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DIGITAL TRADE ACTIVITY REPORT

Contextual Analysis of Digital Trade in Vietnam

February 2023

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ABSTRACT

This contextual analysis report aims to provide information about the context, challenges, and potential opportunities of digital trade in Vietnam to help with the design of a new activity to support Vietnam in promoting digital trade. The purpose of the Vietnam Digital Trade Activity (VDT) is to make a transition from the trade facilitation policy reform, to a more practical implementation phase that boosts trade transactions and accelerates investment flows in Vietnam. The activity will address the “connected economy” strategy under the Indo-Pacific Economic Framework for Prosperity, where the United States Government (USG) and regional partners, including Vietnam, believe that much of the success in the coming decades will depend on how well governments harness innovation in promoting two-way trade, in order to ensure enterprises of both sides can benefit from the rapidly growing e-commerce sector. The underlying theory of change (TOC) is that IF Vietnam’s digital trade policy and legal frameworks are strengthened, AND IF the private sector engagement in digital trade promotion is facilitated, THEN Vietnam’s digital trade ecosystem will be enhanced, benefiting enterprises of both countries through the rapidly growing e-commerce sector.

Research methods consist of both archival analysis and qualitative data analysis. Over the course of data collection, 48 key informant interviews (KIIs) and two focus group discussions (FGDs) were carried out. The findings indicate that digital trade is a long-term and strategic growth strategy of Vietnam. However, platforms and regulations on rules-based and transparency discipline for digital trade facilitation are not grounded. The disjointed and uncoordinated regulations are likely to hinder the growth engine and erode traders and operators’ motivation to move digital trade forward. The analysis confirms that technical assistance and support is highly demanded by Vietnam Agencies and the Ministry of Industry and Trade (MoIT) is a potentially prevalent partner for USAID given their mandate and connection to the private sector in the field. The rationale to partner with MoIT is to technically support Vietnam to surpass chauvinism and temptation toward outdated regulations and supervision regarding digital trade. It is recommended to consider providing both MoIT and the business community with international best practices and public-private participation both in terms of legislation and fostering business matchmaking using digital platforms.

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USAID Learns

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CONTENTS

Abstract	ii
List of Tables and Figures	v
Acronyms	vi
Executive Summary	vii
Background and Purpose	vii
Methods	vii
Findings and Conclusions	vii
Recommendations	viii
Introduction	1
Context	1
Purpose and Audience	2
Research Questions	2
Methodology	3
Overview	3
Research Design	3
Limitations	4
Findings and Conclusions	6
Question 1: Is digital trade a long-term and strategic growth strategy of Vietnam?	6
Question 2: Who are the key enablers of digital trade development in Vietnam?	8
Question 3: Identification of legal/regulatory barriers to digital trade?	11
Question 4: Identification of technical constraints which impede digital trade growth and sustainability?	12
Question 5: How could public-private partnership shape the legal platform and remove barriers which benefit the sustainable development of digital trade in Vietnam and the region?	14
Utilization Plan	16
Annex I: Full Listing of References and Reports Utilized	18
Annex II: Full Listing of Organizations Interviewed	19

LIST OF TABLES AND FIGURES

Figure 1: Research Design Methodology.....	3
Figure 2: Key Questions.....	6
Figure 3: Conventional Approach for Digital Trade Development.....	9
Figure 4: Digital Trade Observations in Vietnam.....	15
Table 1: List of Consulted Organizations	4

ACRONYMS

CDCS	Country Development and Cooperation Strategy
CLA	Collaborating, Learning, and Adapting
COR	Contracting Officer's Representative
COVID-19	Coronavirus Disease 2019
DO	Development Objective
DT	Digital Trade
FGD	Focus Group Discussion
KII	Key Informant Interview
FY	Fiscal Year
MEL	Monitoring, Evaluation, and Learning
RT	Research Team
SI	Social Impact, Inc.
SOW	Statement of Work
USAID	United States Agency for International Development
USD	United States Dollar
USG	United States Government

EXECUTIVE SUMMARY

BACKGROUND AND PURPOSE

Vietnam is a growing digital economy presence in Southeast Asia, and the United States and Vietnam continue to strengthen strategic trade and investment ties. COVID-19 has accelerated the necessity of economic restructuring and digital transformation in Vietnam. Despite the exponential growth of digital-based trade, Vietnam lags behind its peer countries in the region on digital trade regulations and technical capacity. The transformation loomingly slackens as enterprises have tended to return to traditional business models to save costs in the post-pandemic period and stagnation time.

