 2018 the Ministry of Planning and Investment established a One-Stop Service in line with the Investment Promotion Law (Amended 2016). It focuses on providing investments in the Lao PDR with more facility, transparency, and agility and is expected to bring capital, modern technologies, technical knowledge and wider market approaches into Lao PDR (Investment Promotion Department, n.d.^[28]). The One-Stop Service also provides all-round services and facilities to the investors with information, consideration and approval processes of investment projects, issuance of the Investment License and other investment notices (Investment Promotion Department, n.d.^[28]).

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Notes

¹ ARISE Plus has three components: i) high level capacity building; ii) support to the realisation of the single market for goods; and iii) ASEAN Secretariat capacity building and was funded by a global EU contribution of 22 million (ARISE+, 2022^[29]).

² The Sam Sang, or “three bills,” Directive is a decentralisation policy that aims to enhance government ownership and accountability in governance and socioeconomic management of local administration, resulting in improved public service delivery (Vongxay and Yi, 2017^[30]).

³ The LNCCI is a private sector body representing private sector interests, but with clear government involvement (OECD, 2018^[15]).

7 Malaysia

This chapter presents the country profile for Malaysia. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government initiatives

Regional focus

Since 2018, Malaysia has continued improve its regulatory environment by participating in trade agreements that include provisions promoting better regulation. Malaysia is a signatory to the Regional Comprehensive Economic Partnership Agreement (RCEP), which came into force as of 18 March 2022 (Bernama, 2022^[11]). Malaysia signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) but has not ratified it as of January 2022. In addition to tariff cuts, the CPTPP contains provisions on, among others, customs and trade facilitation; standards and technical barriers to trade; investment; services; intellectual property; e-commerce; procurement; labour; environmental issues; regulatory coherence; and others (OECD, 2021^[2]). Malaysia is also involved in regional initiatives promoting good regulatory practices (GRPs). One such initiative is the ASEAN Regulatory Cooperation Project (ARCP), which addresses non-tariff barriers due to divergence of chemical management regulations by encouraging regulatory co-operation and convergence. ARCP helps to establish regulatory environments that encourages free and open trade and investment while protecting human health, safety, environment and security (APEC, 2020^[3]).

Malaysia's National Single Window has been in operation since 2009 and Malaysia has taken many steps to integrate it into the ASEAN Single Window (ASW). Malaysia joined the ASW Live Operation in 2019, which allowed the granting of preferential tariff treatment based on the ASEAN Trade in Goods Agreement electronic Certificate of Origin (ATIGA e-Form D) exchanged through the ASW (n.d.^[4]). Moreover, Malaysia began the exchange of the ASEAN Customs Declaration Document (ACDD) through the ASW in 2021.

Malaysia has expressed that (GRPs) are consistently mentioned in treaty agreements, as it not only heightens trust among trading partners, but also corresponds to principles of good governance, transparency, productivity and accountability. The Government of Malaysia has also routinely asked their ministries, agencies and local authorities to publish their guideline in the issuance of permit and licensing through online so that they can manage and reduce the likelihood of corruption. MPC received mandate from the Special Cabinet Committee on Anti-Corruption (JKKMAR) to facilitate the process in ensuring the ministries and government agencies responsible for issuing licences and permits publish guidelines online for the public information. This initiative is under the strategies highlighted in the National Anti-Corruption Plan (NACP) 2019-2023 which is to establish a strong and effective mechanism in the issuance of permits and licensing in Malaysia

National focus

Malaysia is a regional leader in promoting regulatory policy that aligns with international good practice. The launch of the National Policy on the Development and Implementation of Regulations (NPDIR) in 2013 marked a change in the government's approach to regulatory reform, from deregulation to a whole-of-government approach on GRPs (ERIA, 2020^[5]).

Regulatory reform

The Shared Prosperity Vision (SPV) as the country's new direction was announced by the Prime Minister during the tabling of the Mid-Term Review of the Eleventh Malaysia Plan (MTR 11MP) in October 2018 in Parliament (Ministry of Economic Affairs, 2019^[6]). Shared Prosperity Vision 2030 is a commitment to make Malaysia a nation that achieves sustainable growth as well as fair and equitable distribution across income groups, ethnicities and supply chains (Ministry of Economic Affairs, 2019^[6]). Integrity and Good Governance is the thirteenth guiding principle of the vision. This principle emphasises the outcomes of 1) elevating the credibility of the legal system in tandem with social change; 2) strengthening accountability

and integrity; and improving the *rakyat*¹'s perception towards public administration (Ministry of Economic Affairs, 2019^[6]).

The Prime Minister presented the Twelfth Malaysia Plan (12MP) as a development roadmap from 2021 to 2025. The 12MP is anchored on three key themes focusing on resetting the economy, strengthening security, wellbeing and inclusivity as well as advancing sustainability (Economic Planning Unit, Prime Minister's Department, 2021^[7]). These themes are supported by four catalytic policy enablers focusing on developing future talent, accelerating technology adoption and innovation, enhancing connectivity and transport infrastructure as well as strengthening the public service, paving the way for a prosperous, inclusive and sustainable nation (Economic Planning Unit, Prime Minister's Department, 2021^[7]). A driver identified in the plan is to remain committed to ensuring that Malaysia continues to be an attractive investment destination by introducing policy and regulatory reforms and improving governance. The use of Behavioural Insights (BI) has also been included in the 12MP.

In 2021, the Government of Malaysia replaced the 2013 National Policy on the Development and Implementation of Regulations (NPDIR) with the National Policy on Good Regulatory Practice (NPGRP). The NPGRP provides clearer and better guidelines on the adoption of GRPs and focuses on improving the quality of both new and existing regulations. The introduction of the new policy has also reinforced the importance of employing GRPs within the country. Updates to the 2013 NPDIR can be viewed in Table 7.1.

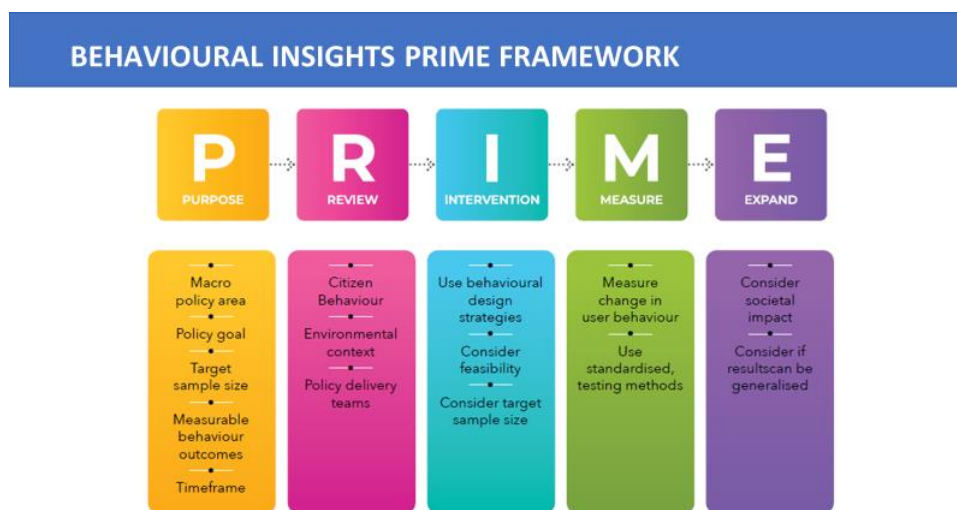
Table 7.1. Updates to the National Policy on Good Regulatory Practice

	NPDIR	NPGRP
Title	National Policy on the Development and Implementation of Regulations (NPDIR)	National Policy on Good Regulatory Practice (NPGRP)
Scope	Business, investment and trade	Economy, social and environment
Tier of assessment	Two-tier: <ul style="list-style-type: none"> Regulatory notification (RN) assessment – to determine whether Regulatory Impact Statement (RIS) is required or not Final RIS assessment – regulator submits all seven (7) elements 	Three-tier: <ul style="list-style-type: none"> Digital Regulatory Notification (DRN) assessment Initial RIS assessment – regulatory submits first four (4) elements of Regulatory Impact Statements (RIS); problem statement, objective, options and impact analysis Final RIS assessment – regulatory submits all seven (7) elements
Role of National Development Planning Committee (NDPC)	<ul style="list-style-type: none"> Overseeing the implementation of this policy, assessing its effectiveness and recommending improvements; and, Examining RIS for adequacy and making appropriate recommendations 	<ul style="list-style-type: none"> For monitoring purposes, MPC will undertake assessment on the effectiveness of the implementation of the policy and report to NDPC
<i>Ex post</i> evaluation	Not included in NPDIR but the clause available in Best Practice Regulation Handbook	Existing regulation must be subjected to regulatory review once every 5 years
Post implementation review (PIR)	Not included in NPDIR but the clause is available in Best Practice Regulation Handbook	Is required when a regulation has been introduced, removed or changed without a RIS. The PIR must be completed within two (2) years of the implementation of the regulation
Behavioural Insights (BI)	No	Applying Behavioural Insights (BI)

Source: (MPC, 2021^[8]).

As part of the 12MP, Malaysia has committed to using Behavioural Insights (BI) to enhance regulatory quality and reduce unnecessary burdens. In February 2021, the MPC called for government ministries and agencies at federal, state and municipal level as well as regulatory authorities, to adopt BI in public services (Malaysiakini, 2021^[9]). As part of the NPDIR, MPC is rolling out a Behavioural Insights (BI) Framework for government ministries and agencies, that sets out the fundamentals of applying BI in policymaking called the “PRIME” framework (see Figure 7.1). Malaysia notes that BI is being adopted as a complementary tool to enhance the Government’s services to the public. BI will be used to design and implement policies to guide the citizen towards making better decisions.

Figure 7.1. MPC’s PRIME framework for applying behavioural insights



22

Source: (MPC, 2020^[10]).

Supporting SMEs

In 2019, the Ministry of Entrepreneur Development (MED) launched the National Entrepreneurship Policy (DKN 2030). DKN 2030 is the first policy document by MED in line with the functions of the Ministry that formulates policies for the development of an inclusive and competitive entrepreneurial community with a focus on the SME sector to enhance global competitiveness. “Strategic Thrust 2” includes a strategy to promote good governance, including enhancing ICT-based procedures for business registration, reporting and monitoring as well as promoting understanding and increasing access to information on business procedures, laws and regulation to improve compliance. Other strategies under Strategic Thrust 2 that are in line with good regulatory practices include enhancing and improving regulatory requirements for businesses and enhancing monitoring and assessments of outcomes and impacts.

At a Ministry level, Malaysia has worked to improve its regulatory framework to assist SMEs in innovation and use of digital technologies. Malaysia Digital Economy Corporation (MDEC), with government support, issued various policies for helping overseas start-ups establish their businesses in Malaysia. The policies include fast-tracking and special visas for start-ups, tax exemptions and allowances, and a facilitated process of registrations (Wisuttisak, 2020^[11]). See examples of digitalisation and supporting SMEs in the section below on digital.

In the future, Malaysia is planning to release the New Industrial Master Plan 2030, which will provide strategic direction for resetting and realigning the industries towards achieving resilience, targeting 27 industries in Malaysia. Malaysia notes that there are several strategies outlined in the New IMP 2030 to facilitate and provide support to SMEs in adopting technology and digitalisation.

Digitalisation

To further enhance Malaysia’s readiness in harnessing the potential of the Fourth Industrial Revolution (4IR), Malaysia launched its national 4IR Policy 1 July 2021. The policy aims to transform the country into a high-income nation driven by technology and digitalisation by integrating efforts to transform the socio-economic development of the country through the use of advanced technology. This will complement the Malaysia Digital Economy Blueprint in driving the digital economy development.

Also to support Malaysia's 4IR transition, the National Council on the Digital Economy and the Fourth Industrial Revolution (MED4IR) endorsed the establishment of the Digital Investment Office (DIO) on 23 April 2021. The DIO is a collaborative platform between MIDA and MDEC, which act as a single-window to co-ordinate and streamline digital investments and work closely with other Investment Promotion Agencies (IPAs) to promote and attract new digital investments in this fast-evolving industry. The DIO will streamline and expedite investment processes where investment strategy among the respective stakeholders will be aligned to decide the best location, incentive scheme, and other matters pertaining to digital investments. The DIO also provides end-to-end facilitation to investors covering pre and post project implementation. This includes providing information on the opportunities of digital investments, until the implementation of the project. The DIO has also launched the [Heart of Digital ASEAN](#) (MHODA) portal in 2021 to act as a single platform to attract and facilitate digital investments into Malaysia. Moving forward, the DIO seeks to continue working together with all State IPAs in accelerating the growth of digital investments, develop highly skilled local professionals, and groom digital global champions.

Finally, Futurise is a company that was established in 2018 under the purview of the Ministry of Finance to develop an innovation ecosystem inside the Malaysian government (OECD, 2021^[12]). Futurise plays an active role as the Public Policy Advisor to ministries and agencies in developing anticipatory, progressive and inclusive regulatory framework that is imperative in shaping Malaysia for the Future Economy (Futurise, n.d.^[13]). The first initiative created by Futurise was the National Regulatory Sandbox for digital technologies. The goal of the sandbox is to create a safe environment where pre-determined set of rules as agreed together with regulators will allow entrepreneurs to build, test their products and business models in a live environment in conjunction with new regulations (Singh, 2019^[14]).

Improving trade facilitation

The Royal Malaysia Customs Department developed the National Authorised Economic Operator (AEO) Programme which focuses on trade facilitation. In addition to moving towards a whole-of-government approach with 44 participating government agencies, the National AEO Programme has had the effect of improving regulation in Malaysia by (AEO Malaysia, 2021^[15]):

- Fostering more transparent governance;
- Encouraging more accurate payment of duties and taxes;
- Simplifying import/export process through integrated trade facilitation methods;
- Securing and facilitating legitimate trade, increasing operational efficiency; and
- Aligning existing compliance programmes

Good regulatory practices

Regulatory impact assessments

Malaysia has remained committed to implementing good regulatory practices and has been embedding regulatory impact assessments (RIAs) across government since 2013. In 2013, the Government of Malaysia launched the National Policy for the Development and Implementation of Regulations (NPDIR), which reinforced mandates for better regulation within the country. Among the GRP initiatives that were implemented since 2013 (spanning the 10th, 11th and 12th Malaysia Plans) include:

- July 2013: Established the NPDIR, with the aim to ensure the Ministries and Agencies implement the RIA and public consultation in developing new and review existing regulations. GRP Portal was developed to be used as a repository and reference for all regulators and stakeholders. A total of 180 Regulatory Coordinators (RCs, i.e. focal points) from 94 ministries and agencies registered with MPC and received training on Regulatory Impact Analysis or RIA from the OECD.

- 2013 and onward: Introduced and implemented the program on Reducing Unnecessary Regulatory Burden (RURB) or now it is known as #MyMudah that reviews all existing regulations. Regulations that are efficient and effective are regulations that contributes to the growth of nations while removing or improving regulations that are obsolete or burden. MPC and the National Institute of Public Administration (INTAN) carried out training on RIA to all government officers. MPC also provides advisory and developed guideline such as Best Practices on GRPs, public consultation procedures and others.
- 2016 and onward: Capacity building program and GRP management system created for the State Government and Local Authority. Among the State government that had succeed in developing GRP policy are Sarawak, Kelantan and Sabah.
- 2019 and onward: The development of Unified Public Consultation (UPC) as a one-stop online portal for public consultation for all Ministries and Government agencies. Aim is to facilitate the participation of the stakeholders in the regulation development process. UPC intended to contribute to the Government's commitment towards accountability, transparency and inclusiveness.
- 2020 and onward: Introduced and developed capacity for government officials to apply the BI approach to enable effective policy formulation and implementation
- 2021 and onward: Expanded the establishment of MyMudah units to all federal ministries and agencies, state government, local authorities and industry associations to conduct regulatory reviews in a planned manner to facilitate the business environment to boost productivity and competitiveness and implementing regulatory experimentation programme that involves public and private stakeholders jointly assessing the efficiency and suitability of existing regulations.

As discussed above, this has been strengthened in 2021 with the release of the National Policy on Good Regulatory Practices (NPGRP), which replaces the NPDIR. The NPGRP is intended to be an update in line with core GRP methodologies of regularly updating policies after implementation. Under NPGRP, MPC's role is examine the adequacy of RIS and provide recommendations, provide guidance and assistance to regulators on RIS preparation and promote the transparency of RIS. For monitoring purpose, MPC will undertake assessment on the effectiveness of the implementation of the policy and report to NDPC. It's an updated version from the previous NPDIR.

In Malaysia, all new regulations and review of existing regulations must undergo a regulatory impact assessment (RIA) and are required to have their impacts and benefits systematically identify and assessed (OECD, 2018^[16]). This also applies to any policy alternatives, such as non-regulatory options, as a way to ensure that all possible options are comprehensively reviewed and if required, are selected (OECD, 2018^[16]). Should there be a case where the impact of a proposed regulation is minor and does not significantly change existing regulatory arrangements, the regulator could implement the regulation directly after the approval of the decision maker (in accordance with the law). That being said, the MPC must be notified when the regulation has been issued (OECD, 2018^[16]).

MPC has digitalised the Regulatory Notification Submission process by launching the [Digital Regulatory Notification](#) (DRN) system, which aims to improve the efficiency of rule-making process and supporting GRPs. This move is in line with government ongoing digitalisation initiatives that seeks to bring further positive impact to the productivity and competitiveness of the country. The DRN also has the ability to automatically assess and provide feedback, which has reduced the time necessary to provide feedback on the type of RIA require from 10 days to almost instantly. The regulators are then notified if the proposal would require lite RIA, full RIA or only consultation. The magnitude of the impact of the regulations have towards the business, environment and public will determine the type of RIA that needs to be carry out.

In general, the MPC is responsible for providing guidance and assistance to regulators in RIA and preparation of regulatory impact statements (RIS), while the National Institute of Public Administration (INTAN) is responsible for providing public service RIA training (MPC, 2021^[17]). MPC has actively conducted several "Training of Trainer" (ToT) sessions to all interested parties since the promulgation of

the NPDIR as a means to grow RIA experts in the country (Zico Law, 2020^[18]). Malaysia has also used the appointment of RCs to offer support to ministries with the application of regulatory tools.

In 2021, alongside the release of the NPGRP, Malaysia also released the Best Practice Regulation Handbook 2.0 (MPC, 2021^[19]), which serves as a reference guide for regulators to implement the NPGRP and the Regulatory Process Management System (RPMS). It provides step-by-step guidance for the implementation of and compliance with the NPGRP and provides stage-by-stage guidance on how to do a RIA and prepare a RIS.

According to the Best Practice Regulation Handbook 2.0 (MPC, 2021^[19]), the RIA must clearly identify all the groups affected, whether directly or indirectly, by the problem and its proposed solution. Groups should generally be distinguished as consumers, workers, business and the government. These groups may be further sub-categorised. Further, the RIS must demonstrate that the consultation process was credible, balanced and fair. Draft regulations should be made available to interested parties for them to be informed in greater detail on the government's proposed course of action. The RIS should provide a summary of the consultation process, the main substantive comments received and how they were taken into account.

