



ASEAN-AUSTRALIA DEVELOPMENT COOPERATION PROGRAM (AADCP) PHASE II

TERMS OF REFERENCE FOR

Development of ASEAN Work Plan to Facilitate the Implementation of ASEAN Agreement on Electronic Commerce

The ASEAN Secretariat and the Australian Government, through AADCP II, invite applications from consultants for the above-referenced project.

I. Background

The Study on Advancing towards ASEAN Digital Integration by Bain and Company, Inc. in 2018, suggested that ASEAN could boost its combined GDP up to US\$1 trillion by 2025 by harnessing the digital economy for digital integration to power and accelerate intra-regional trade and growth. As the key component of the digital economy, e-commerce plays a primary role to facilitate economic activities, reduce transaction cost, enhance logistics, distribution and retail services and assist businesses, especially micro-small-and-medium-sized enterprises (MSMEs) to reach out to new markets and customers.

The recent coronavirus (COVID-19) outbreak has accelerated the growth of all forms of e-commerce in the region. Effectively managed, this growth may represent an opportunity for ASEAN to mitigate the economic downturn resulting from the pandemic. With the increasing number of ASEAN consumers choosing to shop online comes the demand for governments to put in place better policies and infrastructure for e-commerce not only to boost trade and increase consumer's confidence but also to ensure participation of those most impacted by COVID-19. This would also mean strengthening cooperation with the private sector and promoting international collaboration, noting the global impact of COVID-19. This would be in line with the current discussions at the World Trade Organisation (WTO) on promoting greater international cooperation to facilitate the cross-border movement of goods and services, narrow the digital divide, and level the playing field for MSMEs.

The ratification of the ASEAN Agreement on Electronic Commerce, which is within this year, would give ASEAN a fresh momentum to support e-commerce businesses in the region. The Agreement comprises basic principles to develop e-commerce as well as a number of legally-binding commitments and cooperation initiatives ranging from technical to policy perspectives such as dispute settlement, competition, and consumer protection, taking into account international best practices in the area. The effective implementation of the agreement would demonstrate ASEAN's collective efforts in establishing a common fundamental foundation to accelerate intra-regional economic integration towards a regional digital economy. By doing so, ASEAN can enable businesses to grow domestically, regionally, and globally.

Nevertheless, there remain obstacles and challenges that need to be properly discussed to allow ASEAN to take advantage the full potential of e-commerce activities in the region. Given the different levels of development and various degree of digital readiness, each AMS has opted for different models and national strategies to develop e-commerce activities in line with its respective priorities and within its respective resource constraints. While some AMSs have demonstrated their ability to

develop good infrastructure that embrace advanced digital technologies and favorable regulatory environments for e-commerce, other AMSs are in the process of identifying the most suitable models for long-term architectural blueprint for e-commerce development. These different levels of e-commerce development among AMSs may pose a challenge to their capacity to actively participate in and fully reap the benefits of e-commerce.

While the ASEAN Work Programme on Electronic Commerce 2017 – 2025 (AWPEC) and ASEAN Digital Integration Framework Action Plan 2019 – 2025 (DIFAP) have successfully consolidated a regional consensus on strategic directions to develop e-commerce and digital integration in ASEAN, these should take into account new dynamism in the global digital economy. These include best practices exchanged by AMSs as well as progress made in regional and multilateral negotiations in e-commerce and digital trade that AMSs participate in.

Considering these challenges and the need to complement the two above Work Programme and Action Plan, AMSs agreed to prepare a Work Plan on the Implementation of the ASEAN Agreement on Electronic Commerce 2021 – 2025 at the 16th ACCEC Meeting in January 2020. The Work Plan will focus on identifying priority areas, both technical and policy strengthening, for promoting implementation of the Agreement and ensuring development of e-commerce in the region. AMS agreement to develop this Work Plan demonstrates ASEAN's ambition to take concrete, bold and innovative measures/actions to promote the use of e-commerce in the region. This Work Plan to implement the ASEAN Agreement on E-commerce would be an important initiative to practically contribute to the endeavour for years to come. Once adopted, it is expected to help establish a common and harmonized approach for ASEAN to effectively implement the agreement, taking into account new dynamics, including the post pandemic new normal and fast changing digital technologies. Moreover, it aims to promote rules based in e-commerce in ASEAN

In developing the Work Plan, ACCEC will explore new initiatives, sharing lessons or experiences and incorporating new best practices. The focal areas could include the following non-exhaustive list:

- Electronic transactions facilitation
- Non-discriminatory domestic regulation
- Consumer protection
- Dispute resolution
- Transparency and cooperation
- Logistics to facilitate e-commerce
- Capacity building Programs for AMSs, with special consideration given to Least Developed Countries (LDCs) to support the implementation of the Agreement.
- Other initiatives to promote e-commerce in ASEAN

II. Needs and Objectives

The goal of this project is to facilitate cross-border e-commerce transactions in the ASEAN region, and contribute to creating an environment of trust and confidence in the use of e-commerce in the ASEAN region. It is expected that the Work Plan will enable ACCEC to guide discussions on how to advance the implementation of the ASEAN Agreement on E-Commerce over the next five years both at regional and national level.