USAID Vietnam aims to design a new activity to support Vietnam in promoting digital trade to help businesses of both countries and foster private sector engagement, implement business-friendly regulations, improve commercial laws and trade regimes to reduce barriers to trade, and set a transparent system for trade. This new activity will support the new Indo-Pacific Strategy's goal to drive regional prosperity through promoting free, fair, and open trade and investment. It will also support the Mission objective to improve Vietnam's economic competitiveness by enhancing the innovation ecosystem, especially by setting a transparent system of trade using digital transition tools. The new activity is expected to address the "connected-economy" strategy under the Indo-Pacific Economic Framework for Prosperity, where the United States Government (USG) and regional partners, including Vietnam, believe that much of the success in the coming decades will depend on how well governments harness innovation in promoting two-way trade, in order to ensure enterprises of both sides can benefit from the rapidly growing e-commerce sector.

The activity theory of change (ToC) is:

IF Vietnam's digital trade policy and legal frameworks are strengthened, AND IF the private sector engagement in digital trade promotion is facilitated, THEN Vietnam's digital trade ecosystem will be enhanced, benefiting enterprises of both countries through the rapidly growing e-commerce sector.

This Activity will align with and support USAID/Vietnam's 2020-2025 Country Development Cooperation Strategy (CDCS). The CDCS seeks to amplify USAID's diplomatic and development partnership, and to support an open, prosperous, and secure Vietnam that is effective and inclusive in tackling its own development challenges. This Activity directly supports the achievement of CDCS Development Objective (DO) I- Increased Economic Competitiveness. It will respond to three Intermediate Results (IR)s:

IR1: Business enabling environment increased

IR3: Innovation ecosystem enhanced

IR4: Market linkages strengthened

METHODS

The research questions were answered through two methodological approaches: 1) Desk Review; and 2) Limited Key Informant Interviews (KII)s.

FINDINGS AND CONCLUSIONS

Building on the context and key challenges identified above, the Vietnam Digital Trade Activity (VDT) will provide necessary technical support through embedded international and local technical advisors, who will provide expertise to strengthen the digital trade ecosystem in Vietnam, with specific emphasis on strengthening the legal and regulatory framework for digital trade, enhancing the capacity of regulatory institutions to sustain economic growth, and strengthening the private sector's ability to participate in digital trade ecosystem. As state regulators are both enablers who

push for free trade and free digital trade and the guardian agencies where control and supervision is the centriole of their mandate, the Activity is advised to work with MoIT, one of the enablers taking all factors and contextual analysis into account.

RECOMMENDATIONS

1. Technical assistance and support is highly demanded.
2. The Vietnam Digital Trade Activity should cooperate with MoIT (the enabler).
3. The Vietnam Digital Activity should provide technical support focussing on the short list of regulatory frameworks
4. The Activity should focus on connecting the private sector with existing platforms led by MoIT and other Ministries as these platforms are backed with national regulations and policies.
5. The Activity should prevent the advocacy groups' platforms and initiatives from exclusion.

INTRODUCTION

CONTEXT

Twenty-five years after the establishment of bilateral relations in 1995, the United States and Vietnam have become strategic business partners, especially in the Indo-Pacific region. U.S.-Vietnam bilateral trade has grown from \$451 million in 1995 to over \$90 billion in 2020. U.S. goods exports to Vietnam were worth over \$10 billion in 2020, and U.S. goods imports in 2020 were worth \$79.6 billion. U.S. investment in Vietnam was \$2.6 billion in 2019. U.S.-Vietnam trade hit a record high in 2021 when bilateral trade between Vietnam and the U.S. set a new milestone, hitting 111.5 billion USD in 2021,¹ up nearly 21 billion USD from the previous year, according to the General Department of Customs. Vietnam is at the forefront of Asian digital economy growth, posting a growth of 450% since 2015, reaching a digital economic value of \$16 billion in 2021, and an even higher value in 2022.

Digital Trade plays a crucial role to that end. The COVID-19 pandemic majorly impacted the economy such that Vietnam had to develop its own economic recovery strategy. The crisis has further accelerated economic restructuring and digital transformation as digital benefits underscored the need for governments to enable digital trade as a means not only to mitigate the economic slowdown and speed up recovery, but also to maintain a sustainable economic growth engine in the coming decades. Vietnam and international enterprises benefit from new business opportunities from regional trade and supply chain reallocation and movement.

The Government of Vietnam (GVN) set ambitious goals and launched programs on digital trade inspired by the surge in digital economic activity in the post-pandemic period. The gap between the government's aspirational regulatory objectives in this new economic space and its management capacity to execute advanced regulation for digital trade is well-recognized by both the relevant regulatory bodies and the private sector. Vietnam lags behind its peer countries in the region on digital trade regulations and technical capacity to ensure the continued growth of the sector. For instance, there are no specific laws on digital trade in Vietnam so far, despite multiple decisions, national strategies, and action plans from the Government and line ministries.² Not only is there an absence of guiding documents for the actors and implementers, but the policymakers lack the capacity to have a holistic view of the fast growing digital trade space. Although businesses see the importance of digitalization after the COVID-19 pandemic, they are hesitant to invest significant capital in digitalization, and have tended to return to traditional business models to save cost in the post-pandemic period. The private sector's voices are weak in the policy advocacy discussions, with only some big IT firms leading the discussion agenda with the GVN.