MPC has continually provided RIA guidance as well as training in recent years. Examples of efforts since 2018 by the MPC to enhance use of RIA include the following (MPC, n.d.^[20]):

- **GRP Conference 2018:** The conference addressed challenges of implementation of GRPs as a national transformation strategy and was held in conjunction with the 4th GRPN with the OECD as well as the Workshop on International Regulatory Co-operation (IRC) with ERIA.
- **Launching of Report on Modernisation of Regulations 2018:** The report provides information on Malaysia's regulatory reform journey and aims to inform stakeholders on improvements taking place in the regulatory environment and the progress achieved in the implementation of the National Policy on the Development and Implementation of Regulations (NPDIR). For the period of 2016 to 2017, 32 projects under Modernising Business Licensing, Reducing Unnecessary Regulatory Burden and Cutting Red Tape Programs were completed. These had resulted in potential compliance cost savings of RM1.18billion (2016) and RM1.20billion (2017).
- **National GRP Conference:** The conference is part of a series of annual events that were originally held under the Programme on Modernising Business Regulation and has continued, following the completion of this programme, as an annual event to promote GRPs as well as share experiences and good practices among international and local experts and practitioners to enhance knowledge and capacity of government officials. It brings together policy-makers, regulatory agencies, experts and the private sector, with the most recent conference theme in 2021 being "Boosting Productivity Through Quality Regulation".

Stakeholder engagement

In October 2014, the government released a set of guidelines on public consultation procedures. The guidelines ensure that the following principles are met: 1) transparency with accessibility; 2) accountability; 3) commitment; 4) inclusiveness; 5) timely and informative; and 6) integrity with respect (OECD, 2018^[16]).

Consultation is one of the seven elements of RIA in Malaysia. The 2021 NPGRP stipulates that Regulators proposing new regulations or changes must carry out timely and thorough consultations with affected parties. Moreover, notice of proposed regulations and amendments must be given so that there is time to make changes and to take comments from affected parties into account (MPC, 2021^[17]) and the consultation process must be clearly set out by regulators. Public consultation can take many forms, such as (OECD, 2018^[16]):

- Stakeholder meetings
- Public meetings

- One-to-one interviews
- Public surveys
- Focus groups
- Round table discussions
- Web forums

The Best Practice Regulation Guidebook (MPC, 2021^[19]) states that, in general, any proposed new regulation or change to regulation must involve consultation with relevant stakeholders particularly the parties affected by the proposal such as the community, businesses and non-governmental organisations (NGOs). Consultation must be held for a minimum of 30 days. Consultation must be conducted in a timely manner that reflects a genuine effort to hear and consider the views of stakeholders and must not be conducted as a “box-ticking” exercise after the policy decision has effectively been made. The RIS must include a summary of the consultation. It also requires post implementation reviews (PIRs) within 2 years when a regulation has been introduced, removed or changed without a RIS.

The guidelines further require that notifications that are required to be submitted to the World Trade Organization (WTO) should be included for proposals that fall within the scope of the notification obligations of the Agreement on Technical Barriers to Trade (TBT) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). The WTO TBT1 and SPS2 enquiry points should be consulted for advice and assistance in making the notifications.

The RIS must demonstrate that the consultation process was credible, balanced and fair. Draft regulations should be made available to interested parties for them to be informed in greater detail on the government’s proposed course of action. The RIS should provide a summary of the consultation process, the main substantive comments received and how they were taken into account.

An example of a national policy formulated through extensive stakeholder engagement is the National 4IR Policy. The National 4IR Policy was developed through various engagements with 25 ministries, 51 agencies, state governments and private sector including 460 companies, 22 industry associations and 33 technology providers through focused meetings, surveys and workshops (EPU, 2021^[21]). Another example is the Twelfth Malaysia Plan, the development roadmap for Malaysia from 2021 to 2025. The Twelfth Plan has been drawn up based on extensive engagements with various stakeholders, including ministries, state governments, the private sector and civil society organisations (CSOs), as well as online engagements with the public (Economic Planning Unit, Prime Minister’s Department, 2021^[7]).

Malaysia has also made use of digital technologies to improve the quality of public consultations. The Unified Public Consultation (UPC) portal was established by the Government in 2019 in conjunction with the National Convention of Good Regulatory Practice 2019 to facilitate stakeholder engagement in rule-making processes. As of 2021, there were 67 ministries and agencies that participated in UPC and 390 consultation documents were received which have been uploaded for public feedback (MPC, n.d.^[20]). All regulators are required to utilise UPC for the purpose of public consultation on proposed new regulations or changes to regulation. This program focussed on reducing administrative burdens among companies and businesses as well as promoting stronger co-operation between the government and private sector by encouraging stakeholder engagement via online consultations (OECD, 2021^[12]). The programme has also reportedly enhanced communications between central agencies and ministries and has new direction for the government to promote agile regulatory approaches.

Burden reduction/ex post review

In July 2021, the Government of Malaysia released the NPGRP, which replaces the NPDIR. Similar to the NPDIR, the NPGRP also has a periodic review mechanism. It requires *ex post* reviews on all existing regulations once every 5 years. It also requires post implementation reviews (PIRs) within 2 years when a

regulation has been introduced, removed or changed without a RIS. The 2021 Best Practice Regulation Handbook 2.0, released alongside the NPGRP, gives some further guidance for each of these review mechanisms. Moreover, the NPGRP introduces business compliance costs as a new feature to make the use of impact analysis more “user friendly”. The NPGRP encourages the adoption of the widely used Standard Cost Model (SCM), particularly for ex-post reviews, as a means to measure compliance costs and quantifying administrative burdens for businesses (Zico Law, 2021^[22]).

Malaysia has also improved its regulatory environment in terms of reducing unnecessary burdens. As noted in OECD (2018), since 2007, PEMUDAH has been working with the MPC to address regulatory issues concerning the ease of doing business. Malaysia reports that some of the success story on the initiative by PEMUDAH to ease of doing business include:

- Improving the Efficiency in Dealing with Construction Permits in Kulim Kedah: Previously it took 24 months on average to obtain permits and licenses, from planning approval to factory operation. This is due to approval processes are conducted sequentially. Under MyMudah initiatives, regulators and business work together to review and improve the process. Some of the process is now made concurrently. As the result, the process is now take 10 months and this initiative has been scaled-up to other states.
- Expediting the process of obtaining Certificate of Completion and Compliance (CCC): During movement control order, numbers of completed buildings and premises cannot be occupied due to CCC are yet to be issued. The delay was due to pending in the issuance of ‘Clearance Letter’ by Technical Agencies, which is one of the requirements for the professionals to issue the CCC. Through #MyMudah, a concept called ‘silence implies consent’ was introduced, meaning that if no feedback is given by the Technical Agencies after 14 or 28 days from the date they received complete application, approval will be given automatically. By addressing this issue, businesses can start their operation faster and created RM1.75 billion compliance cost savings per year.

In the 10th Malaysia Plan (2010-15), MPC was granted the mandate to improve the government’s regulatory management system, which led MPC to undertake a review to assess, repeal or modify unnecessary rules and compliance costs that negatively impact businesses or the economy (OECD, 2018^[16]). This regulatory review was carried out as part of Malaysia’s Modernising Business Regulation (MBR) programme, which included the following key initiatives implemented by the MPC (OECD, 2018^[16]):

- Reducing Unnecessary Regulatory Burden (RURB).
- Facilitating initiatives in Ease of Doing Business.
- Conducting comprehensive scanning of business licensing.
- Promoting Business Enabling Framework for 18 services subsectors.
- Developing policy and guidelines for ensuring the quality of new regulations such as the National Policy on the Development and Implementation of Regulations.

Burden reduction is part of government and ministry initiatives. For example, the Twelfth Malaysia Plan (2021–2025) reiterated the government’s commitment to regulatory reform through efforts to strengthen the public service for greater efficiency. This includes reviewing and streamlining structures and functions of ministries and agencies to reduce unnecessary bureaucratic practices and to optimise the use of resources. The Malaysia Productivity Blueprint (MPB) launched in May 2017 also contains provisions regarding burden reduction. In order to promote business growth, the Blueprint recommends the restructuring of non-tariff measures, including customs regulations, to ensure streamlined processes and regulations for export and import permits and regulations. Moreover, the Blueprint also recommends expanding the guillotine approach², which is used widely around the world to rapidly streamline regulations (ERIA, 2018^[23]). The Malaysia Cyber Security Strategy also mandates the review of regulations as necessary to remove outdated regulations that could hinder the growth of digitalisation (EPU, 2021^[24]).

A Guideline on Reducing Regulatory Burden (MPC, n.d.^[25]) was established to help guide policymakers in identifying and analysing areas for burden reduction. Initial activities under the programme have been focused on increasing efficiency within the government by simplifying the administrative requirements related to the issuance of permits and licenses.

Additionally, as mentioned briefly in the section above, the #MyMUDAH initiative (MPC, 2021^[26]) was implemented in July 2020 as a fast-forward solution to address the economic impact of COVID-19. It was initially a strategy to improve regulatory quality to mitigate against regulatory challenges being faced by businesses due to COVID-19 and has since been adapted to also help in achieving national economic recovery in the endemic period. On 24 November 2021, YAB Prime Minister chaired an Economic Action Council (EAC) meeting that decided the #MyMUDAH Initiative should be strengthened by establishing #MyMUDAH units in all federal ministries and agencies. The meeting also proposed for #MyMUDAH units to be established at the State Government level, local authorities and industry associations to holistically facilitate the doing of business country-wide.

Digital

In recent years, Malaysia has committed both to using digital technologies to improve regulatory management and policy responses and to reforming its regulatory framework to foster innovation in the digital era. In the UN E-Government Survey 2020, Malaysia improved its ranking to 47th in the E-Government Development Index (EGDI) as compared to 60th in 2016 (EPU, 2021^[21]).

MyDIGITAL, which was launched in February 2021 by the Prime Minister, is a national initiative that symbolises the Government's aspiration to transform Malaysia into a digitally-enabled and technology-driven high-income nation, and a regional leader in digital economy (EPU, 2021^[24]). The MyDIGITAL initiative sets out various measures and targets to be implemented in three phases until 2030. The initiative comprises several action plans, which adopt a whole-of-government approach to complement the existing national development policies and initiatives, including the 12MP (RMK-12) and the Shared Prosperity Vision 2030 (27Group, 2021^[27]). Regulation plays a substantive role throughout the document with a particular focus on Thrust 2, “Boost Economic Competitiveness Through Digitalisation”, Thrust 3, “Build Enabling Digital Infrastructure”, and Thrust 5, “Create an Inclusive Digital Strategy” (see Table 7.2).

The current implementation of the MyDIGITAL agenda and its accompanying policy documents i.e. the Malaysia Digital Economy Blueprint (MDEB) and the National 4IR Policy (N4IRP), outline specific initiatives on improving regulatory coherence and legislative transparency pertinent to digital economy development in Malaysia. The various initiatives under MyDIGITAL also translated Malaysia's priorities in digital transformation for SMEs to achieve the set target of 22.6% of digital economy contribution to the national GDP and a collective of 875 000 MSMEs adopting e-commerce by 2030.

Table 7.2. MyDIGITAL national initiative

Strategic thrust	National initiative and description
THRUST 02: Boost economic competitiveness through digitalisation	<p>Adopt an agile regulatory approach to meet the needs of digital economy businesses</p> <p>This initiative aims to identify priority regulations to review and update</p> <p>Developing code of conduct (for regulators) to encourage industry involvement in regulatory designs for the digital economy</p> <p>Identifying areas of involvement in developing a typology of relevant regulatory approaches to capitalise on opportunities and mitigate the challenges of digital transformation</p> <p>Expanding regulatory sandboxes</p>
THRUST 03: Build enabling digital infrastructure	<p>Review laws and regulations to improve provision for digital infrastructure</p>

Strategic thrust	National initiative and description
	This initiative aims to review, improve and streamline all relevant federal and state legislations and regulations regarding digital infrastructure development
THRUST 05: Create an inclusive digital society	<p>Providing an online platform to facilitate better access for vulnerable groups</p> <p>This initiative aims to provide a one-stop online platform through integration of existing platforms, designated for vulnerable groups such as the B40, women and people with disabilities to obtain information and resources to grow their online businesses.</p> <p>The platform provides information and services such as business-related information including business registration procedures, regulations, business opportunities, existing government assistance programmes and financial resources.</p>

Source: (EPU, 2021^[24]).

Additionally, under the National e-Commerce Strategic Roadmap (NeSR) 2.0, endorsed by the Malaysian Council on Digital Economy and Fourth Industrial Revolution on 22 April 2022, more targeted activities were identified to encourage SMEs in Malaysia to use e-commerce as the engine for catalytic growth for businesses. The NeSR 2.0 recognises that enhancing e-commerce ecosystem development and strengthening policy and regulatory environment are some of the guiding principles to accelerate growth & innovation of Malaysia's e-commerce especially among SMEs. The implementation of the NeSR 2.0 with the involvement of 11 Ministries/Agencies via 6 Strategic Thrusts with 16 Strategic Programmes includes legislative review and national standards development relevant to the digital economy ecosystem.

Digital technologies are also increasingly used to support the stakeholder engagement process in Malaysia. The #MyMudah Programme allowed companies and businesses to highlight regulatory issues through the Unified Public Consultation (UPC) Portal, as well as to take part in dialogues organised by the government (OECD, 2021^[12]). UPC was established to make stakeholder engagement in the rule making process more uniform, effective and efficient. It gives the public easy access to regulatory consultations through a single website. UPC also contributes to achieving the Government's commitment to accountability, transparency and inclusiveness.

Malaysia also has several online databases relevant to regulatory policy and support for businesses including SMEs. These include:

- [Good Regulatory Practice](#): This database provides information on regulatory impact analysis, reducing unnecessary regulatory burdens and regulatory stock. It is available to the public.
- [Malaysia Digital Economic Blueprint \(MDEB\)](#): MPC has been mandated to lead the initiative, Agile Regulatory approaches to meet the needs of the digital economic businesses (Thrust 2, Strategy 3, Initiative 4). The strategic objectives are to create a regulated environment that is conducive for the economic digital environment; to review regulation requirement to facilitate innovation and expand coverage to include new technologies and business models.
- [MyGov](#): This portal is a mobile application of the Malaysian Government Portal and has the aim to diversify Government service channels to the people for access to digital services and information.
- [MyAssist MSME](#) (SME Corporation, 2022^[28]) was created under the economic recovery plan "Pelan Jana Semula Ekonomi Negara" (PENJANA) that was announced by the Prime Minister of Malaysia on 5th June 2020. This initiative is lead by the SME Corporation Malaysia to create an avenue for MSMEs to obtain information and advisory services on conducting business especially during post COVID-19. It features an online one-stop business advisory platform online and via mobile application that is dedicated to assist SMEs in their business-related problems and issues through the provision of business advisory and information, digital marketing opportunities and guidance; technology and business innovation support facilitation; business matching services;

and various channels of online initiatives that are linked to implementing agencies under PENJANA. This platform also offers information dissemination through webinar sessions and e-commerce platform. Its components consists of information centre, advisory services and feedback mediums that is used to gather feedbacks through direct interactions via live chat. Other services that is available on the platform are the integration of SMEinfo portal, MeetME (online business advisory), MatchME (online business matching) as well as e-exhibition platform (see more details in the section on digital).

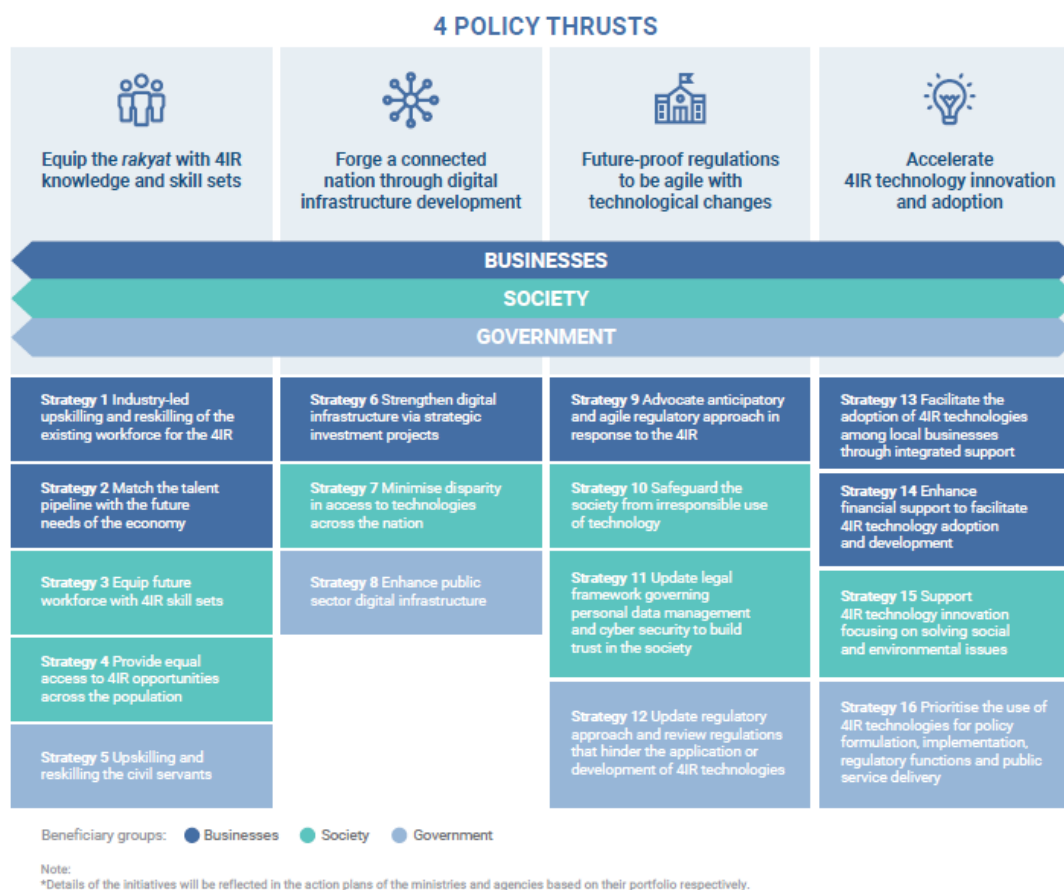
- SMEinfo Portal is a centralised online information gateway for MSMEs that offers information on all aspects of MSME development in Malaysia, including links to helpful websites and news. The portal provides MSMEs with access to information on all Government programmes for MSME development, including the various financing schemes and business support services. In addition, the Portal also provides information on business guides for different stages of business, as well as financial tools to assist MSMEs to manage their financial management.
- MySQL: This is an online system whereby more than 4 800 Malaysian Standards (MS) can be accessed for purchase. MySQL is a new service delivery system offered by the Department of Standards Malaysia as the National Standards Body in Malaysia. The public can easily access and purchase the MS through this system.
- Accredited Organisation Directories: This database provides information on accredited conformity assessment bodies in Malaysia that help the industry explore the availability of accredited conformity assessment services. Conformity assessment services are required by the industry to verify their products, services or systems meet the requirements of a standard.