III. Outputs

The main output of this project is **the Work Plan on the Implementation of the ASEAN Agreement on E-commerce in 2021 - 2025**.

In order to deliver the output, the project will produce the following deliverables:

- **Inception Report** conceptualises the overall approach, detailed framework, and preparation of work plan, management plan and budget;
- **Mapping Study** (as a baseline in developing the work plan) stocktakes regulatory frameworks relevant to e-commerce in each of AMS and identify best practices and/or guidelines both within ASEAN and beyond;
- **The Work Plan on the Implementation of the ASEAN Agreement on E-commerce in 2021 – 2025**; and
- **Project Completion Report** provides details of all completed project activities, captures lessons learned from the project and provides recommendations for follow-on projects relevant to the implementation of the ASEAN Agreement on E-commerce 2021-2025.

IV. Tasks/Activities

The following activities will need to be undertaken to achieve the outputs presented above. The bidder should provide details on its approach to each activity in its bid and is free to recommend additional activities.

DELIVERABLES	ACTIVITIES/TASKS	PERSON WORKING DAYS	DURATION IN CALENDAR WEEKS	COMPLETION DATE	RESPONSIBLE ENTITY
Inception report	Conduct initial literature review and research activities	5	2 weeks	2 weeks after signing of the Special Services Agreement (SSA)	Consultant
	Develop overall approach, detailed conceptual framework, work plan, and management plan				Consultant
	Circulate the draft inception report to ACCEC and ASEC for inputs				Consultant
	Prepare and finalise Inception report				Consultant, ACCEC, ASEC
Approval of Project Inception Report by the ASEAN Secretariat (2 weeks)					
Mapping Study (as a baseline in developing the work plan)	Stock take regulatory frameworks relevant to e-Commerce in each of AMS and identify best practices and/or guidelines both within ASEAN and beyond	100	6 weeks	Week 14	Consultant
	Consultation with AMSs to verify the result of the stock take study		2 weeks		Consultant, ACCEC, ASEC
Approval of Mapping Study by the ASEAN Secretariat (2 weeks)					
Workplan on the Implementation of the ASEAN Agreement on E-commerce in 2021 - 2025	Develop initial draft Workplan on the Implementation of Agreement that includes initiatives to be implemented, non-binding policy and regulatory guidelines, and capacity building programs	60	2 weeks	Week 19	Consultant
	Conduct 1st regional workshop with the participation of relevant sectoral bodies, stakeholders including the private sector, international organisations and academia	20	4 weeks	Week 21	Consultant, ACCEC, ASEC

DELIVERABLES	ACTIVITIES/TASKS	PERSON WORKING DAYS	DURATION IN CALENDAR WEEKS	COMPLETION DATE	RESPONSIBLE ENTITY
Workplan on the Implementation of the ASEAN Agreement on E-commerce in 2021 – 2025 (Cont'd)	Update Work Plan based on findings, feedback and recommendations obtained from the regional workshop	13	2 weeks	Week 24	Consultant, ACCEC, ASEC
	Conduct 2nd regional workshop with the participation of relevant sectoral bodies of ASEAN	20	3 weeks	Week 27	Consultant, ACCEC, ASEC
	Finalizing the work plan to submit to ACCEC for endorsement	5	3 weeks	Week 30	Consultant, ACCEC, ASEC
<i>Approval of Workplan on the Implementation of the ASEAN Agreement on E-commerce in 2021 – 2025 by the ASEAN Secretariat (3 weeks)</i>					
Project completion report	Preparation and finalisation of the Project Completion Report	2	2 weeks	Week 48	Consultant
<i>Approval of Project Completion Report by the ASEAN Secretariat (2 weeks)</i>					
<p>** The number of person working weeks is intended to indicate the amount of relative effort required to deliver the corresponding outputs. The calculation is based on assumption of 5 person days per week. Actual time will be agreed in negotiation with the successful bidder.</p>					

V. Reporting

The consultant is expected to produce reports in accordance with Section III and IV above. The timing of delivery is indicative and can be adjusted when the consultant's work plan is developed, subject to mutual agreement.