¹ As provided by Vietnam General Department of Customs at Business Column at <https://en.vietnamplus.vn/vietnamus-trade-hits-record-high-in-2021/221077.vnp>

² Decision No. 749/QĐ-TTg of June 03, 2020 of Prime Minister on approving the National Digital Transformation Program 2025-2030

-Decision No.1968/DQ-TTg dated Nov 22, 2021 "Promoting digitalization and IT application in trade promoting, 2021-2030"

-Decision No. 645/QĐ-TTg on National E-commerce Development Master Plan 2021-2025, including comprehensive solutions and specific resources as the basis for the implementation of e-commerce activities

-Politburo's Resolution 52 (2019) highlights that digital economy is national development centric

-National Strategy (2022) for development of digital economy and society to 2030

PURPOSE AND AUDIENCE

This contextual analysis aims to ensure that USAID support is well-targeted, informed by experience, and likely to reinforce rather than duplicate efforts. This report identifies the context, challenges, and potential opportunities of digital trade in Vietnam. This contextual analysis took place from October 2022 to December 2022. The key audience for the report is USAID/Vietnam, the Implementing Partner (IP) and MoIT for evidence-based decision making on key leverage points to prioritize for the upcoming activity in 2023 and 2024 funded by USAID.

RESEARCH QUESTIONS

Question 1: Is Digital Trade a long-term and strategic growth strategy of Vietnam?

Question 2: Who are the key enablers of Digital Trade development in Vietnam?

Question 3: What are the legal/regulatory barriers to Digital Trade?

Question 4: What technical constraints impede Digital Trade growth and sustainability?

Question 5: How can public-private partnerships shape the legal platform and remove barriers which benefit the sustainable development of Digital Trade in Vietnam and the region?

METHODOLOGY

OVERVIEW

The research employed a mixed-methods approach to obtain reliable data pertinent to each research question: document review, KIIs, FGDs, and a consultation workshop.

RESEARCH DESIGN

Figure 1: Research Design Methodology



DOCUMENT REVIEW

The Research Team reviewed core program documents relating to digital trade policy and frameworks, reports, studies, and surveys (see Annex 1). The findings were compiled in a matrix to see whether they can be substantiated by the subsequent empirical research. The documents being reviewed included:

- ❑ GVN policies, directives, decrees, public statements, etc., on digital trade.
- ❑ Reports developed by donors, global funds, consulting firms, and local organizations related to the development of digital trade in Vietnam in the last five years.
- ❑ Other published research and assessments on digital trade in Vietnam and the region.
- ❑ Programming documents of other donors and non-state actors, particularly SECO, JICA, GIZ, WTO, UNDP.
- ❑ Programming of USAID to explore the potential for addressing digital trade through their work.

KEY INFORMANT INTERVIEWS

Limited KIIs

The research team conducted the interviews with three main groups of actors in digital trade as noted below:

- ❑ GVN representatives: MOIT departments and agencies; other ministries including MiC, MoF, and MPI;
- ❑ Private sector, including Trade Associations and Enterprises working in digital trade;
- ❑ Other stakeholders and think tanks.

The list of organizations consulted are as follows:

Table 1: List of Consulted Organizations

Government agencies – policy makers	Private sector	Other stakeholders
Ministry of Industry and Trade (MOIT) +Planning Department +Department of Legal Affairs +Vietnam E-commerce and Digital Economy Agency +Science and Technology Department +Trade Remedies Authority of Vietnam +Vietnam Competition and Consumer Authority +Agency of Foreign Trade +Vietnam Trade Promotion Agency +Vice Minister Office	Associations - VCCI - VECOM - VINASA - USABC Industries Business Private Enterprises (FPT, Rikkeisoft, USABC members) Committee for Private Sector Development (Committee IV)	Ministry of Information and Communication (MIC) +International Cooperation Department +Department of Digital Economy and Society Ministry of Planning and Investment (MPI) +Central Institute for Economic Management Ministry of Finance (MoF) +General Department of Customs of Vietnam +Department of Supervision and Management

FOCUS GROUP DISCUSSIONS

The research team conducted 2 Focus Group Discussions with stakeholders including:

- (1) AWS, Google, Nextrade on Oct. 24 at USAID Learns Office
- (2) Ministry of Industry and Trade (MoIT) departments and agencies on Nov. 8 at the MoIT Office

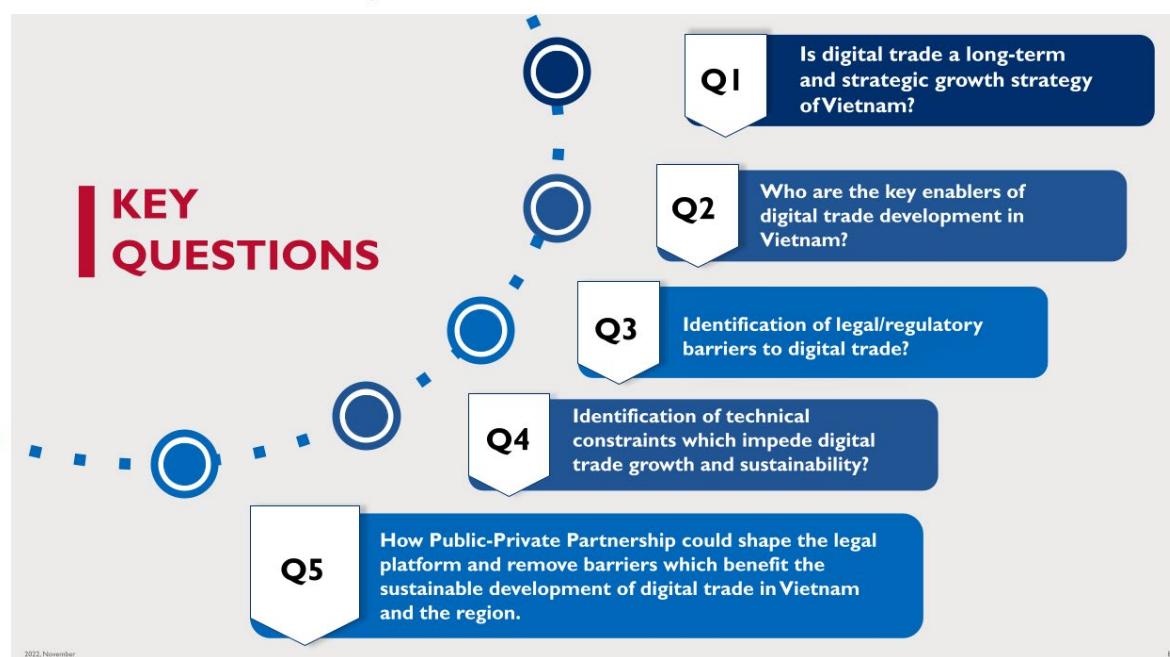
LIMITATIONS

One of the crucial restraints is the lack of previous studies on this topic in Vietnam. Though there are a number of legal documents and news on booming digital trade in Vietnam, the research team could not find rigorous research on the topic which prevents us from laying the foundation for understanding the locomotives behind the surge of national digital trade. Another limitation is argumentative views from the private sector and public agencies on digital trade's effectiveness. The private sector conveys a skeptical perception toward the ongoing process led by the Ministries that

somehow reflects the poor participation and satisfaction from this sector. The private sector's dissent stems from their limited access to Government-led digital trade programs as both beneficiaries and implementers. As a matter of fact, only a few private names with modest contributions were identified. Finally, the research team did not conduct discussions with less important partners due to year-end time constraints and unprecedented staff turnover in the MoIT throughout data collection. The research team hence, recommends the IP to engage in detailed discussions with line departments under MoIT to gauge the impactful activities and interventions that are highlighted in this report.

FINDINGS AND CONCLUSIONS

Figure 2: Key Questions



Question 1: Is digital trade a long-term and strategic growth strategy of Vietnam?

The literature on GVN policies on digital trade is rich.

Vietnam Politburo rules out resolutions putting the digital economy at national development centric. The National Assembly of Vietnam states that digital economy and digital development are the spearheads of economic development and recovery leading up to 2025. The GVN, Prime Minister, and most of the powerful line Ministries such as the Ministry of Public Securities, Ministry of Home Affairs, and Ministry of Finance have drafted and promulgated a series of National Strategy, National Master Plan, Action Plan, Decrees, and Circulars on digital economic development. As a result, a series of legal documents have been disseminated in the last three years such as: National Strategy for the Development of Digital Economy and Digital Society to 2025, Orientation to 2030; Decree 85 dated September 25th, 2021 on e-commerce. On the other hand, the law on electronic transactions has been outdated since 2005 and is to be replaced in near future by the revised law.