Malaysia's National Fourth Industrial Revolution (4IR) Policy is a broad, overarching national policy that drives coherence in transforming the socioeconomic development of the country through ethical use of 4IR technologies (EPU, 2021^[21]). It aims to ensure that the people will enjoy an improved quality of life through leveraging technologies and enabling a conducive doing-business environment that allows more technology innovation for business to flourish (EPU, 2021^[21]). The policy advocates for the use of technology to the advantage of society, businesses and the government. In the area of government, the policy recognises that a technologically-enabled government will provide more efficient, effective and modernised public services (EPU, 2021^[21]) and aims to ensure that national planning will become smarter and data-driven. Moreover, the third policy thrust, Future-proof Regulations to be Agile with Technological Changes, calls for an agile regulatory framework, approach and governance to build trust in society and to provide a conducive environment for innovation (see Figure 7.2).

Policies to enhance regulation for specific sectors in the digital era are also in place in Malaysia. The Industry 4WRD policy is a national policy launched in 2018 by the Ministry of International Trade and Industry (MITI) with the aim of transforming the manufacturing sector and related services from 2018 to 2025. The policy encourages small and medium-sized enterprises (SME) in increasing efficiency and productivity to remain relevant and competitive at domestic and global levels (MITI, n.d.^[29]). One of its objectives is to “create a holistic ecosystem to support the adoption of Industry 4.0 by industries and co-ordinate existing initiatives in various related aspects such as talent and workforce, funding, infrastructure and regulation”, with regulatory frameworks being identified as one of the primary enablers.

In addition, Biz4 WRD is a portal launched by the Ministry of International Trade and Industry MITI on 30 October 2019. This portal is a collaborative platform to connect and match companies intending to adopt Industry 4.0 solutions. It establishes a central repository and creates an ecosystem for businesses to establish their Industry 4.0 offerings and allows businesses seeking solutions to engage one another. It allows parties to search, promote, connect and exchange information with businesses and companies across the manufacturing and services industries.

Figure 7.2. National Fourth Industrial Revolution (4IR) policy thrusts



Source: Economic Planning Unit, Prime Minister's Department, 2021.

Malaysia's National Single Window has been in operation since 2009. It is an initiative of the Malaysian Government, led by the Ministry of Finance. NSW for Trade Facilitation system was developed, operated and managed by Dagang Net Technologies Sdn Bhd (Dagang Net) (MITI, 2018_[30]). The NSW serves as a main gateway for trade in Malaysia and as a platform that provides an effective and economical means for traders to submit their data in electronic format through a web-based application, i.e., myTRADELINK (www.mytradelink.gov.my) (MITI, 2018_[30]). The 6 modules in the NSW gateway include (MITI, 2018_[30]):

- Electronic Customs Declaration (eDeclare): Preparation and submission of electronic Customs Declarations online;
- Electronic Customs Duty Payment (ePayment): Preparation and submission of Customs Duty payments via Electronic Funds Transfer, Duty Net and FPX;
- Electronic Manifest (eManifest): Submission of vessel cargo manifests to respective authorities by shippers and shipping agents;
- Electronic Permit (ePermit): Application for permits from relevant Permit Issuing Authorities (PIAs) and obtain approval online;
- Electronic Preferential Certificate of Origin (ePCO): Application for Preferential Certificate of Origin and obtain approval online; and
- Electronic Permit Strategic Trade Act (ePermitSTA): Application for pre-registration and permits under the Strategic Trade Act 2010 online.

Implementation of the Malaysian National Single Window has contributed to more efficient and streamlined processes in trade. The one-stop Trade Facilitation system links the trading community with relevant Government agencies and various other trade and logistics parties through one single window, which allows for a seamless and transparent process (Dagangnet, n.d.^[31]).

The ASEAN Single Window (ASW) is a regional electronic trade facilitation initiative that connects and integrates the National Single Window (NSW) of all 10 ASEAN Member States (AMS) to strengthen trade relations and intensify trade activities among AMS. The essential prerequisite for an AMS to participate in the ASW initiative is to have a running and a functional NSW which can cater to the electronic exchange of cross-border trade-related documents. Where exchange of electronic trade document is concerned, e-Preferential Certificate of Origin (e-PCO), one of 6 modules developed in the Malaysia's NSW, is interoperable with other ASEAN Member States' NSWs to allow submission of electronic Certificate of Origin within the ASW environment.

Malaysia also serves as an active member in the ASW Steering Committee (SC) and ASW Technical Working Group (TWG), which have proposed, aligned and harmonised the ASW processes and procedures to ensure smooth exchange of Malaysia NSW with AMS' counterparts' NSW. As a result, Malaysia has started utilising the ATIGA e-Form D to enjoy preferential tariff treatment for goods produced and traded within ASEAN. The digitisation of this document has allowed for a swifter preferential tariff treatment to happen by doing away with the administrative burdens and waiting time of processing and producing hard copy documents that were required when dealing with issuing authorities and custom authorities of the importing countries. Consequently, Malaysia notes that this initiative has helped traders save time and costs, expedites cargo clearance and reduces possibility of errors from the manual exchange of forms.

Malaysia has also started joining the live operation of ASEAN Customs Declaration Documents (ACDD) exchange to respectively expedite movement of goods across border and as a mean to provide pre-arrival information that is useful in risk assessment by Customs. Expansion plans of the ASW have been planned to take off particularly in exchanging the Electronic Phytosanitary (e-Phyto), Electronic Animal Health (e-AH) and Electronic Food Safety (e-FS) between the AMS.

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Notes

¹ Citizens are referred to as *rakyat* in Malaysia.

² The guillotine strategy refers to rapidly reviewing a large number of regulations and eliminating those that are no longer needed without any lengthy processes for each regulation (Jacobs and Astrakhan, 2006^[32]).

8 Myanmar

This chapter presents the country profile for Myanmar. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government initiatives

Regional focus

Myanmar¹ is a signatory to Regional Comprehensive Economic Partnership (RCEP), which includes provisions related to better regulation and standards. The agreement was ratified in May 2021. The RCEP formulates a free trade agreement among various Asia-Pacific nations, and includes provisions that relate to better regulation and standards. Myanmar is also a signatory to 11 bilateral trade agreements containing binding investor protections like the India-ASEAN Investment Agreement (2014), the ASEAN Hong Kong, China Investment Agreement (2017) and has also recently signed a bilateral investment treaty with Singapore (2019) (OECD, 2020^[1]).

Since 2018, Myanmar also developed its National Single Window and has taken measures to integrate it within the ASEAN Single Window (ASW). Myanmar joined the ASW Live Operation in 2019, which allowed the granting of preferential tariff treatment based on the ASEAN Trade in Goods Agreement (and the use of the integrated ATIGA Form D) and has also started to exchange ASEAN Custom Declaration Documents (ACDD) through the ASW in December 2020 (ASEAN Single Window, n.d.^[2]).

National focus

Since 2011, Myanmar has made changes to its regulatory environment to promote investment and to create a more favourable business environment for its country. The OECD (OECD, 2020^[1]) *Investment Policy Review of Myanmar* describes these in detail, which includes passing new laws concerning intellectual property (IP) rights and arbitration to bring Myanmar's legal framework broadly in line with international standards in these two areas. As outlined in OECD (OECD, 2020^[1]), the foundations of an enabling investment environment have been outlined within the new Myanmar Investment Law (MIL) (2016) and the new Companies Law (2017) which came into force 2018 along with introducing the Myanmar Companies Online (MyCO) regulations and online directory in 2018 to register and find information about all companies registered in Myanmar.

The MyCo system in particular has been one to lead a step forward in terms of promoting digital transformation within the country, as its development has helped with harmonising information on companies registered within the country (MyCO, n.d.^[3]). Other laws, such as the MIL, which acts to safeguard both local and foreign investors, also inspired the development of the more detailed 2017 Myanmar Investment Rules (i.e. Investment Rules). The Investment Rules provided significant additional detail in relation to the operation of the MIL and the business activities in which foreigners are permitted to engage, the restrictions that apply, application procedures, the use of land, the transfer of shares, foreign currency remittance, and the taking of security on land, and buildings and labour relations (Charltons, n.d.^[4])

In 2018, Myanmar also institutionalised the Ministry of Investment and Foreign Economic Relations (MIFER), which would serve as the mandate to monitor the flow of foreign direct investment more effectively and facilitate business. Myanmar has also established a long-term investment promotion plan – the Myanmar Investment Promotion Plan (MIPP) for 2016-2036 – which sets out an ambitious agenda and strategies for promoting further domestic and foreign investments (OECD, 2020^[1]). Many of these developments towards increasing Myanmar's capacity to support incoming investors have been facilitated under the country's 2016-36 Myanmar Investment Promotion Plan (Box 8.1).

Box 8.1. 2016-36 Myanmar Investment Promotion Plan

The Myanmar Investment Promotion Plan (MIPP) for 2016-2036 sets out an ambitious agenda and strategies for promoting further responsible and quality domestic and foreign investments (OECD, 2020^[1]). The MIPP 2016-2036 provides a long-term set of objectives in a comprehensive manner, covering five categories: investment-related policies and regulations, institutional development for investment promotion, infrastructure development, business-related systems, and local industries and human resources. The MIPP designates underdeveloped regulatory systems as a weakness in Myanmar's business environment. The role of regulation in promoting investment is mentioned substantially throughout the document. The strategy aims to build investors' confidence in Myanmar's investment regime by:

- Establishing and disseminating the principles of the investment policy
- Promoting the co-ordination of investment-related policies by relevant ministries using the principles of the investment policy
- Promoting investment liberalisation in multilateral frameworks
- Preparing a legal framework for business environment improvement and promote deregulation
- Regularly reviewing the relevance of the investment policy

Regulating fairly and rigorously against acts violating investment and environmental protection on investment projects (Myanmar Investment Commission, 2018^[5]).

Source: (Myanmar Investment Commission, 2018^[5]).

In terms of business development, Myanmar has also established the Small and Medium Enterprise Development Policy (2015). The introduction of this law was to improve the legal framework for SMEs as well as to obtain the economic information, technical assistance, and funding assistance for these entities (OECD, 2020^[1]). Additionally, in early 2019, Myanmar's Trademark Law was signed into law and this law would offer a comprehensive trademark registration system for both foreign and domestic trademark owners to patent their intellectual property (Tilleke&Gibbins, 2019^[6]).

Good regulatory practices

Regulatory impact assessments

As noted in OECD (2018^[7]), the government has started to explore regulatory impact assessments (RIA) on a pilot basis and has provided some training on its applications with the support of international partners. That being said, no *ex ante* or *ex post* regulatory impact assessments are in place currently in Myanmar's regulatory process. Myanmar also does not currently have a regulatory oversight body.

The government has occasionally conducted a review of existing legislation with the goal of identifying those that are obsolete (OECD, 2018^[7]). A Legislative Review Committee meets every week to review legislations under the Union Legislative List. It may suggest a report on resolving or simplifying legislation, which is then presented to the Attorney General's Office.

Stakeholder engagement

Since 2012, there has been a legal requirement to conduct Public-Private consultations. Examples of experiences with public consultation include the Myanmar Investment Law and the Land Use Policy, but as a rule such consultations are neither mandatory nor systematic, nor do they follow standard procedures (OECD, 2020^[1]). Ministries are free to conduct these consultations as they see fit, as currently there is guidance on how these should be carried out. As a result, public consultations tend to be carried out on an ad hoc basis (OECD, 2018^[7]).

In general, stakeholders who are invited to participate within these public consultations are concerned associations, companies, chambers, and other representatives from the private sector (OECD, 2018^[7]). Stakeholders are always notified prior to their participation and these sessions are often recorded by the respective ministry. These recordings are not made public and are used for internal purposes only (OECD, 2018^[7]). According to the Myanmar Investment Law (MIL), the MIC takes into consideration all the comments provided by public consultation. Citing the MIL itself, the Government of Myanmar reports that the Law was substantially standardised in line with regional and international legal contexts as a result of the consultation process.

For draft regulations related to specific SME proposals, any comments provided by the private sector aim to finalise the draft before it is submitted for final deliberation (OECD, 2018^[7]).

Burden reduction/ex post review

Currently, there are no post-implementation reviews or sunset clauses used as *ex post* review in Myanmar's regulatory process (OECD, 2018^[7]). The government has made efforts to reduce administrative burdens through regulations and online platforms. The investment approval process has been streamlined under the MIL. It now applies similarly to both domestic and foreign investors, and its scope and procedures have been narrowed down and simplified (OECD, 2020^[1]). The scope of projects requiring an approval by the MIC has been expressly defined in the law and its implementing regulation as follows (OECD, 2020^[1]):

1. projects considered strategic to the Union such as for projects spanning across the national border by the foreign investor or by the Myanmar citizen investors if the investment value is exceeded USD 1 million or across States or Regions, as well as projects using land above 100 acres for other business except agriculture (above 100 acres for non-agricultural related purposes) and above 1 000 acres in the case of agricultural projects;
2. large capital-intensive projects where investment is expected to exceed USD 100 million;
3. projects having a large potential impact on the environment and the local community;
4. businesses which use state-owned land and building;
5. and businesses which are designated by the government to require the submission of a proposal to the Commission.

OECD (2020^[1]) also mentions that some investments may only be carried out with the approval of the relevant ministry as stipulated in the List of Restricted Investment Activities (Notification No. 15/2017). The criteria for approval have also been streamlined and publicised, including in relation to requirements by line ministries (OECD, 2020^[1]). All other projects are exempt from investment approvals, needing only to comply with the relevant regulations for conducting the business (OECD, 2020^[1]). The Notification on the implementation of the Deed Registration Law was issued in October 2018, putting the Law into effect to replace the Registration Act 1908 (Dick and Quek, 2019^[8]). As a result, streamlined deed registration and approval was facilitated. Digital tools have also played a role in Myanmar's efforts to reduce administrative burdens. Myanmar Companies Online (MyCO) can be used to register companies and find information on all companies that are registered in Myanmar. Services such as 1) Search and access details of companies all over Myanmar 2) Register your company and 3) Purchase official company

documents and extracts are offered on the website (MyCO, n.d.^[3]). Since September 2020, it is possible to purchase a certified copy of a company certificate on MyCO, and can also certify the constitution of a company using electronic records of the company filing.

Myanmar has continued to simplify and reduce administrative procedures while expediting approval processes for essential goods and services during the COVID-19 pandemic. Myanmar responded to the crisis by launching a new working committee titled “COVID-19 Economic Relief Plan” (CERP). CERP has taken on a number of COVID-19 related regulatory policy roles, such as expediting regulatory and investment approval processes, simplifying regulations for medical products and infrastructure projects, waiving Food and Drug Administration (FDA) import requirements for products already FDA approved in other countries, and extending online applications (OECD, 2021^[9]). Ministries have also used digital technology to support simplification of the regulatory environment for business and citizens. The Ministry of Commerce announced that since as of April 2020, applications for import and export licenses for more than 100 commodities, such as consumer products, fertilisers, and petroleum products, must be issued using online procedures (UNESCAP, 2021^[10]).

Digital

In addition to the steps that the Government of Myanmar have already taken to streamline administrative processes using digital platforms, the government has also devised an e-Governance Master Plan, which was developed in co-operation with the Asian Development Bank (ADB) and approved by the Office of the President in September 2016 (World Bank, 2018^[11]). The e-Governance Master Plan calls for reforms in rules and regulations in order to prepare Myanmar for the upcoming technological developments that have been foreseen for many governments around the world. The e-Governance Master Plan has also led to more streamlined government services, such as the development of the Myanmar National Portal in 2018². The e-Governance Master Plan is organised by the e-Government Steering Committee, who is led by the State Counsellor as the patron and Vice President II as the chair and is completed with 46 other members across the government.³ The eGSC functions as a co-ordination, co-operation, and decision body to facilitate an enabling environment for digital transformation, particularly focusing on a public-sector modernisation agenda and public service delivery and digital service enablement (World Bank, 2018^[11]).

Further, in February 2019, Myanmar also published their Digital Economy Roadmap 2018-25. This roadmap would lead the design of how to use digital technology in government, improve trade and investment; and work with stakeholders to improve digital literacy and encourage innovation among the public service (Oxford Business Group, n.d.^[12]). The roadmap runs in tandem with the Myanmar e-Governance Master Plan 2016-20.

The government of Myanmar has also developed its National Single Window to facilitate international trade and drive economic growth. The Project has resulted in shortening of customs clearance time as well as more efficient and transparent customs clearance procedures by implementing the Myanmar Automated Cargo Clearance System (MACCS) and the Myanmar Customs Intelligence Database System (MCIS) to improve the efficiency of the customs clearance procedures (JICA, 2019^[13]).

Finally, the two most notable one-stop shops for investment currently being implemented in Myanmar are the DICA One-Stop-Shop (OSS) and the Thilawa One-Stop-Shop-Centre (OSSC). The DICA OSS brings together the main departments from relevant ministries, providing guidance and necessary information for businesses, as well as licences, with the aim to eventually offer a single window for all business-related licences (OECD, 2020^[11]). Unlike in the Thilawa OSSC, DICA still operates more as a centralised information centre than an actual single window agency with authority to issue permits and licences on behalf of the various ministries represented there (OECD, 2020^[11]). In Thilawa, OSSC officials have autonomy to take decisions on behalf of their ministries, which renders processes much less burdensome for investors (OECD, 2020^[11]) Building on the example of the Thilawa SEZ One-Stop-Services-Centre

(OSSC), the Myanmar Investment Commission (MIC) has instructed all relevant ministers to develop standard operating procedures (SOPs) for delivering licences and permits under their responsibility (OECD, 2020^[1]). MIC's OSS SOPs have been elaborated since 2021 and planned to be launched in March 2022. The compilation of SOPs involved the officials from the relevant departments who are responsible for issuing business licenses, permits and recommendations offering the detailed descriptions of time, costs and procedures for investors.

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Notes

¹ The information contained within this profile was drafted by the OECD Secretariat based on data from before the change of government on 1 February 2021.

² An online app developed to centralise the connection of government website and their respective ministries (Tun, 2020^[14]).

³ Other members include: Union Ministers, Union Attorney General, Union Auditor General, Chairman of the Union Civil Service Board, Nay Pyi Taw Council Chairperson, Chief Ministers of all Regions and States, Deputy Ministers, Deputy Governor of the Central Bank of Myanmar, and Patron of the Myanmar Computer Federation.

9 Philippines

This chapter presents the country profile for the Philippines. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government perspective

Regional focus

Since 2018, the Philippines has continued to improve its regulatory environment through its participation in various trade agreements. These multi-lateral agreements have included provisions for supporting a better regulation mandate as well as contributing to the economic development of the state. Presently, the Philippines is a signatory to the Regional Comprehensive Economic Partnership Agreement (RCEP) of which they ratified in September 2021. The Philippines also works with other ASEAN Member States and external actors, like the Asian Development Bank and Malaysia Productivity Corporation, to improve the quality and coherency of regulations and strengthen the country's position in relation to the country's regional development (ERIA, 2020^[1]).