All reports will be submitted based on AADCP II Guidelines for Contractors in draft format to ICT & Tourism Division of the ASEAN Secretariat (with a copy to AADCP II) and, following the ASEAN Secretariat's approval, in final form. All outputs and reports must be suitable for publication, although the decision on publication lies with the ASEAN.

The contractor will also provide regular (weekly, bi-monthly or as agreed with the ASEAN Secretariat) summation of activities undertaken and issues that have arisen. These will be submitted to ICT & Tourism Division and AADCP II via email.

Financial reports will be submitted at invoicing in line with a payment schedule to be specified in the Special Services Agreement (SSA).

VI. Project Management

The project will be funded by the ASEAN-Australia Development Cooperation Program II and managed by ICT & Tourism Division of the ASEAN Secretariat. The consultant should be responsible for organising and conducting the scheduled activities in collaboration with the host countries and the ASEAN Secretariat.

VII. Scope of Services

The consultancy will be undertaken over a **continuous effective period of 12 calendar months** with approximately **225 working days or 45 working weeks** of professional services. Work will commence immediately after contract signing.

VIII. Qualifications

In its proposal the bidder should demonstrate:

- In-depth knowledge and expertise on issues related to e-commerce, digital economy, MSMEs;
- Experience in developing high-level framework and work plan as well as detailed operational documents;
- Proven ability in developing high-level policy documents and recommendations
- Proven track record in data collection and analysis on regional and global survey/research;
- Proven experience in facilitating high-level strategic planning discussions/workshops amongst various stakeholders with varying levels of involvement representing different political interests;
- Sound knowledge of ASEAN, its structure, and processes;
- Understanding of gender and social inclusion mainstreaming into economic and socio-cultural development strategies and programmes;

- Experience working with the ASEAN Secretariat and AADCP II on projects with similar scope and characteristics will be considered added value;
- Proven skills in report writing and conversing in English; and
- A thorough understanding of ASEAN and AADCP II procedures will be considered added value.

IX. Bidding

Interested consulting firms are invited to submit a proposal in response to these Terms of Reference. This proposal should be in two separate parts: **Technical** and **Financial components**.

The Technical component should present the following information:

- A brief discussion indicating the bidder's understanding of the needs of the project;
- A brief analysis of key issues;
- A methodological discussion of how the bidder proposes to address those needs including assessment of key issues, analytical strategies that will underlie the project, specific techniques to be utilised, and practical discussion of possible limitations in carrying out the project;
- A detailed work plan that specifies activities to be undertaken, expected outputs and deliverables, resources to be utilised and timing;
- Staffing and management plan;
- A discussion on how measures to ensure the future sustainability of the outcomes of the project will be addressed;
- CVs of all proposed experts;
- Brief discussion of firm's past experience in undertaking similar work and brief summaries of all projects undertaken.

The Financial component should specify:

- 1) Professional fees of expert(s);
- 2) Management and/or operational fees (if any), which include all costs incurred by the person/entity/company for internal coordination, communication, travels and any other associated project management cost;
- 3) Applicable taxes such as VAT, GST, PPN. See Section IX point 3 for an additional note on tax liability.

Activity costs for experts and participants such as reimbursable expenses for airfare, other travel costs and daily subsistence allowance for workshops, meetings, and all other agreed activities do not need to be included in the Financial Component. These items will be discussed with the preferred contractor during the finalisation of the scope of services. Costs will be based on prevailing ASEAN Secretariat rates.

X. Submission of Application

Applicants should send their application with a cover letter, materials specified in Section IX above and other supporting documents with “***Development of ASEAN Work Plan to Facilitate the Implementation of ASEAN Agreement on Electronic Commerce***” as the subject via email to tender@aadcp2.org, no later than **30 November 2020 at 05:00pm Jakarta time**.

For Frequently Asked Questions (FAQ), please visit <http://aadcp2.org/aadcp-ii-tender-frequently-asked-questions/>

Any queries on the TOR should be sent to contact@aadcp2.org with the subject line: “***Query Development of ASEAN Work Plan to Facilitate the Implementation of ASEAN Agreement on Electronic Commerce***”

XI. Additional Notes on Terms and Conditions of the Project

1. Any future studies/reports/analysis in any form of intellectual property rights (including but not limited to patents, copyright and any related rights) submitted by the Contractor to ASEAN arising out of or in connection to the services performed by the Consultant to ASEAN shall belong to the Secretariat under the name of **ASEAN** only;
2. Successful bidder shall agree to be bound and sign the Special Services Agreement (SSA) with all requirements under the terms and conditions provided therein, including but not limited to the AADCP II Guidelines for the Contractors attached to the SSA.
3. As an intergovernmental organisation, ASEAN shall not be responsible for any tax(es), levy, tax claim or any tax liability which may be imposed by any law in relation to any amount payable by the ASEAN Secretariat.