Institutionally speaking, the National Committee on E-Government has been transformed to the National Committee of Digital Transformation, with permanent members from 15 key Ministries. The Prime Minister is the head of this committee, and they meet quarterly or even every two months, which is far more frequent than any GVN national committees. This demonstrates that digital economy and digital transformation are prominent items of GVN policies agenda.

GVN aims high and has high expectations for digital economic contribution to national economic development.

Indicator	2025	2030
The digital economy as % of GDP	20%	30%
Proportion of firms applying e-contract	80%	100%
SMEs using digital platform	50%	70%
Digital economy workers	2%	3%
People of working age who are trained in basic digital skills	70%	80%

Sources: Data is compiled from GVN Strategy on digital trade

Though the GVN places high expectations on domestic development on digital trade and digital platforms, the local success stories have been moderate. Fierce competition in the e-commerce sector has led to the inception and demise of more than 10 brands of e-commerce marketplace such as “Vatgia”, “Deca”, “Muachung”, “FoodPanda”, “Zaloza”, and “Adayroi” just within a 10-year timeline. The remaining and dominating e-commerce platforms such as Lazada, Tiki, and Shopee are financed by international MNCs and fintech giants such as Alibaba, Tencents, JD com, Econtext Asia. This phenomenon triggers nationalism and protectionism in the lawmaking roadmap for digital trade development. This policy shift toward nationalism may impose an unpredicted impact on digital trade growth of Vietnam given the unreasonable restrictions and provisions. Agencies such as MoIT, MoF, and the private sector who advocate for free trade and modern regulations on digital trade likely play an auxiliary role rather than being drivers of the digital trade growth roadmap.

CONCLUSIONS

Digital trade is a must-do and is to be universally implemented in Vietnam. All Ministries and Provinces have put digital trade at the center of administrative reforms and action plans from 2023 onward. The research team deliberates that technical assistance to digital trade is the epicenter of GVN’s stakeholders and in the local business community’s interest. One may raise the key question whether digital transformation and digital trade are the same. The answer is that digital trade is an integral core part of digital transformation as Vietnam is pursuing an export-led growth strategy and the development pathway of Vietnam is attached to international trade expansion. Digital transformation has replaced IR4 as the key GVN framework for economic transformation.

The research team also finds grounded evidence that MoIT is a responsible partner given their mandate and what they have achieved in digital trade promotion. Their capacity in the field is challenged by the rapid development of cross-border trade with digital platform-based transactions. Technical assistance to that end would not only fill the capacity gap, but also enhance their advocacy

to coordinate with other guardians. Any technical assistance activities put under the Master Plan on digital transformation would be well received and appreciated by MoIT and their line departments given the transformation pressure.

RECOMMENDATIONS

GVN's export-led growth strategy and digital trade is a solution to the growth constraints of labor intensity and lack of capital for faster growth rate. However, platforms and regulations on rules-based and transparency discipline for digital trade facilitation are not grounded. MoIT and line departments piloted different platforms and transformations which had limited outcomes due to capacity constraints and access to best international practices. The research team recommends USAID to implement a technical assistance activity regarding digital trade promotion and development with MoIT to that end.

Technical assistance and support is also highly demanded from the private sector who have been working with MoIT and promotion agencies in recent years as some platforms made available by international firms could not respond to the business matchmaking demand of Vietnam SMEs.