The Philippines have also been supporting the implementation of the ASEAN Single Window (ASW). Before the ASW Agreement was signed by other Member States, the Philippines had already volunteered to participate as a pilot country for the implementation of the National Single Window for Cargo Clearance, during the 3rd Inter-Agency Task Force Meeting on ASW in 2005 (ASW, n.d.^[2]). This led to the creation of the National Single Window Task Force for Cargo Clearance (EO 482) in 2005, under which a PNSW Task Force for Cargo Clearance (PNSW Task Force) was created, composed of a Steering Committee (PNSW-SC) and a Technical Working Group (PNSW-TWG). The PNSW-SC is mainly responsible for setting the policy guidelines for the creation and operation of the NSW and the ASW as well as ensuring their efficient implementation in the country, while the PNSW-TWG is responsible for implementing the policies and directives of the PNSW-SC. This includes identifying a common set of data, information and processes to be standardised, while at the same time ensuring data integrity and security, and delineating the roles and responsibilities of each government agency participating in the PNSW project (ASW, n.d.^[2]). The Philippines has also integrated its National Single Window with the ASW.

Finally, in December 2019, the Department of Finance announced that the Philippines had officially joined the live operations of the ASW. The goal for the Philippines is to eventually have all 76 trade regulatory government agencies under 18 government departments fully interconnected. This progress would be in line with the government's thrust to improve the ease of doing business in the country (Umali, 2020^[3]).

National focus

The Philippine Development Plan (PDP) 2017-2022 is the first medium-term plan that will be geared towards the AmBisyon Natin 2040. The AmBisyon Natin 2040 is a national programme that aims to fulfil the collective vision of the Filipino population and what they attempt to achieve by 2040. This programme is anchored on the 0-10 Point Socioeconomic Agenda and takes into account the country's international commitments such as the 2030 Sustainable Development Goals. The PDP was updated in 2021 to respond to the emergence of new threats to the country's growth prospects including the COVID-19 pandemic. The updated PDP reinforces the Philippine Competition Act (PCA) through strategies that aim to foster an environment that penalises anti-competitive practices, facilitates entry of players, supports regulatory reforms, and improves trade policies to stimulate investments and innovation and boost competitiveness (NEDA, 2021^[4]).

Under the mandate of this programme, the Government of Philippines has also launched the Modernising Government Regulations (MGR) Programme. The MGR Programme is a comprehensive national regulatory reform programme that aims to help improve regulatory quality in the country and is considered a priority project of the National Economic Development Authority (NEDA) under the Philippine Development Plan 2017-2022. The programme aims to contribute to the improvement of the competitiveness of the Philippines by examining existing regulations with the end goal of streamlining unnecessary rules and reducing compliance costs borne by citizens, businesses and the government

(DAP, n.d.^[5]). Specific objectives of the programme related to improving regulation in Philippines include (DAP, n.d.^[5]):

- Enhance the capability of regulating agencies to develop smart regulations through capacity building on Good Regulatory Practices (GRP);
- Prevent regulatory failure through risk-based approaches such a Regulatory Impact Analysis (RIA);
- Improve effectiveness of regulations by crafting of a Regulatory Management System (RMS); and
- Reduce costs of administration and enforcement of regulations by developing regulatory and non-regulatory alternatives to improving market efficiency.

Efforts under this programme include (DAP, n.d.^[5]):

- A Regulatory Cost Model calculator developed by DAP to facilitate the estimation of compliance costs of existing and proposed regulations on businesses, organisations and individuals.
- Two satisfaction e-Surveys – one for citizens and one for businesses – that gain insights on each group’s satisfaction with government services

In 2018, the administration also leveraged its civil service performance incentive system (Performance-Based Incentive System or PBIS) to extend its advocacy for more efficient government processes (OECD/ADB, 2020^[6]). This strategy required all government agencies to follow “Good Governance Conditions” for staff to be eligible for a performance-based bonus (OECD/ADB, 2020^[6]). Performance targets included measuring client satisfaction, and streamlining and improving the agency’s processes for critical services to reduce the compliance costs such as turnaround time, the number of signatures and required documents (OECD/ADB, 2020^[6]).

In 2021, the criteria and conditions for the grant of the Performance-Based Bonus (PBB) were refined. As provided under Memorandum Circular (MC) No. 2021-011 of the AO 25, the Fiscal Year (FY) 2021 PBB shall measure and evaluate the performance of agencies with emphasis on the public’s satisfaction on the realisation of the agencies’ performance targets, quality of service, efficiency in the use of resources, and strengthened agency stewardship. The Good Governance Conditions, which were previously used as conditions for eligibility, shall no longer be included in the criteria to assess the overall eligibility of the agencies availing PBB. The compliance with these conditions will be part of the Agency Accountabilities, which shall be monitored by the mandated agencies to monitor and enforce these requirements. Instead, the criteria and conditions for FY 2021 PBB is categorised according to four (4) dimensions of accountability: Performance, Process, Financial, and Citizen/Client Satisfaction Results.

Process Results include the achievements in ease of doing business/ease of transaction with the agency as a result of streamlining, standardisation, digitisation, and related improvements in the delivery of services. While the public’s satisfaction dimension will be measured in the Citizen/Client Satisfaction Results that include the achievements of the agencies in satisfying the quality expectations of the transacting public.

In terms of administrating new legislative principles, the Philippines introduced *the Implementing Rules and Regulations (IRRs) of Republic Act (RA) No. 10667*, which was passed into law on July 2019.² The IRRs feeds directly into the functions and duties of the *Philippine Competition Commission (PHCC)*, which is otherwise commonly referred to as the Philippine Competition Act. The Competition Act prohibits business practices that restrict market competition through anti-competitive agreements and abuse of a dominant position. It also introduces a compulsory notification regime for certain mergers and acquisitions (Clifford Chance, 2015^[7]). The Competition Act is bound by an extra-territorial effect, meaning that it is enforceable against acts committed within or outside the Philippines which affect trade, industry or commerce in the Philippines (Clifford Chance, 2015^[7]).

The Anti Red Tape Authority (ARTA) was established in 2018 pursuant to RA 11032, or the Ease of Doing Business and Efficient Government Service Delivery Act, and became operational in July 2019. Under the IRRs of RA 11032, ARTA is responsible for improving the regulatory environment in the Philippines. In general, to support the regulatory environment of the country, the body provides three primary functions (OECD/ADB, 2020^[6]):

1. Taking over and continuing the work relating to improving the ease of doing business;
2. Improving government service delivery, provide regulatory management training programmes, assistance and co-ordinating with relevant agencies;
3. As the central oversight body assessing the quality of regulatory impact assessments (RIAs) from national government agencies (NGAs) and local government units (LGUs).

Under its mandate, ARTA is also responsible for institutionalising the Philippine Regulatory Management System (RMS). This includes by (according to Sections 5 and 17 of RA 11032):

- Co-ordinating with all government offices in the review of existing laws, executive issuances and local ordinances (ex-post);
- Recommending policies, processes and systems to improve regulatory management (policy)
- Ensuring the dissemination of and public access to information on regulatory management system and changes in laws and regulations (stock); and,
- Providing technical assistance and advisory opinions in the review of proposed national or local legislation, regulations or procedures.

Following its introduction into the administration, ARTA also launched its flagship programme called the National Effort for the Harmonization of Efficient Measures of Inter-related Agencies (NEHEMIA) Programme in 2020. This programme would be based as a sectoral-based streamlining effort, with objectives to reduce administrative processing times, cost, requirements, and procedures in sectors of economic and social significance by 52% within 52 weeks (ARTA, 2020^[8]). The programme was in support of Rule III Section 3 of the (IRR) of RA 11032 which mandated ARTA to adopt a whole-of-government approach when attempting to streamline government services as well as Administrative Order 23: Eliminating Overregulation to Promote Efficiency of Government Processes, issued by the President of the Philippines on 20 February 2021 (ARTA, 2020^[8]). Inter-agency reviews have also been scheduled under this effort to be adopted for horizontal integration as well as in the end-to-end processing in the delivery of government services. ARTA currently has ongoing NEHEMIA initiatives on the following sectors: telecommunications, logistics, food and pharmaceuticals, energy, and housing.

In addition, several laws, regulations and policies have been passed since 2018 that have had positive implications for regulatory quality in the Philippines. These include:

- **The Ease of Doing Business and Efficient Government Service Delivery Act of 2018 (RA 11032):** This Act aims to streamline the current systems and procedures of government services (ARTA, n.d.^[9]). The law aims to improve competitiveness and ease of doing business in the Philippines. It applies to all government offices and agencies in the Executive Department including local government units (LGUs), government-owned or -controlled corporations, and other government instrumentalities, located in the Philippines or abroad, that provide services covering business-related and non-business transactions as defined in the Implementing Rules and Regulations (IRR) (ARTA, n.d.^[9]).
- **The Philippine Innovation Act of 2019 (RA 11293):** This Act calls for a whole-of-government approach to effectively drive innovation across all areas of government policy. Moreover, the Act mandates that government agencies must make a joint web portal bearing information relevant to innovation policies, strategies, and programmes available to the public. The web portal is also

expected to include a database of all ongoing and completed innovation projects implemented under the National Innovation Agenda and Strategy Document (NIASD) (LawPhil, 2019_[10]).

- **Innovative Startup Act of 2019 (RA 11337):** This Act is a policy which aims to foster inclusive growth through an innovative economy by streamlining government and nongovernment initiatives, in both local and international spheres, to create new jobs and opportunities, improve production, and advance innovation and trade in the country (LawPhil, 2019_[11]). The Act, among other initiatives, calls for a Start-up Philippines Website that integrates any existing websites and content on programmes for start-ups and start up enablers implemented by the government.

Good regulatory practices

Regulatory impact assessments

The conduct of Regulatory Impact Assessment (RIA) for proposed regulations and the review of existing regulations are required by law in the Philippines under the 2018 EODB Act. The Act applies to all government offices and agencies in the Executive Department, including LGUs, government-owned and/or -controlled corporations (GOCCs) operating in or outside the Philippines. Under the conditions of the Act, all relevant entities must undertake a RIA to evaluate the impacts of a proposed regulation. It also conditions, when required, any proposed regulation to undergo a pilot implementation to further assess impacts. The EODB presents a formal framework for how RIAs should be applied and provides further guidance to policymakers on the importance of RIA and its purpose.

The implementation of RIA is overseen by the country's oversight body ARTA. As noted briefly in the section above, ARTA is the main body for implementing and overseeing national policies related to anti-red tape and ease of doing business. ARTA's mandate is to monitor and evaluate the compliance of agencies covered under the EODB Act as well as recommend policies, processes, and systems to improve regulatory management. The body also facilitates whole-of-government trainings,³ and provides technical assistance and advice to agencies when required.

ARTA has also developed and supported the development of various guidance materials to support RIA. For example, the Philippine's RIA Manual that was launched by ARTA in October 2021 highlights when exemptions can be allocated towards some regulations.⁴ In the Philippines, exemptions can be proposed to some regulations, depending on the outcome of the proportionality test. In most cases, exemptions are applied in cases of minor regulatory amendments and proposals. That being said, the rules on exemptions are circulated through a Memorandum Circular (MC) for flexibility. Through this approach, the use of exemptions is based on the discretion of ARTA who determines the need to apply based the current regulatory context (e.g., in pandemic situations, financial crises, need to reduce tariffs).

The RIA manual has also been a key document for outlining guidance on Regulatory Reporting Cycles and Formal Rulemaking Processes that are required by concerned agencies, as well as, more generally outlines the stages in rulemaking and the processes involved in conducting RIA. In the later half of 2022, the government has set an objective to publish the country's National Policy on Regulatory Management System (NPRMS)⁵ that shall provide the implementing guidelines, institutional arrangements, and procedures for the implementation of the RIA requirement.

Prior to the availability of the NPRMS, ARTA has issued MC 2021-06, which provides the interim guidelines for agencies to abide by when organising pilot-implementations of RIA. With the adoption of RIA as a mandatory government tool, the Filipino government have been co-ordinating pilots with several agencies to guide the full implementation of this tool (OECD, 2018_[12]). The adoption of this guidance tool has provided agencies with resources to understand key steps, assessment issues, and stakeholder consultation. At present, these pilot-implementation have demonstrated success in the Philippines. In

2021, of the 48 priority government agencies trained in the conduct of RIA, a total 33 Regulatory Impact Statements (RIS) were submitted to ARTA for review and evaluation.

Moving forward, ARTA is currently developing a platform, which will serve as a repository of impact assessments that can be later shared to the public. Currently, RIAs are transmitted via electronic mail. However, with the development of the Philippine Business Regulations Information System (PBRIS), the country will make stronger efforts to align with good practices of transparency and openness in their rule-making processes.

Stakeholder engagement

Like RIAs, consultations are also mandated for all legislations, department administrative orders, and any issuances that directly affect the public (OECD, 2018^[12]). The framework in which consultations take place is defined by the agency overseeing the regulatory proposals, and it is the responsibility of that body to make their issuance as accessible to the public as possible. In general, most stakeholder consultations are taken late in the regulatory process stage, usually only after a regulation has been drafted and prior to the approval of the appropriate authorities.

To support the adoption of stakeholder consultations, ARTA has issued various guidelines to lead policymakers with good regulatory practices. For example, the Philippine Good Regulatory Principles (PGRP) manual explicitly outlines to regulators to ensure, sustain, and maintain effective and inclusive stakeholder engagements throughout the regulatory processes (Article 5). The Philippine RIA Manual also recognises the importance of conducting stakeholder consultations and in particular mentions the need for policymakers to identify any parties that could be directly impacted by a regulatory proposal (i.e. individuals, groups, or organisations). In helping with these assessments, the RIA manual also includes a Gender and Social Inclusion Assessment (GESIA) Lens, which further delves into the government agencies assessment of how a regulation could affect women, the marginalised or the disadvantaged sector proportionally more than others (see Box 9.1).

Box 9.1. Gender and Social Inclusion Assessment (GESIA)

The GESIA is an *ex ante* evaluation that allows policymakers to identify, in a preventative way, the likelihood of a given decision creating negative consequences for the level of equality between men and women (European Institute for Gender Equality, n.d.^[13]). It also helps policymakers to measure the various distributional impacts a regulation or law could have on different populations based on their socio-economic backgrounds.

In the Philippines, the GESIA covers three main points: 1) who got consulted, indicating whether women's groups or groups representing marginalised or disadvantaged groups were involved; 2) the barriers and opportunities that women and other marginalised and/or disadvantaged are likely to face with the proposed regulation (or regulatory reform); and 3) gains or losses to the Philippine economy as an effect of the social inclusiveness or exclusiveness of the regulation.

The inclusion of the GESIA in the RIA Manual conforms with the expectations of the Magna Carta of Women (RA 9710), the Social Reform and Poverty Alleviation Act (RA 8425), and other social inclusion related laws such as the Magna Carta for Disabled Persons (RA 7277) and the Indigenous Peoples' Rights Act, or IPRA (RA 8371).

Source: (European Institute for Gender Equality, n.d.^[13]); Based on the questionnaire response from the Government of Philippines.

When developing these manuals, the Philippines notes that stakeholders were extensively consulted throughout the process and that ARTA worked closely with Local Government Units and National Government agencies to construct and finalise the documents, particularly in relation to the PRGP. ARTA has also taken special measures to promote these guidance materials and to ensure their effective utilisation.

To lead stakeholder engagements, concerned agencies are required to share the draft RIA through the PBRIS platform⁶ as well as through the agencies' website. When identifying stakeholders, agencies must make an evaluation of parties that would be relevant to consult and at times conduct a stakeholder mapping exercise to ensure they have considered all demographics. During the consultation, the proponent agency will provide information on the proposed regulation such as the policy objectives or objectives behind the selected option, the reasons for adopting it, and its likely impacts on households and/or firms. Moreover, stakeholders that will be using the PBRIS platform may provide comments on the draft RIA through registered user accounts.

The RIA Manual encourages adherence to the OECD best practice principles on stakeholder engagement in regulatory policy in order to ensure the quality of consultations. The Manual also includes a summary of the Philippine Good Regulatory Principles, which state that regulators should ensure and sustain effective and inclusive stakeholder engagement. In line with this principle, stakeholder engagement should be observed at all stages of the rulemaking process, and agencies are expected to consult with stakeholders accordingly including encouraging via the Manual that consultation is conducted at the early stages of policy or regulatory development. However, OECD review of the system notes that stakeholder consultation tends to happen at a late stage, after the production of a draft law, rather than at a more nascent stage of policy development where stakeholders can provide input into whether there is a public policy problem, as well as alternative solutions (including non-regulatory options) (OECD/ADB, 2020^[6]). A minimum period of 30 to 90 calendar days is suggested for stakeholder consultations to take place on a proposed option. It is also recommended to send out consultation materials to stakeholders at least 20 days in advance to provide them with sufficient time to assess and prepare their inputs or comments prior to the scheduled consultation. Understanding that Philippines is still in its early stages of RIA adoption/implementation, only a few impact assessment have undergone public consultations, but will likely progress in the upcoming years.

Burden reduction/ex post review

The aim for continuous evaluation is enshrined within the eighth principle of the PGRP. The principle states that regulators should subject regulations to regular review and evaluation for continued relevance, efficiency, and effectiveness and to keep pace with emerging technologies. Other documents that also support the application of *ex post* evaluations within the Philippines are the 2021 RIA Manual, which further reinforce that *ex post* evaluations, should also be considered as a major component of regulatory processes.

In the Philippines, non-major Regulations (or those that do not have to undergo a full RIA), are required to have a Monitoring & Evaluation Plan (M&E) as part of their legal text. Monitoring sets the baselines and targets of the quantitative and qualitative indicators identified in the cost-benefit analysis of the RIS, while Evaluation seeks to determine if the regulation is effective after adoption with respect to a) expected outcomes beyond the control of the regulator (e.g. time and cost of compliance), and b) intended impacts on the regulated and other affected sectors (e.g. business growth, regulator revenues, socio-environmental effects) (ARTA, n.d.^[14]). The RIA Manual also states that this information should ultimately feed back into the policy making process. Incorporating an M&E plan helps the government to ensure that these regulations are subjected to post-implementation reviews.

In some cases, agencies are also recommended to apply a review (i.e., sunset, though this term is not formally used in the country) clause as part of their regulatory proposal. By doing so, a government agency can automatically trigger a regulatory evaluation at a specific time and ensure that proper M&E is facilitated, which is then shared with ARTA and posted on the agency's website and eventually in the PBRIS. Within the same scope, specific performance indicators can also be used so that policymakers can attain aggregated information and data for ad-hoc reporting purposes.