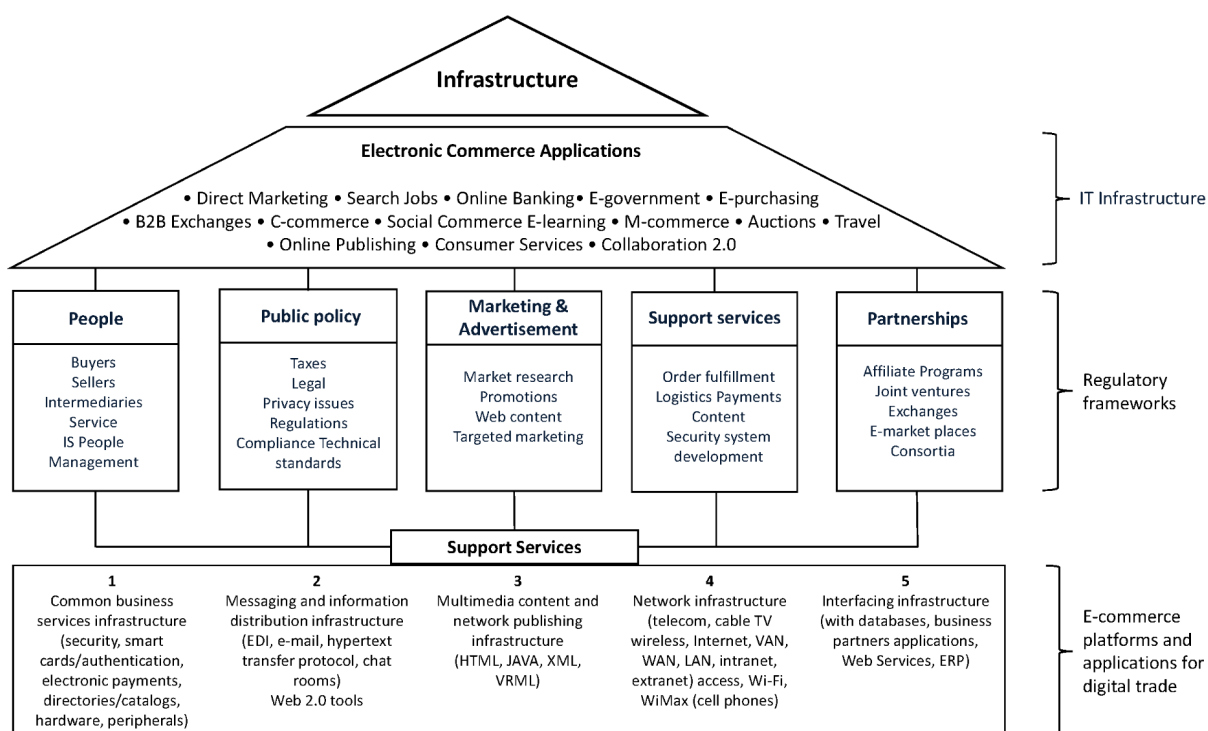
Question 2: Who are the key enablers of digital trade development in Vietnam?

In analyzing laws and assigning mandate empowerment by the Government, the research team found that four Ministerial assignments engaging in Digital Trade are: MoIT and MoF

1. Ministry of Industry and Trade (MoIT): prime responsibility for performing the tasks at Point d, Clause 1, Section IV; Point c, Clause 2, Section IV; points in Clause 5, Section V;
2. Ministry of Finance (MoF): coordinate to support the facilitation of taxation, customs, and finance investment for e-commerce transactions;
3. Ministry of Information and Communications (MIC): coordinate to support the development of national digital platforms for e-commerce platforms;
4. Ministry of Public Security (MPS): solutions and tasks as assigned in the Appendix I and other contents of the Strategy in accordance with assigned functions and tasks;
5. Other Ministries shall implement their own digital transformation action plans inline with the Government Master Plan spectrum;
6. People committees of all 63 provinces/cities shall coordinate and implement the provincial digital transformation plan.

The research team found that MoIT and MIC are the two notable Ministries in terms of setting up regulatory framework and action plans for digital economy, e-commerce, and digital trade related transactions. The MoIT issued most of the e-commerce regulatory frameworks and action plans from 2005 to 2022. They also have developed e-commerce platforms and digital public services boosting domestic and international e-commerce: ECVN (iDEA), DECOBIZ (Vietrade), Ecosys for e-C/O (iDEA), and logistics modernization.

Figure 3: Conventional Approach for Digital Trade Development



Conventional approach for digital trade development adapted from UNCTAD, 2006.

MoF contributed to the development of e-commerce with e-customs systems, e-payment processing systems, National Single Window, and Trade Facilitation Services. The majority of KII respondents recognize those customs and transaction related reforms that laid the foundation for boosting trade in the last 20 years. However, this modernization is under expectation for modern Digital Trade given the exponential development of digital transactions both in services and goods.

On the other side, the guardians (MIC and MPS) focus on setting up the barriers to protect national cyber sovereignty including regulation on data localization, and other technical restrictions on online advertising in Vietnam. MIC is now the leading ministry of digital transformation in Vietnam, but lacks coordination with other organizations.

MPS and MIC have their own territory and legacy which prevent other state agencies and the private sector from interfering with their own business. Lawmaking roadmaps of these two agencies are uncertain and unpredictable, which poses a high risk to any foreign aid or technical assistance in this field. The departments under MIC who are in charge of drafting revised laws for electronic transactions show signs of building up fence lines under the hat of information security, which concerns both international and local players in digital trade.

The KIIs with MoIT and MIC confirm that each and every department under those Ministries are obliged to issue and to implement effectively their sub-Ministries digital transformation action plans, which not only change their internal working routines and norms, but also trigger new waves of public-private interaction in each line industry. The interviewees highly value technical support from international donors and from USAID in particular in terms of capacity building and aligning Vietnam’s challenges with international best practices in the field of digital transformation. Furthermore, export-import transactions on electronic platforms have recently surged in Vietnam and put pressure on institutional changes from regulators.

CONCLUSIONS

The role of MoIT and the other three Ministries is vital to digital trade development in Vietnam, but in different ways.

On the one hand, MoIT and MoF play an enabling role as expected in international trade integration movements.

MoIT is responsible for trade promotion and engaging the private sector in export-led strategies to ensure economic and trade growth. MoIT has implemented a series of education and trainings to the private sector with an aim of connecting them to the higher rungs of the global supply chain. The effort has resulted in a demand for connecting tech firms and the private sector to boost trade at an even higher pace on the basis of digital platforms.

There are a number of platforms which are available in the market initiated by both Government agencies and the private sector. Some line departments under MoIT maintain disjointed platforms and the access of the private sector remains a key challenge.

MoF takes the lead in customs and other border control reforms. Digital transformation of revenue agencies are implemented toward cost cutting and simplification of procedure and transactions, meaning that reform mostly occurs internally and requires top-down supervision.

RECOMMENDATIONS

From the above findings and conclusions, the research team categorized two groups of enablers and guardians as hereafter, including:

- Enablers: Ministry of Industry and Trade (MoIT), Ministry of Finance (MoF)
- Guardians: Ministry of Information and Communications (MIC), Ministry of Public Security (MPS)

Vietnam Digital Trade Activity should cooperate with MoIT (the enabler) for of two reasons:

- MoIT's mandate is to support trade promotion
- MoIT has a positive history of working with international organizations regarding trade promotion, free trade agreement implementation, and piloting initiatives on digital trade

The majority of KII respondents corroborated this, noting the important role of MoIT in facilitating digital trade.

RISK ANALYSIS INVOLVING MANAGING A NEW PARTNER

The management of complex partnerships with MoIT and the departments has been raised in some key technical discussions. Inter-departmental competition for project ownership and their varied visions and human resources availability for digital trade development is rooted in delayed delivery of some outputs for Swiss technical programs. The likelihood of this risk can be mitigated with well-designed activities in tandem with top-down supervision. In the course of designing these activities, the research team perceived that the two-year activity lifespan likely results in pressure to pursue comprehensive mutual understanding and confidence for intermediate responses and results. Expectation management and constructive communication is recommended to overcome this shortcoming.

The enabling role of MoIT is constrained by the coming Electronic Transaction Law, which is to be disseminated by the Vietnam National Assembly and would prevail over other specific laws and

regulations set forth by MoIT regarding digital transactions. The host Ministry, namely MiC, maintains poor coordination with MoIT in the course of drafting and development, given the MiC's staking of ownership and management power over electronic transactions.

Question 3: Identification of legal/regulatory barriers to digital trade?

International and domestic literature reaches a consensus in identifying legal/regulatory barriers to digital trade in Vietnam as noted below:

- A number of laws and regulations that have been promulgated focused on e-commerce, and most of those documents are outdated with regard to digital trade expansions.
- Laws and regulations that fall under different ministries' jurisdictions are not coordinated toward fostering digital trade.
- Governing regulations on digital trade are absent in many aspects.
- A number of recent regulations have been implemented without proper consultation with the private sector and field experts.

USTR's perception on barriers to digital trade in the Vietnamese context:

- Data localization barriers: Includes unnecessary requirements to store data within a particular jurisdiction or locate computing facilities locally, as well as outright bans on cross-border data flows.
- Restrictions on online advertising in Vietnam: Vietnam requires Vietnamese advertisers to contract with a Vietnam-based advertising services provider as a condition to placing advertisements on foreign websites targeting Vietnam, preventing cross-border suppliers from interacting directly with customers. Foreign websites are also required to notify the GVN of the name and main business lines of the Vietnamese agent that has facilitated the advertising service in Vietnam at least 15 days before publishing an advertisement.

GVN's perception on barriers to digital trade in Vietnam's context:

- National security issues: Asking international/foreign providers/vendors to work with GVN in controlling the content/information/freedom of information, applying requirements to store data within and to locate computing facilities in Vietnam.
- Consumer rights protection: Vietnamese agencies require locally-based entities to be responsible for consumers' rights protections.
- Revenue sustainability and fight against trade fraud.

Groups of experts on digital trade led by CIEM shared their perception that digital trade faces multifaceted challenges in Vietnam given the immature legal system that could drive market development with uncertainties and remaining barriers. Regulatory barriers are seen as not supportive to digital trade and the domestic private sector is not competitive enough to run effective digital platforms given their financial and capacity constraints.

The fast growth of the digital economy and trade in Vietnam was rooted in open-door policies, which are often seen in Vietnam at the beginning of most economic phenomena. Other barriers occur as a result of fragmented agency empowerment.