ARTA is mandated by law to implement the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, which aims to streamline the current systems and procedures of government services. ARTA took over the function of monitoring the country's ease of doing business function from the former National Competitiveness Council (NCC) and the Department of Trade and Industry (DTI) – Competitiveness Bureau. Since 2019, ARTA has contributed towards 26 issuances between the timeframe of July 2019 to May 2021. These issuances have had the purpose of guiding government agencies in streamlining their services as well as consolidating and repealing obsolete regulations. ARTA also operates specific administrative burden reduction programmes, which focusses on streamlining procedures in different sectors relevant for the country (see Box 9.2).

Box 9.2. Administrative burden reduction programmes in the Philippines

The NEHEMIA programme

The NEHEMIA programme in the Telecommunications Sector focuses on streamlining the permitting process relevant to the construction, operation, and maintenance of internet infrastructure ultimately to improve internet connection across the country. Specifically, Joint Memorandum Circular No. 1 s. 2020 or the "Streamlined Guidelines for the Issuance of Permits, Licenses, and Certificates for the Construction of Shared Passive Telecommunications Tower Infrastructure (PTTIs)" was issued which aims to shorten the timeline to 16 days from the original period of more than 200 days for constructing PTTIs. Application on permits and clearances for the erection of poles, construction of underground fiber ducts and installation of aerial and underground cables were also streamlined through the issuance of a JMC No. 1 s. 2021, "Streamlined Guidelines for the Issuance of Permits and Clearances for the Erection of Poles, Construction of Underground Fiber Ducts and Installation of Aerial and Underground Cables and Facilities to Accelerate the Roll Out of Telecommunications and Internet Infrastructure".

The Program NEHEMIA was also implemented in the Food and Pharmaceutical Sectors. This effort has effectively linked the Food and Drug Administration (FDA) electronic service to the CBP. The linkage simplified the process for obtaining new business permits from the LGU and initial License to Operate (LTO) from the Centre for Drug Regulation and Research (CDRR) of the FDA. This initiative has reduced the combined steps by 68% (from 28 to 9), requirements by 70% (from 41 to 12), and days by 67% (from 63 to 21) for business permit and LTO applications that are coursed through the CBP and continued to the FDA eService.

Green Lane for COVID-19 Vaccine Manufacturers

ARTA also facilitated the signing of the Joint Memorandum Circular (JMC) No. 1 (s. 2021), entitled the Establishment of a Green Lane for Securing Permits, Licenses, Authorizations for the Establishment and Operation of a Bulk Import, Fill and Finish Local Coronavirus Disease 2019 (COVID-2019) Vaccine Manufacturing Facility and for the Registration for Ailment of Incentives, with the Department of Health (DOH), Department of Trade and Industry (DTI), Board of Investments (BOI), Department of Science and Technology (DOST), National Task Force Against COVID-19, and the FDA. The implementation of the JMC is expected to expedite the processing of Emergency Use Authorization (EUA) for local vaccine manufacturers with FDA and provide them with assistance for their registration of available or

appropriate investment incentives through the BOI. Checkpoint meetings are being conducted by ARTA to monitor the implementation of the JMC.

For these initiatives, ARTA conducts regular co-ordination meetings with all concerned agencies and private stakeholders to ensure the effective implementation of the Program and validate the simplified process established.

Source: Based on the questionnaire response from the Government of Philippines.

Finally, the Government of the Philippines has also employed strategies to improve business-related regulatory reforms, notably those that affect SMEs, by focusing on cutting red tape in the country as mandated in the ARTA Act of 2007 as well as reducing processing times. Firstly, in 2018 under the EODB Act mandate, the Philippines introduced the “Zero Contact Policy”. The objective of this policy was to enforce the use of electronic submission of applications and to resist contact with any requesting party concerning an application or submission of documents. Additionally, the EODB Act also prescribed standard processing times for documents such as: 3 days for simple procedures, 7 days for complex procedures, and 20 days for highly technical procedures.

At present, the Department of Information and Communications Technology has built and operated the Central Business Portal (CBP), which has aimed to streamline and simplify interoperable government processes and procedures as well as improve the competitiveness rankings of the Philippines. The CBP has also made it easier for businesses to register their information, by creating a harmonised electronic form where the applicant can input all the required information from the government agencies and local government units involved in starting a business. Overall, the CBP has contributed towards more effective service delivery for both businesses and the administration and has enhanced transparency. The Philippines also notes that post COVID-19 relief efforts were adding motivation to reduce regulatory burdens and improve access of administrative services through digital platforms.

Digital

Since 2018, the Philippines has increasingly used digital technologies to improve regulatory management, reduce red tape and monitor corruption. Ongoing initiatives, such as the IDOL programme to fast-track processes for receiving permits from the FDA and the development of online portals such as BNRS Next Gen⁷ and iBPLS⁸ have helped with streamlining administrative procedures as well as consolidating information for both stakeholders and the government alike. In the most recent e-government development index (2020), the Philippines also ranked 77th out of the 193 countries monitored, which offered some intel towards the country’s commitment towards digital reform.

The Government of Philippines has also undertaken digital approaches through various strategies such as the Department of Trade and Industry’s Inclusive Innovation Industrial Strategy (i3S). This strategy has been focussed on growing the innovative and globally competitive manufacturing, agriculture and services industry of the country, while also strengthening linkages into domestic and global value chains (DICT, 2017_[15]). The strategy has been founded on good governance and regulation, with particular attention placed on eliminating bureaucratic red tape and automatizing government procedures. In 2019, the Bureau of Customs (BOC) also took steps to reinforce the digital mandate in the Philippines by launching a total of six information systems, which were designed to streamline customs processes, increase transparency, and mitigate corruption (see Table 9.1) (World Bank, 2020_[16]; Bureau of Customs, 2019_[17]).

Table 9.1. Online portals in the Philippines

Electronic Business One Stop Shop (EBOSS)	The EBOSS is an online portal, or a website including DICT's iBPLS, the ARTA platform, or other similar online business permitting systems or platforms of LGUs. Under R.A. 11032, cities and municipalities are mandated to set up their EBOSS within a period of 3 years upon the effectivity of the law or until 17 June 2020.
Anti-Red Tape Electronic Management Information System (ARTEMIS)	The ARTEMIS is a web-based platform that will facilitate the submission of Citizen's Charters yielding a real-time on-demand database and mapping of all government services. By providing information on services and process flows, the ARTEMIS provides an efficient monitoring mechanism for agencies and ARTA-CMEO and a useful information and transparency tool for citizens. ARTEMIS will allow the public to view the process flows of specific services needed in business registration among all other services of government agencies through their Citizen's Charters.
Philippine Business Regulations Information System (PBRIS)	PBRIS is a web-based platform provides real-time access to the regulatory management system and regulations relevant to the public. PBRIS was created to fulfil the requirement of RA 11032 that ARTA should ensure the dissemination of, and public access to, information on the regulatory management system and changes in subordinate regulations relevant to business.
Central Business Portal (CBP)	The CBP was established, operated, and maintained by the Department of Information and Communications Technology (DICT) to serve as a central system to receive applications and capture application data involving business-related transactions. It is currently being developed by DICT in partnership with relevant agencies and local government units.
Go smARTApp	The Go.smARTApp (Govt Offices' Smart Management And Real-Time Application) is a single platform where local government units and other government agencies may create their own accounts store, retrieve and manage data; and use the application's analytics in decision-making. The application intends to harmonise ease of doing business platforms in accordance with R.A. No. 11032. It is interface-ready and can integrate with existing systems of government. The GO.SmARTApp will allow LGUs and government agencies to provide eServices, reduce red tape, and transition to eGovernance in line with PRRD's directive in his 5th SONA. LGU rollout is expected by the second quarter of 2022

Source: Information provided by the Philippines.

Finally, the Government has also taken measures to improve their National Single Window (NSW): TRADENET.gov.ph (hereinafter: TRADENET). TRADENET is an automated and integrated licensing, permit, clearance, and certification system for regulatory agencies developed and implemented by the Department of Finance and the Department of Information and Communications Technology in 2017. It serves as an interoperable online platform to reduce processing time and harmonise the permitting procedures involved in import and export. On 5 March 2021, ARTA issued a mandate for all Trade Regulatory Government Agencies to use the TradeNET system. This was to address the fact that, at the time, only two agencies were live pilot users, while four agencies were preparing to go live, 13 agencies were undergoing process refinements and 26 were admitted for configuration and linking. This move is also in line with the President's Administrative Order 23 on 21 February 2020 which directs all agencies to eliminate overregulation in the government to promote efficient delivery of services and improve ease of doing business in and the competitiveness of the country (ARTA, 2021^[18]).

Moving forward, the aims of the Filipino government will be to focus on aligning all government agencies on to digital platforms.

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Notes

¹ Guidelines on the Grant of the PBB for FY 2021 under Executive Order (EO) No. 80 (s. 2012) and EO 201 (s. 2016).

² The law fully took effect 15 days after posting.

³ Between the period of May – September 2019, ARTA was able to train 223 participants from 44 National Government Agencies on its basic user training for RIA. Further, in co-operation with USAID and DAP, 34 additional trainings have taken place for RIA for government agencies.

⁴ Non-major regulations.

⁵ The aim of the NPRMS will be to provide comprehensive, organized, and systematized framework in the issuance, implementation, and review of regulations as well as set expectations in the behaviour of regulators in the country.

⁶ This platform is still undergoing development.

⁷ Business Name Registration System Next Generation.

⁸ Business permitting and licensing system.

10 Singapore

This chapter presents the country profile for Singapore. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government initiatives

Regional focus

Singapore has not only taken efforts to align itself with the ASEAN Single Window (ASW) initiative, but the country has also stayed active in its participation within various regional agreements which have promoted better and more open regulation. Presently, Singapore is a signatory to the Regional Comprehensive Economic Partnership (RCEP), aimed at opening trade regulations between Asia Pacific countries as well as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which promotes the liberalisation of trade between countries within the region. The Agreement between New Zealand–Singapore on a Closer Economic Partnership (CEP) has also enforced the country’s position on regulatory co-operation as the agreement underlines that regulation co-operation should “further domestic policy objectives, improve the effectiveness of domestic regulation in the face of increased cross-border activity and promote international trade and investment, economic growth and employment” between the two countries (OECD, 2021^[1]).

Aside from the country’s engagement within various multilateral and bilateral trade agreements, Singapore has also made efforts to update its intellectual property (IP) rights regime by enhancing their strategy for compliance. As of early 2020, Singapore required that all IP applications would need to undergo a full examination by the country’s Intellectual Property Office to ensure that all foreign-granted patents met the satisfaction of Singapore’s patentability criteria (ITA, 2021^[2]).

Domestic focus

Singapore has maintained a good position in terms of being considered as being one of the most appealing business environments within the world (OECD, 2018^[3]). Since 2018, the Government of Singapore has continued efforts towards improving its regulatory environment for businesses, with many reforms already being undertaken to provide businesses with better access to financial and assistance schemes. One particular example that can be noted is Singapore’s Research, Innovation and Enterprise 2020 Plan (MTI, 2016^[4]), which has been part of the country’s national strategy to strengthen their knowledge and innovation driven economy (for more information on the plan (see Box 10.1).

Box 10.1. Research, Innovation and Enterprise (RIE) 2020 Plan

The Research, Innovation and Enterprise (RIE) 2020 Plan is a part of Singapore’s national strategy to strengthen their innovation-driven economy. RIE 2020 is based on four major strategic areas that build upon progress achieved under the RIE 2015 Plan:

1. Closer integration of research thrusts
2. Stronger dynamic towards the best teams and ideas
3. Sharper focus on value creation
4. Better optimised RIE manpower (MTI, n.d.^[5])

RIE 2020 is supported and co-ordinated by Singapore’s Enterprise Singapore, which is the government agency that works with companies to build capacity, innovate and internationalise the growth of Singapore as a hub for global trading and start-ups (Enterprise Singapore, n.d.^[6]). The agency also oversees consumer product safety regulations and regulates weighing and measuring instruments for trade (Enterprise Singapore, 2019^[7]).

Source: (MTI, 2016^[4]; Enterprise Singapore, n.d.^[6]; Enterprise Singapore, 2019^[7]).

The Government of Singapore has also continued its efforts to implement its Industry Transformation Programme, through the design of Industry Transformation Maps (ITMs), which have focussed on creating integrated roadmaps to drive industry transformation (OECD, 2018^[3]).

Good regulatory practices

Regulatory impact assessments

OECD (2018^[3]) noted that further formalising regulatory approaches, such as regulatory impact assessments (RIAs), in Singapore would help to standardise practices for better policymaking within the country.

At present, ministries are required to conduct comprehensive assessments of upcoming regulation by reviewing the potential impacts of the proposal and outlining any possible distributional effects (OECD, 2018^[3]). Policymakers are also encouraged to review other possible policy options (i.e. taxes, self-regulation, etc.); however, no specific obligations currently exist, which require regulators to consider alternatives to a proposed regulation (OECD, 2018^[3]). Finally, Singapore currently does not have a central regulatory oversight body that reviews and monitors the development of new regulatory policies; rather this responsibility should be assumed by the undertaking ministry who is overseeing the regulatory proposal (OECD, 2018^[3]; World Bank, n.d.^[8]). That being said, regulatory impact assessment guidelines have been made available for policymakers to consult and can be accessed through the country's national library.

Information related to upcoming regulatory proposals are also made available to stakeholders in advance to their presentation within parliament, where they are welcomed to submit consultation questions in order to seek clarifications on new or amended regulations (OECD, 2018^[3]). Government agencies or regulators then report the results of their assessments to parent ministries on a regular basis, such as during a mid-term or end-term review.

Stakeholder engagement

Stakeholders are welcome to submit consultation questions in order to seek clarifications on either upcoming, new or amended regulations. Government agencies and/or regulators then report the results of their assessments to their ministry and address them during scheduled periods such as during a mid-term or end-term review (OECD, 2018^[3]). The Ministry of Communications and Information (REACH) is the specialised government body tasked with soliciting and receiving all comments related to stakeholder engagements, however, Ministries or regulators can also organise online stakeholder consultations through targeted outreach to stakeholders or via their websites (World Bank, n.d.^[8]).

Since 2018, there has also been a shift in how the Government of Singapore interacts with Singaporean stakeholders. Moving beyond just formal consultations, the Government has emphasised the need to collaborate better with its citizens to create a more inclusive and participatory policy environments. In particular, not only has Singapore's Public Service invested towards strengthening agencies' and officers' engagement capabilities (via larger training programs, resources for better public engagement, and digital tools), but Singapore's deputy Prime Minister also emphasised his alignment to this approach by launching the Singapore Together movement in June 2019 (see Box 10.2) (MCCY, 2020^[9]).

Once stakeholder consultations are completed, it is the onus of the relevant government agency to communicate the benefits and costs of the regulatory policy to the public. In general, this step has been co-ordinated either with the organisation of national outreach events (i.e. seminars, conferences, workshops) or through public announcements, such as with a brief publication in a national paper or online media. Outcomes of consultations on major regulatory policies such as those that could affect large sectors

or industries can also be announced during annual budget announcements or the National Day rally speeches (OECD, 2018^[3]).

Box 10.2. Singapore Together movement

As part of the Singapore Together movement, the Government has stepped up engagement efforts to explain digital policies, work together with citizens and businesses to gather feedback, seek new ideas on how to serve them better, and co-create the solutions and services with them (Government Technology Agency, 2020^[10]). Facilitating meaningful engagements upstream was noted as a factor to assist the government in developing services that are well adopted and trusted by the public in the Digital Government Blueprint. The Digital Government Blueprint also notes that the Smart Nation Co-creating with Our People Everywhere (SCOPE) has been launched to engage the public during early stages of product development while Tech Kaki focuses on engagement sessions to deep dive into specific products. Citizens are involved in the design of products that will be used by them, with product improvements and redesigns done iteratively to address user feedback and problems identified (Government Technology Agency, 2020^[10]).

Source: (Government Technology Agency, 2020^[10]).

Burden reduction/ex post review

Post implementation reviews are administered on an ad-hoc basis, without requirements set in law, and at the discretion of the overseeing government agency or ministry of the particular regulatory area (World Bank, n.d.^[8]). Monitoring and evaluation activities are regularly conducted by respective government agencies to ensure that the key objectives of regulations are met. To do so, it has been reported that government agencies often incorporate key performance indicators as part of the regulatory proposal so that information can be easily consolidated and verified on whether the regulation has achieved its objectives (OECD, 2018^[3]). Sunset clauses within executive regulations, promulgation and re-promulgation review are subject to Parliamentary scrutiny upon expiry (Molloy, 2021^[11]).

For reducing administrative burdens, Singapore uses both stakeholder consultation as one means to receive feedback, as well as one-stop shops to streamline services and improve co-ordination between different ministries and agencies (OECD, 2018^[3]). An example can be viewed through the platform “Enterprise Singapore”, which offers a space for small businesses to access all services related to business advice, government assistance, and financial support. Other examples can also be noted in The Accounting and Corporate Regulatory Authority’s (ACRA) website BizFile+ and the Government of Singapore’s Business licensing portal (GoBusiness Singapore) (see Box 10.3) (OECD, 2018^[3]). The location of these one-stop shops can vary, with some located in business chambers, associations and community centres.

Box 10.3. Singapore's one-stop shops

Enterprise Singapore

Enterprise Singapore is the government agency championing enterprise development. They work with committed companies to build capabilities, innovate and internationalise. They also support the growth of Singapore as a hub for global trading and startup and are the national standards and accreditation body to ensure Singapore's products and services meet relevant standards.

Accounting and Corporate Regulatory Authority's (ACRA)'s BizFile+

ACRA is the regulatory of business registration, financial report, public accountants and corporate service providers. It also facilitates enterprises. The role of ACRA is to achieve synergies between the monitoring of corporate compliance with disclosure requirements and regulation of public accountants performing statutory audit.

GoBusiness Singapore

Developed jointly by the Ministry of Trade and Industry (MTI), the Smart Nation, Singapore's Digital Government Office (SNDGO) and GovTech, GoBusiness Singapore is a centralised platform that allows businesses to access Government e-services and resources in a consolidated manner.

Source: <https://www.enterprisesg.gov.sg/>; <https://www.acra.gov.sg/>; <https://www.gobusiness.gov.sg/>.

Digital technologies have also been used to simplify processes related to laws and regulations. The Digital Government Blueprint of Singapore mentions that The Authentic Court Order (ACO) system was introduced in January 2020, to simplify the process of verifying Court Orders. Previously, parties needed to make a Certified True Copy ("CTC") of their court orders as proof of having obtained the official document. Applying for CTC took several days and required more than one trip to the Court, and a fee needed to be paid for every hardcopy CTC (Government Technology Agency, 2020_[10]). From January 2020, eligible court orders could be validated online, and parties could show a photocopy, email, or even a screenshot of an ACO to any relying party (a bank, government agency etc.), which could verify the authenticity of the order by retrieving a validated copy of the same court order directly from the ACO website (Government Technology Agency, 2020_[10]). There is no waiting time and no need to collect CTCs in person, and this service is free of charge (Government Technology Agency, 2020_[10]).

Digital

Digitalisation is a key pillar of the Government's public service transformation efforts. The Digital Government Blueprint (DGB) is a statement of the Government's ambition to better leverage data and harness new technologies, and to drive broader efforts to build a digital economy and digital society, in support of Smart Nation (Government Technology Agency, 2020_[10]). Singapore's six-fold strategy to build a Digital Government consists of the following:

- Integrating services around citizen and business needs;
- Strengthening integration between policy, operations and technology;
- Re-engineering the Government's ICT infrastructure;
- Operating reliable, resilient and secure systems;
- Raising our digital capabilities to pursue innovation; and,

- Co-creating with citizens and businesses, and facilitating adoption of technology

Of these six strategies, the third strategy of re-engineering the Government's ICT infrastructure particularly focuses on using digital tools to create a better regulatory environment. A key enabler of this strategy is CODEX (Core Operations, Development Environment and eXchange), which is a suite of digital solutions that will enable the Government to deliver better digital services to citizens faster and more cost efficiently. It comprises (Government Technology Agency, 2020_[10]):

- A Government Data Architecture for common data standards and formats that better enables seamless data sharing between agencies;
- A systematic shift of less sensitive Government systems and data onto the commercial cloud, enabling the use of leading-edge cloud tools to develop digital services; and
- A Singapore Government Technology Stack (SGTS) comprising a suite of shared software components and infrastructure to enable more efficient and focused building of digital applications. This reduces the time and effort needed to introduce new digital services and improves existing ones, and allows greater interoperability.

MyInfo is a Government-developed data platform, which enables locally registered businesses to digitalise their business operations by requesting for citizen's personal data via secure Application Programming Interfaces (API) with their consent. The MyInfo platform was one of the first projects to use the SGTS, and was developed and delivered in four months, instead of what would typically take a year. With real-time consent-based access to data items from more than 10 government agencies, businesses are able to retrieve verified personal data for B2C digital transactions (Government Technology Agency, 2020_[10]). MyInfo has also been extended to enable B2B transactions with the addition of corporate data. This has enabled the streamlining loans, bank account opening, and grants applications by SMEs. Since the on-boarding of MyInfo, businesses have reported (Government Technology Agency, 2020_[10]):

- Usage by 80% of eligible customers;
- 80% reduction in transaction time for digital transactions;
- 20% improvement in digital transaction completion from better user experience;
- 15% increase in approvals due to better data quality;
- Instant application processing using verified customers' identities.

Singapore has also used digital tools to take further steps in integrating services around citizen and business needs. The Moments of Life app was developed using the Service Journey approach to proactively support families with young children by bundling streamlined services and information, such as birth registration and early childhood services (Government Technology Agency, 2020_[10]). The app was then expanded to support seniors aged 60 and above in their journey to live active and engaged lives. Further efforts to expand the scope of services provided by the app resulted to the app being rebranded in August 2020. The app was rebranded to LifeSG, and transitioned the app from serving specific moments of life, to providing one-stop and personalised access to government services for all citizens (Government Technology Agency, 2020_[10]). LifeSG offers users more ready access to digital government services through the consolidation of personalised content, and citizens can explore and easily access more than 40 Government services and discover recommended content through a personalised dashboard (Government Technology Agency, 2020_[10]).

Monitoring of progress on the Digital Government Blueprint (DGB) shows progress in achieving a digital government. Key Highlights of the Progress of DGB KPIs as of end-2019 include (Government Technology Agency, 2020_[10]):

- 86% of citizens and 77% of businesses reported that they are "very" or "extremely" satisfied (at least 5 on a 6-point scale) with Government digital services, against the DGB target of 75-80%.

These are the best results since the survey started in 2012. Both results also improved significantly, by 8%, compared to 2018.

- To date, 95% of transactions (by volume) are completed digitally from end-to-end, meeting the target of 90-95%.
- We have met the target for number of officers trained in data analytics and data science and will review a new KPI.
- All 20 Ministries have submitted plans to use Artificial Intelligence.

Apart from the Digital Government Blueprint, adopting Industry 4.0 technologies has also been highlighted in Table 10.1.

Table 10.1. Industry 4.0 Technologies

Smart Nation	The Smart Nation Initiative aims to see transformation in the key domains of health, transport, urban solutions, finance, and education. Mutually reinforcing plans to build a Digital Economy, Digital Government and Digital Society have been laid out to achieve this vision (Smart Nation and Digital Government Office, 2018 ^[12]).
Smart Industry Readiness Index (SIRI)	The Smart Industry Readiness Index (SIRI) was created by the Singapore Economic Development Board (EDB) in partnership with a network of leading technology companies, consultancy firms, and industry and academic experts. SIRI comprises a suite of frameworks and tools to help manufacturers – regardless of size and industry – start, scale, and sustain their manufacturing transformation journeys. SIRI covers the three core elements of Industry 4.0: Process, Technology, and Organisation (INCIT, n.d. ^[13]).
Stay Healthy, Go Digital	The Infocomm Media Development Authority (“IMDA”) called on Singapore businesses to “Stay Healthy, Go Digital”, and launched a number of measures to help them address urgent COVID-19 challenges. The measures, introduced jointly with Enterprise Singapore, include 1) an enhanced SMEs Go Digital Programme and 1) A new e-voicing registration grant to help businesses eliminate the need to handle paper invoices (IMDA, 2020 ^[14]).

Digital tools have also assisted businesses in expanding globally. OneSME is a cross-border digital trade platform launched in 2020. It connects business-to-business (B2B) platforms between Singapore and China to help local SMEs expand their overseas reach and tap significant demand from Chinese SMEs for Singapore products (SGSME, 2020^[15]).

Moreover, in November 2019, Singapore launched a National AI Strategy. AI SG is a national programme to catalyse, synergise and boost Singapore’s AI capabilities. It is driven by a partnership between the National Research Foundation (NRF), the Smart Nation and Digital Government Office (SNDGO), the Economic Development Board (EDB), the Infocomm Media Development Authority (IMDA), SGInnovate and the Integrated Health Information Systems (IHIS) (IMDA, n.d.^[16]). The strategy originally identified five national AI projects including transport and logistics, smart cities and estates, healthcare, education, and safety and security, all of these projects intended to address key challenges that will help ensure Singaporeans experience successful and sustainable AI innovation and adoption. Two new National Artificial Intelligence (AI) Programmes in Government and Finance were launched at the Singapore FinTech Festival (SFF) x Singapore Week of Innovation and Technology (SWITCH) 2021 (Smart Nation Singapore, 2021^[17]). The two new programmes are (Smart Nation Singapore, 2021^[17]):

- The National AI Programme in Government aims to further advance Government’s digital transformation efforts. Through greater use of AI in government agencies, the Government hopes to strengthen policymaking and planning, provide more personalised and responsive services, and optimise Government processes for the benefit of citizens and businesses.
- The National AI Programme in Finance aims to develop Singapore into a global hub for financial institutions to research, develop, and deploy AI solutions.

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11 Thailand

This chapter presents the country profile for Thailand. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government initiatives

Regional focus

Thailand is a signatory to trade agreements which include a variety of provisions on the use of better regulation, including chapters on the use of good regulatory practices and standards. Thailand ratified the Regional Comprehensive Economic Partnership (RCEP) agreement in February 2021, becoming the second ASEAN member state to do so after Singapore. While Thailand has not signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which also contains provisions on good regulation, the government has shown interest in joining and has planned to join talks on membership of the CPTPP (Reuters, 2021^[1]).

Thailand has also been taking steps to contribute to the ASEAN Single Window (ASW), which aims to expedite cargo clearance and promote ASEAN economic integration by enabling the electronic exchange of border trade-related documents among ASEAN Member states (ASEAN Single Window, 2018^[2]). The objectives of Thailand's National Single Window are to 1) Facilitate Import, Export, and Logistics; 2) Facilitate inland and cross-border movement of goods; 3) Reduce National Logistics Cost; and 4) Increase National Competitiveness (Thai Customs Department, 2018^[3]). The 2nd Strategy of the 3rd Strategic Plan for Thailand logistics (2017-2021) calls for full operation of the Thailand NSW and to support the development of the NSW to completely enable G2G, G2B transactions as well as to link the system further with the ASEAN Single Window (Thai Customs Department, 2018^[3]).

National focus

Thailand has continued to commit to improving regulatory quality within the country. Good regulatory practices were featured prominently in the 2017 Constitution of Thailand and are also woven into national strategies. The Thai National Strategy (2017-2036), which is the country's first national long-term strategy developed pursuant to the Constitution and is being pursued to ensure that the country achieves its vision of becoming "a developed country with security, prosperity and sustainability in accordance with the Sufficiency Economy Philosophy" with the ultimate goal being all Thai people's happiness and well-being (OSMEP, n.d.^[4]). The 20-year National Strategy (2017-2036) includes the National Strategy on Competitiveness Enhancement, which includes the following provisions that have impacts on burden reduction efforts in Thailand:

- 4.5.2. Facilitating easier access to financial services and assistance by promoting entrepreneurs to gain access to needed financial services through provision of funds and promotion of reliable financial service channel establishment;
- 4.5.3. Improving access to markets by ensuring that entrepreneurs have opportunity to gain access to domestic and international markets, in accordance to their ability and capacity through the promotion of brand and product identity;
- 4.5.4. Facilitating information access by providing opportunity for entrepreneurs to gain access to essential and updated data and information needed for effective business planning including data obtained via big data technology, in order to further develop existing and new businesses; developing entrepreneurial data service centres as the key channel in data and consultation provision to entrepreneurs and business owners;
- 4.5.5. Adjusting roles and improving access to public services by developing and integrating government mechanisms to help develop entrepreneur to have skills and capacity required to sustainably compete in the market, with key scopes covering easy business entry, application and permit issuance, asset registration, loan approval, investor protection, tax payment, and international trade; developing national quality assurance system for products.

Good regulatory practices are also noted in the Twelfth National Economic and Social Development Plan (2017-2021). The Plan states that rules and regulations must be amended to enhance competitiveness, improve efficiency and strengthen fairness in service provision for consumers and the private sector. To amend these rules, regulations and laws, the Plan calls for appropriate use of regulatory impact assessment tools in order to facilitate the efficient execution of the Plan at every level. The role of regulation is also highlighted in the “Thailand 4.0” strategy, which sets the four objectives of 1) Economic Prosperity; 2) Social well-being; 3) Raising Human Values; and 4) Environmental Protection.

OECD (2020) notes that Thailand has embarked on several high-level reforms and policy strategies that rest on initiatives stemming from over a decade ago. In 2017, the new Constitution of the Kingdom of Thailand (“the Constitution”) set out explicit principles of transparency, accountability, integrity, stakeholder participation, access to information and data, and tools of Good Regulatory Practice (GRP). Section 77 of the 2017 Constitution establishes core principles for good regulatory governance and formalises the deployment of GRPs across the State institutions and throughout the decision-making process (OECD, 2020^[5]; 2022^[6]). Thailand has also passed several laws requiring the use of better regulation in policy making across the Thai administration. These include (OECD, 2020^[5]):

- State Administration Act (No. 5), B.E. 2545 (2002). Section 3(1) of this act established the expectation that public agencies function under the principles of good governance.
- Royal Decree on Criteria and Procedures in Good Governance, B.E. 2546 (2003). The decree was introduced by the government as a way to improve the quality and performance of public administration across the different ministries, agencies, and state institutions in the country and lift up the quality of services provided to citizens and businesses
- Royal Decree on Revision of Law, B.E. 2558 (2015), also known as the “sunset law”. This law requires that the relevant authority conduct a review of the appropriateness of the law every five years since its implementation.
- Licensing Facilitation Act, B.E. 2558 (2015), which helps focuses on building a paperless government and reducing the administrative burden on licensing procedures. The Act requires each authority to review the laws concerning their respective licensing requirements and determines whether such licensing requirement should be repealed or replaced by another measure every five years since the licensing requirement has come into force.
- Act on Legislative Drafting and Evaluation of Law, B.E. 2562 (2019) implements the constitutional requirement to use GRPs (under Section 77 of the Thai Constitution) into Law. This law seeks to prescribe rules for drafting legislation, including the use of regulatory impact assessments (RIA), stakeholder engagement, and *ex post* review, and establishes the Office of the Council of State as the regulatory oversight body for the Thai Administration.
- Digitalisation of Public Administration and Services Delivery Act, B.E. 2562 (2019) is regarded as the first digital government law in Thailand that aims to accelerate digital transformation in the public sector with a solid legal and regulatory framework. It focuses on three areas: i) digitalisation of processes and services with a citizen-centric approach; ii) data integration among government agencies; iii) open government data in machine-readable formats. The plans, rules and standards that build on these legal provisions are under development (OECD, 2022^[7]).

Good regulatory practices

Regulatory impact assessments

The 2019 Act on Legislative Drafting and Evaluation of Law that came into force in November 2019 has provisions that led to Office of the Council of State (OCS) issuing Guidelines on Regulatory Impact Assessment in November 2019 (OECD, 2020^[5]). While the minimum requirements for RIA are one of the

most notable improvements brought about by the 2019 Act, its scope at the time was limited to the drafting of primary laws (OECD, 2020^[5]). In March 2022, the Prime Minister issued a Ministerial Regulation entitled *Prescribing Draft Regulations which Must Conduct Public Consultation and Impact Assessment*, B.E. 2565, which came into force in September 2022 and extends the requirement for RIA under the 2019 Act to draft regulations that:

1. Prescribe rules, procedures or conditions involving applications for license, permission or approval, registration, enrollment, notification, application for Atchayabat or Prathanabat;¹ or,
2. Require people to do anything or by any means in their occupations or livelihoods, or in contacting a government agency, or to submit any documents to a government agency, which are not draft regulations according to (1).

The OCS issued Guidelines on Regulatory Impact Assessment in November 2019, which was in compliance with the provisions of the Act on Legislative Drafting and Evaluation of Law. With these guidelines, the OCS contributed to clarifying not only the nature of RIA as a regulatory tool, but also the implication of mainstreaming such a tool throughout the Thai regulatory process (OECD, 2020^[5]). Considerable improvements brought about by the RIA Guidelines include the indication for RIA drafters to express policy objectives using measurable performance indicators; and to incentivise the use of quantification of impacts (especially by means of the Standard Cost Model formula) (OECD, 2020^[5]). The Guidelines put adequate emphasis on requesting RIA drafters to describe the societal issue at stake (problem definition) and to spell out the reasons for the needed government intervention; the new RIA template attached to the Guidelines requires the Head of the Department responsible for the proposal to sign off on the RIA report. The Guidelines are accompanied by a template for submitting a RIA to the OCS for scrutiny; and a short “manual” with explanations and standards for each section of the template. The OCS also provides advisory services for officials in the Thai Administration to support the implementation of the good regulatory practices.

OECD (2020^[5]) also notes that when drawing up the new RIA Guidelines, the Thai Government used this as an effective opportunity to address self-diagnosed recurring challenges in the national legislative and regulatory approach. The Government is particularly concerned with addressing the four pressing issues: excessive recourse to licensing and permit schemes; overuse of committee-based approaches; excessive recourse to applying criminal sanction schemes; and unclear / ambiguous use of discretion by government officials. The Guidelines and template prompt RIA drafters to address those issues, drawing their attention to the possible issues in case they consider opting for measures likely to contribute to perpetuating those shortcomings. At the same time, the RIA Guidelines assist future staff in oversight bodies as well as external stakeholders with reviewing RIA reports critically and constructively.

Moreover, OCS has also made significant attempts to align their guidelines with international good practice. OECD (2020^[5]) notes that according to the 2019 Act that implements the 2017 Constitution, Section 77, the Office of the Council of State (OCS) has been entrusted with the role of regulatory oversight body for the Government of Thailand. This includes preparing the guiding instruments to implement the new constitutional principles and procedures set out in the Act, as well as also co-ordinating the initial stages of the implementation of the reform. The OCS will also scrutinise RIAs, consultations and *ex post* reviews. Oversight is also mandated to the Law Reform Commission under the 2019 Act.

Thailand has also made use of digital tools to enhance use of RIA in the country. Thailand launched the public consultation portal law.go.th in 2021, which serves as a centralised portal for all consultations in Thailand, and a central legal database was planned for launch in Q1 2022.

Stakeholder engagement

Thailand's legal and regulatory frameworks to enable stakeholder consultation in the legislative process are considered to be of good quality (OECD, 2022^[7]). The legal basis for stakeholder consultation in regulatory processes developed from 2003 to 2005 with the enactment of the Regulations of the Office of the Prime Minister on Public Consultation, B.E. 2548 (2005), which obliges public sector organisations to conduct credible consultations with the public before any major regulation is made. This law was further reinforced by Section 77 of the 2017 Constitution and a resolution in 2017 that stipulates all draft legislation to be published on the public consultation portal (law.go.th) for a minimum of 15 days before any government agency can send the draft act and impact assessment report to the Secretariat of the Cabinet (OECD, 2022^[7]).

OECD (2020^[5]) notes that the 2019 Act on Legislative Drafting and Evaluation of Law also consolidates the stakeholder engagement tool such that the government agency has to consult its stakeholders regularly in order to review the outcomes of its law (every 5 years at least). The Act defines stakeholder broadly. Under the 2019 Act, stakeholders, including other government officials, must be consulted in the drafting of legislation, and in addition, legislation must be inputted into the central system, which can be reviewed by other government agencies. This requirement states that once the agency has a draft of the proposing bill already, it must upload the draft to the central stakeholder consultation website for a minimum period of 15 days. The requirements for consultation under the 2019 Act were extended to draft regulations according to the Ministerial Regulation entitled *Prescribing Draft Regulations which Must Conduct Public Consultation and Impact Assessment*, B.E. 2565 that came into force in September 2022 (see more details in the RIA section above).

OECD (2020^[5]) also notes that all State agencies have an open-door policy for receiving public opinions and generally have introduced at least one communication method to receive public opinions and petition for grievances. Anecdotal evidence suggests that some agencies engage in regular focus groups and workshops with stakeholders. Some ministries and agencies also have their own system of (tripartite) working committees through which sectoral policy issues are discussed and elaborated thanks also to stakeholders' inputs and feedback. In such contexts, letters are sent to business and civil society organisations and individual stakeholders and meetings are organised with various degrees of formality.

The 2019 Act establishes a general rule requiring the proposing State agency to consult with stakeholders before the draft law is written, but does not distinguish at what stage of the policy making process stakeholders must be consulted. The 2019 Act also does not refer to stakeholder participation in the development of strategic documents, which is currently only voluntary (OECD, 2022^[7]). Section 14 of the Act requires that, at a minimum, the following are disclosed to stakeholders (OECD, 2020^[5]):

1. Current problems and the necessity of drafting the legislation, including the purpose and expected outcomes;
2. Explanations of the rationale or important issues of the draft legislation in simple language;
3. Persons who are or may be affected by the impacts or potential impacts of the law (including to livelihood, occupation, economic, social, environmental, or other impacts); and,
4. The necessity for the permit system, committee system, and criminal punishment, including the rules on the exercise of discretion by State officials.

The Act further establishes two requirements under Section 16 of the 2019 Act. First, the results of public consultation must be taken into account when preparing RIA reports and drafting legislation. Second, the state agency must summarise the results of public consultation, which must, at the minimum, include the topics upon which opinions were expressed and the summarized opinions of each stakeholder for each topic, and must also indicate whether there are amendments or no amendment regarding the key principles or issues of the legislation in accordance with the stakeholder's opinions, as well as the underlying reasons

for such decision (to amend or not to amend). The Secretariat to Cabinet or OCS can require the stakeholder engagement to be conducted again.

The OCS has also produced subordinate regulations to the 2019 Act set forth guidelines for conducting stakeholder consultation. It states the motivation of stakeholder engagement as allowing the “Government to correctly identify the issues and the needs of stakeholders, as well as to accurately gauge the potential impact of the draft legislation”. The subordinate regulation further highlights how effective consultation can promote mutual understanding between the parties involves and encourage wider participation. The subordinate regulation states the following (OECD, 2020^[5]):

1. Clear, open, and direct communication between the Government and stakeholders.
2. Use accessible and easily comprehensible language to communicate with stakeholders.
3. Consultation exercises must provide equal opportunities for all stakeholders to voice their opinions irrespective of their stance on the issues. A wide variety of responses will yield a better-informed legislative process.
4. Allow sufficient time for each consultation exercise for the targeted stakeholders to participate. Consultation aided by information technology measures must last no less than 15 days. The government agency must provide a public justification if they are not able to meet the minimum duration for stakeholder consultation.
5. Consultation exercise via the Central System is the baseline practice for stakeholder consultation. However, agencies are encouraged to employ other methods of consultation alongside the publication on the Central System to ensure that all relevant parties are heard. This is to be done with careful consideration to the characteristics and size of each stakeholder group, the topic of discussion, and the burden of the consultation on the participants. Where appropriate, agencies may collaborate on consultation exercises for more efficient reach to stakeholder groups, e.g. jointly held interviews or meetings.
6. The result of public consultation should be taken into consideration without regard to the identity of the commenter or whether they specify their real name or not. It shall not matter who the commenter is; whether they specify his/her name; or whether they use their real identity or not.

Thailand has also made progress in using digital tools to enhance its stakeholder engagement process. As mentioned above, the Government of Thailand launched the public consultation portal law.go.th that serves as a centralised platform for all public consultations in Thailand. Online consultation is the only consultation channels mandated by the 2019 Act (ministries and regulatory agencies may opt to engage stakeholders with additional means on a voluntary basis). The Digital Government Development Agency is assigned responsibility for providing, maintaining, and developing this central system in accordance with Section 11 of the 2019 Act.

Burden reduction/ex post review

Thailand has continued to show commitment to all parts of the regulatory cycle, including *ex post* review. The importance of *ex post* review is part of the Thai National Strategy (2017-2036). The Strategy calls for laws and regulations to be reviewed and modified so that they are more explicit, fair, and up-to-date; supporting the public administration, national development, public services, business management, and international competitiveness. The Strategy also stipulates that any laws and regulations that no longer met those needs shall be abolished, and those related to international competition must comply with international obligations and agreements.

OECD (2020^[5]) notes that The Cabinet Resolution enacted in April 2017 provided whole-of-government instructions on GRP implementation, complementing the so-called “Sunset Law” (the Royal Decree on Revision of Law, B.E. 2558) and the Licensing Facilitation Act, which were both enacted in 2015. The Sunset Law requires that the relevant authority conduct a review of the appropriateness of the law every

five years since its implementation. The Licensing Facilitation Act requires each authority to review the laws concerning their respective licensing requirements and determines whether such licensing requirement should be repealed or replaced by another measure every five years since the licensing requirement has come into force.

The 2019 Act on Legislative Drafting and Evaluation of Law expands the scope of application of the evaluation requirements from primary legislation to also include secondary and implementing rules; it has also introduced the requirement to publish on the central system the list of laws and the State agencies that are responsible for the related reviews (OECD, 2020^[5]). Since the entry into force of the 2019 Act and the related Guidelines in November 2019, the Sunset Law has been repealed. The 2019 Act adopts much of the same principles of the Sunset Law – prescribing a review every 5 years – however, it places *ex post* analysis within a framework of regulatory policy and management (OECD, 2020^[5]).

OECD (2020^[5]) also mentions that in terms of planning and execution of the reviews, the 2019 Act allocates general responsibilities to the agency enforcing the law. It further specifies that if the evaluation findings reveal the opportunity to repeal, reform, or amend the law, the decision to do so is to be taken by the responsible agency. According to the OCS, in addition to the law itself, the completed report after the *ex post* review will be published in the central system. The *ex post* guidelines stipulate that the responsible agency will also be obliged to share the results of the analysis with the Law Reform Commission.

Thailand adopts a regulation-by-regulation approach to evaluation at the moment- the responsible state agency must review every law and regulation that imposes burdens upon the people, following the five-year review clause (OECD, 2020^[5]). While this approach guarantees that no piece of legislation is left behind over time, given the high number of legal acts in force it may take disproportionately long time to be completed and come to reviewing particularly burdensome or problematic provisions.

Thailand has made efforts to facilitate burden reduction in addition to strengthening requirements for *ex post* reviews. The Guillotine Project was launched in 2017 as a fast-track way of reviewing laws and regulations and removing unnecessary or unwanted laws and regulations, or revising them, according to a process (JFCCT, n.d.^[8]). This reform is led by the Prime Minister's Office and aims to change processes, legal acts and back office efficiency as needed. Users can submit proposals by email or by the Simple and Smart Licence site for change/removal of laws, regulations which are about licences or permits of any kind (JFCCT, n.d.^[8]).

Digital

Thailand 4.0., which is Thailand's national development plan, aims to use digital technology to enhance competitiveness of the local business environment and to increase transparency to provide its citizens with equitable access to public services and their data. The advancements made by Thailand in implementing its digital government policy have the objective of spearheading the digitalisation of the private sector and enhance the access of both citizens and businesses to public sector data to drive the country's overall economic competitiveness (Bangkok Post, 2021^[9]).

The Thai government's digital government policy, reinforced by the Digitalisation of Public Administration and Services Delivery Act, B.E. 2562 (2019), has set four objectives with the aim of enhancing how the public sector works for the people, including social and economic equitability, the enhancement of economic competitiveness, ensuring government transparency and improving people participation (Bangkok Post, 2021^[9]). The policy is comprised of four strategies: 1) delivering end-to-end digital services to citizens, 2) improving the ease of doing business via digital technology, 3) offering open data platforms and 4) promoting people participation in the policy-making process. The strategies included in the policy are in line with the ASEAN Digital Masterplan 2025 (OECD, 2022^[7]).

Implementation of digital government policy has been entrusted by law to the Digital Government Development Agency (DGA), which has continued to spread digital government architecture among government agencies. Among the key measures are the acceleration of the Thailand Government Information Exchange, a central database of government agencies designed to reduce the documentation burden on the private sector, improve efficiency by eliminating redundancy, and promote the use of National Digital ID, including digital signatures among government agencies (Bangkok Post, 2021^[9]). Another important initiative is the creation of a government data catalogue to enable the private sector to access the public sector's data more efficiently (Bangkok Post, 2021^[9]). The DGA is also accelerating development of the Government Data Exchange to create an integrated platform of government databases over the next two years by standardising data and information exchange guidelines among government agencies (Bangkok Post, 2021^[9]; OECD, 2022^[6]). Other policies that aim to use digital technologies to enhance the business and policy environment for Thailand include:

- Bank of Thailand Notification No.4/B.E.2562 on the Determination of Rules, Procedures, and Conditions for Peer-to-Peer Lending Businesses and Platforms (2019)
- Securities and Exchange Commission Notification No.21/B.E.2562 on the Offering of Securities for Sale through Crowdfunding Portals (2019)
- Securities and Exchange Commission Rules on Digital Asset Exchange B.E.2562 (2019)
- Thailand National Big Data Policy: The Steering Committee for Policy Implementation to utilise Big Data, Data Centers, and Cloud Computing (legislation, architecture and government information intergration system, human resource development)

As a result of implementation of policies to enhance digital government, Thailand's ranking in the United Nations e-government development index has continually improved, rising from 77th in 2016 to 73rd in 2018, and to 57th in the most recent 2020 survey.

Examples of online platforms aimed at improving regulatory policy within Thailand also exist. The Law.go.th Central Hearing Portal allows civic engagement during regulatory, legal process to broaden the engagement with not just people with the country, but with stakeholders worldwide. Corporations without business presence in Thailand can use it to submit opinions and comments. Moreover, OCS Central Legal Database (for launch in Q1'22) aims to make the legal database easier for people to gain access to the legal system. Platforms aimed at facilitating communication between government and business also exist in Thailand. Two examples of such platforms include the Nationwide One-stop Service (OSS) Center and an OSMEP Grievance Management Center for entrepreneurs to report their complaints.

Advisory bodies related to regulatory oversight and ethical guidance also exist in Thailand. The National Ethics Committee on Science and Technology provides guidance, advice and support to stakeholders; gathers opinions from stakeholders on ethical principles, regulation improvements, etc.; provides expert ethical opinion; facilitates cross-government co-ordination in developing/adopting guidelines, regulations, etc.; sets and adopts international standards; and provides formal input to policymakers (OECD AI Policy Observatory, n.d.^[10]). The National Ethics Committee on Science and Technology reports to the Head of national government and is composed of mostly government representatives. Reports are publicly available.

Thailand is also beginning to integrate artificial intelligence into its digital economy. The Digital Government Development Agency (DGA) established a government Artificial Intelligence (AI) Centre to boost government agencies' efficiency and services offered by focusing on three core functions: fostering networks and systems for AI adoption support; generating digital platforms in the cloud where state agencies can seek consultancy and AI solutions for their services; and upskilling government officials on AI and data analytics (Bloomberg, 2021^[11]).

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Note

¹ Atchayabat and Prathanabat refer to types of permits issued for prospecting and exploration related to mining and minerals.

12 Viet Nam

This chapter presents the country profile for Viet Nam. It provides an overview of the current *de jure* requirements for the institutions, tools and processes of regulatory governance and, where possible, how these have been implemented in practice. The profile focus on three aspects of regulatory governance pertinent to the past, present and near future of regulatory reforms in the ASEAN region. The first is *whole-of-government approaches to regulatory policy making*, including national and international commitments to better regulation that are driving domestic reform processes. The second is the *use of good regulatory practices*, including regulatory impact assessments (RIAs), stakeholder engagement and *ex post* review. The third is *approaches to digitalisation*, or how countries are using digital tools to respond to regulatory challenges, and is the newest frontier for better regulation reforms in both ASEAN and OECD communities. The information contained in this and the other profiles serves as the basis for the analysis of trends in regulatory reform presented in Chapter 1.

Whole-of-government perspective

Regional focus

Viet Nam is a signatory to both the Regional Comprehensive Economic Partnership and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), both containing provisions regarding regulatory quality. In addition to tariff cuts, CPTPP contains provisions on, among others, customs and trade facilitation; standards and technical barriers to trade; investment; services; intellectual property; e-commerce; procurement; labour; environmental issues; regulatory coherence; and others (OECD, 2021^[1]). Vietnam has been revising various legal documents to make way for the implementation of these FTAs, such as the Labour Code and the Law on Intellectual Properties.

Viet Nam has further adopted good regulatory practices through its commitment to the Renewed APEC Agenda for Structural Reforms (RAASR) 2016–2020. Viet Nam identified 6 priorities in its RAASR Individual Action Plan (IAP) submission in 2016 and subsequent revision, namely (APEC, 2018^[2]):

1. Improving competition policy to enhance the efficiency of resource allocation and utilisation in key economic sectors;
2. Improving public investment efficiency;
3. Improving investment-business environment to strengthen microeconomic foundation;
4. Promoting the application of good regulatory practices;
5. Promoting the contribution of service sector to the economic development; and,
6. Improving the quality of human resource.

Under priority 4, Viet Nam has strengthened its stakeholder engagement provisions by requiring that all policies and regulations receive comments from the public as well as the business community. Comments can be provided via online platform, written submissions or during attendance at workshops (APEC, 2018^[2]).

Viet Nam has also made efforts to contribute to regulatory coherence in the region by harmonising national standards with regional and international standards. As of 2020, Viet Nam's national standard system (TCVN) had nearly 13,000 standards, approximately 60% of which have been harmonised with international and regional standards, contributing to effectively supporting socio-economic development in many fields (Ministry of Science and Technology, 2020^[3]).

Viet Nam also entered into agreements to increase its participation in regional and global value chains. These include 49 Bilateral Investment Treaties and 20 Treaties with Investment Provisions which were in force as of 2019. Another recent effort was the EVFTA agreement with the European Union. Immediately after the EVFTA Agreement took effect on August 6, 2020, the Prime Minister issued Decision No.1201/QD-TTg on the approval for the implementation plan of the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union (EVFTA) including 5 main groups of solutions as follows: information propagation and dissemination about EVFTA Agreement and markets of EU countries; development of legal documents; competitiveness improvement and human resources development; guidelines and policies for trade unions and labour organisations at enterprise establishments; and policies on social security, environmental protection and sustainable development (MPI, 2021^[4]).

Recently in 2021, the Prime Minister also issued Decision No. 38/QD-TTg, which would reform quality control and SPS control of imported goods. This decision would not only assign Vietnam custom agencies as focal points for quality and SPS control of imported goods, but it would also make it easier for businesses to comply with relevant laws and undergo less strict measures after already seeing through previous deep inspections. Decision No. 38/QD-TTg would also add features of automatic risk-based categorisation of goods and would exempt some imported goods from controls. The approval of the Decision in total is

expected to deliver a cost saving of USD 399 million for the economy in one year. The Government is drafting a decree to lay the legal foundation for this reform effort.

Finally, Viet Nam will also look towards integrating its National Single Window, which was launched in 2014, with the ASEAN Single Window (ASW). Through integration with the ASW, the conceptual model of the Viet Nam National Single Window demonstrates linkages between the following six major components in international trade and transport (ASEAN Single Window, n.d.^[5]):

- Viet Nam Customs being responsible for clearance and release of importation, exportation and transit of goods and conveyances;
- Regulatory government agencies involved in international trade and transport;
- Banks, financial institutions and insurance companies;
- Transport and forwarding community;
- Business community involved in international trade; and ASEAN members and other global trading partners.

Viet Nam has been joining the joint live operation of the ASW since January 2018. Various ministries have changed their regulations in accordance with Single Window mechanism, most noticeably Ministry of Health with over 30 trade administrative procedures conducted in single window manner.

National focus

Reform and reduction of regulatory and administrative procedure burdens continue to be Vietnam's top priorities and are led by the Administrative Procedure Control Agency (APCA), inside the Office of the Government (OOG) (OECD, 2018^[6]). The APCA was initially set up to implement Project 30 (2007-10), which took stock of over 6 000 administrative procedures and ultimately reduced administrative procedure costs within the Government that were equivalent to USD 1.6 billion per year. The achievements from this initial project then contributed to a second wave, which oversaw the reduction and simplification of 3 893 business conditions, as well as 6 776 import-export related regulations. The conclusions from the second wave resulted in a savings of USD 260 million per year.

Viet Nam is now in its third wave for regulatory burden reduction (2020-2025) and these efforts are stipulated in the Resolution 68/NQ-CP (Resolution 68) on the programme of cutting or simplifying business regulations (see Box 12.1 for more information). Co-ordinated by the OOG/APCA, this is resulting in the entire regulatory system being reviewed for simplification.

Viet Nam has also continued to improve its regulatory environment since 2018 as part of its target to become a developed and high-income country by 2045. Regulatory reform plays an important role in Viet Nam's visions for development, which include (Vu, 2021^[7]):

1. Creating a favourable business environment for all economic sectors;
2. Digital transformation-based sustainable growth with a focus on environment protection, climate change adaptation, and increasing labour productivity;
3. Upholding people-centred approach for development;
4. Building technology-based economy with further integration into the world's economy; and,
5. Pursuing self-resilient diplomacy, multilateralism, and being a responsible member of the international community.

Viet Nam has also seen sectoral applications of good regulatory practice. Law No. 04/2017/QH14 on Support for Small and Medium-sized Enterprises (SME Support Law) was introduced in 2018 and focused on supporting SMEs by 1) Developing a Micro, small, and medium-sized enterprise (MSME) sector development policy 2) refining the MSME definition in Vietnam 3) Enhancing the functions of SME Development Promotion Council and 4) Establishing the SME Development Fund (ADB, 2020^[8]). The SME

Support Law covers many different policy areas – from taxation to access to finance, from innovation to value chain development – although there are still some areas that lack sufficient attention (e.g. SME digitalisation) and others where results have not yet been successful (e.g. the conversion of household businesses into formally registered enterprises (OECD, 2021^[9]). Good regulatory practice can be found throughout the provisions set by the law, including simplified tax administrative procedures and accounting regimes for micro-enterprises) and publication of relevant policy information on the national SME web portal and ministerial websites. The government of Viet Nam releases an annual report which monitors progress on the implementation of the SME Support Law (OECD, 2021^[9]). Also, in 2018, the Government also issued Decree No. 108/2018/ND-CP to amend and supplement a number of articles of the Government’s Decree No. 78/2015/ND-CP of 14 September 2015 on enterprise registration, which would simplify the registration processes for businesses.

The Ministry of Planning and Investment (MPI) is the relevant line ministry for putting forth draft laws and ordinances relating to business and investments (OECD, 2018^[6]). Overseen by the MPI is the Foreign Investment Agency (FIA), which is the national-level administrative agency in charge of investment promotion and facilitation in the country and is charged with regulatory functions, among others. These include participating in drafting, amending and supplementing legislative documents on foreign investment in Vietnam and outward investment activities of Vietnamese investors, and assessing applications for investment in sensitive projects in Vietnam (for example: casinos, gambling, and so forth) (World Bank, 2019^[10]). The FIA is also responsible for managing the National Foreign Investment Information System of web portals on procedures for issuance of the Investment Registration Certificate; posting and updating legislative documents, policies, investment conditions applied to foreign investors; and updating information about investment promotion and foreign investment in Vietnam (World Bank, 2019^[10]).

Good regulatory practices

Regulatory impact assessments

OECD (2018^[6]) notes that the Law on Promulgation and Legal Normative Documents (“Law on Laws”), introduced in 2008 updated in 2015 and amended in 2020, announced the obligation for all levels of government to conduct (Vietnam National Assembly, 2015^[11]) regulatory impact assessments (RIA) when developing legal documents.¹ This Law would require that RIAs review the economic, social, gender, legal and/or administrative impacts of draft regulatory proposals. The Laws on Law also appointed the Ministry of Justice (MOJ) as the responsible body for co-ordinating and assessing law making projects. Decree 63/2010/ND-CP grants the APCA the role for monitoring impact assessments related to administrative procedures, including reporting periodically to the Prime Minister on the outcomes of administrative procedure reforms.

Impact assessment reports are published on a website of the National Assembly (for laws) and MOJ and relevant ministries (for lower-level legal documents). According to Article 8 of Decree 34/2016/ND-CP, the agency proposing the law-making project is required to draft a RIA report before drafting the legal document, and seek opinions and critiques of the draft RIA. Usually, RIAs are published online together other documents of the law-making proposal (review report, official letter) as required by the Article 36 of the Law on Laws 2015.

In general, ministries do use information and data collected during consultations for impact assessment, especially data collected from law implementation reviews. For example, when the Ministry of Agriculture and Rural Development (MARD) and OOG used the data they collected from consultation with agribusinesses to quantify impacts of existing regulations and propose revisions for reform proposals submitted to the Ministry of Agriculture and Rural Development in December 2021. From this action, Resolution 68 was implemented and business regulations were simplified and reduced.

In terms of support and guidance for regulatory impact assessment, a technical guide on regulatory impact assessments is available for policymakers to use. The guidance was developed by the MOJ in co-operation with USAID² (OECD, 2018_[6]). To develop Viet Nam's technical RIA guide, policymakers used regional and international practices as reference points (e.g. the OECD Guiding Principles on RIA and examples from Australia, South Korea and the United Kingdom (OECD, 2018_[6]). Moreover, a RIA task force was established in the Ministry of Justice to act as a central body to co-ordinate the implementation of Decree 24/2009/ND-CP at the beginning stage (ERIA, 2016_[12]). Many capacity building workshops for ministries and non-government stakeholders had been conducted, the majority of which were held regularly, in order to improve the quality of, and the capacity to, review RIAs (ERIA, 2016_[12]). In terms of administrative procedures, Viet Nam has also published Circular 02/2017/TT-VPCP, which provides detailed guidance on how to conduct impact assessment of administrative procedures and calculate administrative costs imposed by regulations.

The use of RIA in Viet Nam has demonstrated to have an impact on how decision makers resolve to a final policy. With the development of Viet Nam's 2017 SME Support Law. OECD (OECD, 2018_[6]) notes that RIA helped quantify the costs and benefits of different proposed policy measures, such as the reduction of corporate income taxes applicable to SMEs, support for household businesses to register as legal entity, support to SMEs to innovate and to become part of industry clusters or global value chains. RIA has also helped to enrich debates and consultations on the draft law at provincial, ministry and National Assembly level.

When a RIA has been completed, the results of the RIA are shared on the relevant Government body's websites.³ The RIA is also used to help lead legislative debates as well as stakeholder consultations. Once the RIA process has concluded a drafting committee must then produce a RIA report to demonstrate that they have considered extensive perspectives and that all relevant stakeholder questions have been responded too. It is only after this point that a drafting committee can then move forward with drafting the legal document.

Stakeholder engagement

The Laws and Laws also introduced detailed requirements for public consultations (ERIA, 2016_[12]). For example. Article 6,⁴ Article 34⁵ and Article 35⁶ of the Law has stated in various degrees, the Government's responsibility to consult with stakeholders (internal and external) for any law except when there are shortened procedures (Vietnam National Assembly, 2015_[11]). These provision are also supported by Decree 34/2016/ND-CP (Article 8 and Article 10) and Vietnam's Individual Action Plan submission in 2016 to RAASR.

Article 10 of Decree 34/2016/ND-CP provides detailed requirements for seeking opinions of impacted parties and related organisations and individuals. This stipulated that, during the process of making a request for formulation of a legal document, the requesting agency shall:

1. Collect opinions of subjects directly affected by the policies in the proposal and collect opinions of relevant agencies, organisations and individuals in accordance with the Law and synthesise and research, explain and receive suggestions;
2. Clearly define each policy in the proposal to be consulted, suitable to each object to be consulted and the address to receive comments;
3. Send dossiers of request for formulation of legal documents of central agencies to ministries, ministerial-level agencies, Governmental agencies, relevant agencies and organisations for opinions. For the request for resolution formulation of the provincial-level People's Council, send the dossier to the specialised agency of the provincial-level People's Committee, the ministries and ministerial-level agencies managing the relevant branches and domains, and the relevant agencies. other relevant agencies and organisations for opinions;

4. Send dossiers of request for formulation of legal documents of central agencies to the Central Committee of Vietnam Fatherland Front; dossier of request for resolution formulation of the provincial People's Council to the provincial Vietnam Fatherland Front Committee; dossiers of request for formulation of legal documents related to the rights and obligations of enterprises to the Vietnam Chamber of Commerce and Industry for opinions;
5. In case of necessity, a meeting may be held to collect opinions on basic policies in the proposal for formulation of legal documents;
6. To study opinions and suggestions to complete the proposal for formulation of legal documents. The report on explanation and collection of opinions must be posted together with other documents in the application for the formulation of legal documents on the Government portal, the web portal of the province or city, centrally-affiliated city and the portal or website of the requesting agency.

Most consultations take place with with business associations. For example, not only does the Law and Laws state that the Viet Nam Chamber of Commerce and Industry (VCCI) must be consulted before the development of a business regulation, but each year, the Government of Vietnam also makes efforts to organise business fora⁷ and conferences that bring together business stakeholders with political counterparts to discuss relevant regulatory issues (most notably the annual [Vietnam Business Forum](#)). A development forum is also organised for international development partners who contribute to Viet Nam's development priorities (Vietnam Development Forum). The Prime Minister plays an active role in chairing these discussions as well as contributing to the findings of these meetings.

The Prime Minister's Advisory Council for Administrative Procedures Reform (ACAPR) is also active channel of consultation with the business community. ACAPR is chaired by the OOG Minister with APCA as its secretariat. ACAPR hold frequent consultation meetings with its members and independent experts to hear their opinions and suggestions for regulatory reforms. ACAPR has many business associations representing both domestic and foreign businesses in its membership (Prime Minister's Decision 415/QD-TTg dated 4 April 2017 on restructuring membership of ACAPR).

Drafting committees are required to respond to comments and feedbacks of stakeholders collected through various consultation activities. Article 10, Decree 34/2016/ND-CP stipulates that "The report on responses to consultation opinions must be posted together with other documents in the application for the formulation of legal documents on the Government portal, the web portal of the province or centrally-affiliated city and the portal or website of the requesting agency."

Burden reduction/ex post review

As mentioned above, regulatory reform and burden reduction are a top priority for the Government of Viet nam and is being led by the OOG/APCA. Viet Nam is now in its third wave of burden reduction reforms, which currently has a goal of reducing and simplifying at least 20% of business regulations and compliance costs within the country and in 2021, the programme had highlights that showed that 1 101 regulations in 70 legal documents were effectively cut or simplified. Resolution 68 mandates Ministries to make at least two reform proposals each year that are under their sectoral focus. It also tasks the OOG/APCA with conducting independent reviews and making reform proposals concerning all sectors and industries. Priority areas are set each year according to the Prime Minister and in response to the need of the economy in each period. It must also be noted that Agencies responsible for drafting legal documents are also bound with the responsibility to review their law and regulations regularly or as soon as there is a reason to do so. In particular, Article 170⁸ of the Law on Laws states that "state agencies have the responsibility to review and systemise legal normative documents within their power and responsibilities..." and "reviewing activities must be done regularly, immediately when there is a basis for reviewing" (Vietnam National Assembly, 2015_[11]).

Box 12.1. Resolution 68

Resolution 68/NQ-CP (Resolution 68) on the programme of cutting or simplifying business regulations in the 2020-2025 period was issued by the Government of Vietnam on 12 May 2020. The resolution aims to cut and simplify at least 20% of business regulations and compliance costs. Some highlights of Resolution 68 include:

- Government to control the release of new legal documents and avoid unnecessary and unreasonable regulations;
- Government agencies to use software that provides adequate and accurate updates on business regulations and cost. This can then be used as a basis for reviewing the regulations and further simplifying them;
- A dialogue between government agencies and businesses would be increased so that the simplification of business procedures could be improved;
- Annually, government ministries and agencies are required to propose and implement reform plans to reduce or simplify business regulations. This will also involve assessing the proposal and reviewing the programme for the 2020-2025 period and implementing a communication plan to inform businesses during the period.

Resolution 68 was consulted widely with the business community and received strong support. Ministries and Office of Government (i.e OGG and where APCA is located) hold regular consultation meetings with relevant businesses both online and offline for collecting information and reform ideas. OGG is developing a consultation portal on the basis of the NPSP and business regulation database for more effective consultation activities across the government.

Source: Based on the response given from the Government of Vietnam's questionnaire.

Viet Nam also reports monitoring the progress of administrative simplification since Project 30. With Resolution 68, they are developing a database of business regulations in which changes in regulations are recorded together with associated administrative costs saved (or increased). The close monitoring of progress with numerical results (number of regulations simplified and cost saved in money term) has provided the impetus for reforms in recent years. Like in other countries, verifying the estimated cost saving is a challenge. They also try to verify the estimated cost saving by conducting an annual survey on some key administrative procedures and developing an Administrative Procedure Cost Index (APCI).

Moreover, the Government of Vietnam has also added several measures to improve the quality of public administrative services to reduce compliance cost for businesses and individuals. These efforts have taken forms in areas such as the development of the National Public Services Portal (NPSP), digitising paper documents for use in providing public services, and renovation of the one-stop shop system. The Government of Viet Nam reports that, at the end of 2021, the NPSP had over 3 500 online services active.

Finally, to sustain efforts towards administrative burden reduction, APCA is also developing a database of business regulations for managing the quality of the whole business regulation system, for reviewing and reforming regulations, and to monitor the calculation how these reforms are contributing to administrative cost saving activities (e.g. number of regulations simplified and cost saved in money term).

Various other types of *ex post* review tools are in effect in Viet Nam. While there is not a use of sunset clauses, agencies responsible for drafting legal documents do have the responsibility to review law and regulations regularly and as soon as there is a reason to do so. According to Decree 34/2016/ND-CP, legal

documents are codified every five years. Moreover, while common commencement dates have not been implemented, agencies report being careful about considering compliance needs when deciding on the date of regulations coming into effect. In 2021, MOJ's independent review of the legal system led to a Prime Minister's decision to issue a list of legal documents to be revised, supplemented or developed to solve conflicts, overlappings, and shortcomings in the legal system.

Digital

Since 2018, Viet Nam has made improvements to its regulatory environment for digital technologies and has also incorporated digital technologies to achieve better regulatory outcomes. In 2019, the Government of Vietnam issued Resolution No. 17/NQ-CP on some essential tasks to develop a holistic e-government programme by 2025. Resolution 17 set a target to have at least 20% of administrative procedures handled online by 2020 and at least 50% by 2025. Then in 2020, the Government of Vietnam issued Decree 45/2020/ND-CP on handling APs in electronic environment. The Decree laid legal foundations for authenticated digital copy of paper documents to be used in handling APs. Finally, in June 2021, the Prime Minister issued Decision No. 942/QD-TTg approving the e-government development strategy towards the digital government in the 2021-2025 period, with a vision to 2030 (Vietnam Briefing, 2021^[13]). The strategy sets a target of at least 80% of APs handled online and citizens have to provide personal information only once. This was the first time that Vietnam had issued a strategy on developing e-Government and moving towards the digital government. Related to regulatory issues, Vietnam's National Digital Transformation Programme includes some of the following goals by 2025:

- 90% of work records at ministerial and provincial levels are online while 80% of work records at district level and 60% of work records at commune level are processed online;
- All national databases including those for population, land, business registration, finance, and insurance are online and connected, with shared data on a government reporting information system;
- Inspection of state management agencies are done through digital systems and information systems.

In Viet Nam, national online databases containing legislative documents and foreign investment regulations is in operation. At the central level, the official gazettes of the Government are available on the website of the Official Gazette of Socialist Republic of Vietnam, managed by the Office of Government (World Bank, 2019^[10]). At the provincial level, the official gazettes are also available on official websites of most of the provinces (for example, that of the Hanoi official gazette) and are managed by the Office of the relevant provincial-level People's Committees (World Bank, 2019^[10]). MOJ also maintains a national database of legal documents (VBPL, n.d.^[14]) and APCA has developed and maintained a national database of administrative procedures since 2010, which can be accessed through the NPSP. APCA is also developing a database of business regulations as a tool to implement Resolution 68 on reducing and simplifying business regulations, which was mentioned in the previous section. All these databases are freely accessible online. At the end of 2021, the Government of Viet Nam reported that over 7 000 detailed regulations, such as on legal capital or human resource requirements, were registered in the database. OOG/APCA is also developing a business regulation consultation portal which is linked to the regulation database and the administrative procedure database.

One-stop shops are a vital part of the government's public administration reform programme, which was initiated in 2001. The one-stop shops operate at all levels of government, from provinces and districts to commune, ward, and township level, ensuring that all citizens are in a few kilometres range of an access point to public administrative services (World Bank, 2017^[15]). The one-stop shops allow citizens to gain access to various administrative services provided by discrete agencies and departments through a single visit and also improve reform efforts and engagement with stakeholders. Online one-stop shops at all levels

are integrated and synchronised with NPSP for data sharing, high-quality services, online provision of public services, and central monitoring and evaluation. It is expected that one-stop shops will become centres of digital transformation and administrative reform in the upcoming years. A considerable number of one-stop shops have been become operational at all level; by 2015, the numbers had grown to almost complete coverage with 12 638 one-stop shops operating by May 2015 (World Bank, 2017^[15]). By 2021, the Government of Viet Nam reports that all administrative units have OSS offices. There are 76 OSS at ministerial level, 67 OSS at provincial level, 706 OSS at district level and 10 220 at commune level

Additionally, in 2021, the Prime Minister issued Decision No. 468/QD-TTg on approval of a project to renovate OSSs and inter-agency OSS mechanisms for handling administrative procedures. This project will aim to improve the efficiency and quality of providing public administrative services to people and organisations by integrating and upgrading OSS IT systems and applying digital solutions. The Government of Vietnam also issued Decree No. 107/2021/ND-CP on amending and supplementing some clauses of Decree No. 61/2018/ND-CP on implementing OSS and inter-agency OSS mechanisms for handling administrative procedures. Decree 107 provides for digitizing paper documents, integrating IT systems, storing digitised documents for reuse in administrative services and providing services across administrative boundaries. Together with Decree 45/2020/ND-CP on handling administrative procedures in electronic environment, these documents are expected to speed up reforms in service delivery and reduce regulatory cost for enterprises in Vietnam. On 6 January 2022, the Prime Minister issued decision No. 06/QD-TTg on applying citizen database for digital transformation in which online administrative service is a focus. Accordingly, digital ID will be used to reduce information requirements in providing administrative services online and offline.

Viet Nam has also further continued with efforts to implement its National Single Window. As of February 2019, there have been 13 governmental agencies, which have implemented 173 administrative procedures through the Viet Nam National Single Window (ASEAN Single Window, n.d.^[5]). In 2019, USAID assisted Viet Nam in reviewing the National Single Window System, including finalising the survey method to measure business satisfaction when using the NSW (USAID, 2019^[16]) Survey findings and recommendations aimed to assist Vietnam's ministries and agencies to identify opportunities for reform, modernisation, and simplification of their administrative procedures, thereby reducing time and cost for importers and exporters (USAID, 2019^[16]).

Despite COVID-19, Vietnam has continued to pursue its previously planned third phase of regulatory reforms and administrative burden reduction. Implementation of the third phase includes use of digital tools. The new National Public Service Portal integrates over 1 000 public services online and has already saved an estimated USD 300 million (OECD, 2021^[17]). The launch of the one-stop unit is in line with the promulgation of Resolution 61/2018/ND-CP, which was revised by Decree 107/2021/ND-CP in December 2021, would push to strengthen the application of IT and digitised documents to provide better and more accessible public services. The resolution and its follow-up amendment aimed to create an open and coherent mechanism in dealing with administrative procedures based on the principle of taking businesses and people as the centre.

The Government of Vietnam has also signalled that they are adapting more and more to online public administrative services (such as tax, business registration, licensing, etc.) through the NPSP and ministerial and provincial public services portals and have used online platforms for consultations, conferences, and workshops to collect data and ideas for regulatory reforms and upcoming proposals. That being said, continued progress for digitalisation and e-governance and Vietnam will require that Government agencies set achievable target, move forward with strong leadership at all government levels, and are well equipped with skills and knowledge to re-engineer business process and make use of more advanced IT systems and tools.

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Notes

¹ E.g. laws, ordinances, resolutions of the National Assembly, decrees of the government, decisions of the Prime Minister, ministry circulars and also resolutions by the People’s Council at the provincial level.

² In addition to USAID, Viet Nam has also co-operated with other international partners to support their regulatory reform efforts. This non-exhaustive list includes: the United Nations Development Programme, the German Technical Co-operation Agency (GTZ), and the United States’ Agency for International Development with the Viet Nam Competitiveness Initiative i.e. USAID/VNCI (Vo Tri and Van Nguyen, 2016^[18]).

³ National Assembly (for laws) and MOJ and relevant ministries (for lower-level legal documents).

⁴ Article 6, para. 2 requires that agencies responsible for drafting legal documents have the responsibility to create favourable conditions for agencies, organisations, and individuals to provide opinions on the law-making proposals, draft legal documents and hold consultation meetings with parties directly impacted by the draft legal documents.

⁵ Article 34 introduced a general obligation to conduct public consultations during the law-making process.

⁶ Article 35 requires that agencies, organisations and National Assembly deputies are responsible for studying and drafting a draft impact assessment report; collect opinions and critique the draft report; receive and revise the draft report (Vietnam National Assembly, 2015^[11]).

⁷ Viet Nam Private Sector Forum organised by the Viet Nam Young Entrepreneurs’ Association (VYEA) and Mekong Business Initiative (OECD, 2018^[6]).

⁸ Article 170, Law on Laws stipulates that “State agencies shall, within the ambit of their tasks and powers, review and systematise legal documents; if detecting illegal, contradictory, overlapping, expired or no longer suitable regulations for socio-economic development, they shall promptly propose to competent state agencies by themselves or by request. suspend the implementation, annul, amend, supplement, promulgate new documents or replace legal documents” and that “The document review must be carried out regularly and, as soon as there are grounds to review the documents. The systematisation of documents must be carried out periodically, and promptly announce the systematisation of valid legal documents” (Vietnam National Assembly, 2015^[11]).

Supporting Regulatory Reforms in Southeast Asia

Regulatory reforms have long been a focus for Southeast Asian nations, often as a way to improve the business climate and policy frameworks for trade and investment. The recent COVID-19 pandemic has spurred countries around the world to review and update their regulatory policies to respond to the current crisis and prepare for the next one. This publication presents a snapshot of the current state of regulatory reform across the region, with country profiles from all 10 Member States of the Association of Southeast Asian Nations (ASEAN) highlighting practices in three priority areas: whole-of-government initiatives, good regulatory practices, and use of digital technologies. It also offers an analysis of common themes identified across the profiles, including trends in regulatory reform, common challenges faced by countries, and future priorities in the region. It was developed in collaboration with the members of the ASEAN-OECD Good Regulatory Practices Network, and key regional partners including the ASEAN Secretariat and the Economic Research Institute for ASEAN and East Asia (ERIA).