The private sector's perspective also exposes their concerns over the quality of legal documents and capacity of government officers who operate the transformation. Vietnam experiences rapid growth of digital trade, but the outlook might not be as sustained as it looks. For example, the rate of cash

payment (cash on delivery-COD) for online retail purchases was still at a high level of about 80% according to the 2021 Vietnam E-business Index. Hanoi and Hochiminh city account for 70% of national digital transactions parameters, meaning the remaining 61 provinces and cities lag behind with only 30%.

CONCLUSIONS

In terms of regulation and policymaking processes, MoIT and MoF lack the technical and financial capacity to push an advanced legal framework. MIC and MPS are expected to put new regulations that may impede traders' and service providers' freedom.

There are gaps between aspirational regulatory objectives and management capacity to execute advanced regulation framework.

- Likelihood of potential for protectionism and nationalism in new regulations on digital trade.
- digital trade promotion and the untamed wild west:

“No law is better than a bad law”

RECOMMENDATIONS

The research team suggests that the Vietnam Digital Activity should provide technical support focusing on the short list of regulatory frameworks:

For MoIT:

The Activity should provide MoIT with technical assistance in accomplishing the following legal documents along its schedule pipeline.

- Upcoming amended Commercial Law
- Upcoming amended Decree on E-commerce
- Upcoming amended Decree on E-contracts
- Addressing the overlapping jurisdictions between MiC and MoIT regarding e-contracts under upcoming Law on electronic transaction and Decree 85 on ecommerce.
- MoIT master plan on digital transformation and supplementation plan
- Regulation to operate DECOBIZ ecosystem
- Regulation to foster the rule-based ecosystem by advocacy groups

For other Ministries, it is recommended that the Activities keep other Agencies within other collaboration frameworks to avoid the splintered impact of the Activity within a short period and limited budget.

Question 4: Identification of technical constraints which impede digital trade growth and sustainability?

- Data localization barriers: Includes unnecessary requirements to store data within a particular jurisdiction or locate computing facilities locally, as well as outright bans on cross-border data flows.
- Technology barriers: Includes requirements to meet onerous and unnecessary security standards and requirements to disclose encryption algorithms or other proprietary source code.

- Barriers to internet services: Includes inappropriate application of old regulatory regimes to new business models and unreasonable burdens on internet platforms for non-IP-related liability for user-generated content.
- The great variance of regional and provincial e-business competency to participate in global/national digital trade and to fulfill the digital orders.

Other barriers: Includes issues surrounding electronic authentication and signatures, internet domain names, digital products, electronic payment platforms, and other discriminatory practices.

On the other hand, conventional technical barriers such as online payment, logistics, and order fulfillment for e-commerce have been adapted to market development in the last 5 years. During the Covid-19 pandemic, the online payment sector grew strongly with a 185% increase in the transaction number and a 200% increase in the transaction value, according to VECOM³.

CONCLUSIONS

The research team triangulates the experts' views and archival analysis to identify the following key technical constraints as noted below:

- Technical barriers enforce cyber sovereignty
- Open door policy come to its end facing series of compulsory requirement by MIC and MPS
- Lack of inter-ministerial coordination and inter-departmental coordination create barriers
- Various and disjointed digital platforms
- International platforms dominate the local market that discomfort Vietnam leaders and regulators toward enabling an environment for digital trade

Most of the technical barriers fall under MIC and MPS authorities rather than the MoIT. Addressing technical constraints, thus, should not be in the key menu of Vdigital trade activities.

RECOMMENDATIONS

IT infrastructure and other technical barriers have been addressed in Vietnam in the last five years which supported digital trade. The protectionist' barriers claimed by its legacy and domestic development rationale could not be addressed through technical assistance activities which are projected in a two-year lifespan. We therefore recommend the VDT activity to focus on enabling aspects, rather than addressing the technical constraints.

The research team furthermore recommended the Activity to focus on connecting the private sector with existing platforms led by MoIT and other Ministries, as these platforms are backed with national regulations and policies. The Activity should prevent the advocacy groups' platforms and initiatives from exclusion.

³ VECOM EBI 2021_Vietnam E-Business Index 2021.

Question 5: How could public-private partnership shape the legal platform and remove barriers which benefit the sustainable development of digital trade in Vietnam and the region?

In the field of digital trade, the private sector takes the lead both in terms of piloting different initiatives, platforms, and fostering transactions. Both the National Assembly and Government started gavelling laws and regulations which ended the “Wild Wild West ” era.

Opportunities to deepen public-private engagement are available given the high demand of private participation into the law drafting and promulgation pathways. International and the domestic private sector also play key roles in nurturing and sustaining platforms and connection portals for trade transactions.

MoIT is eager to push digital trade promotion; they however, are in an inferior position compared to other guardians and also lack strategic resources. A strong connection to the private sector would leverage MoIT power compared to other Ministries to enable digital trade.

MoF (Customs), MIC, and MPS all plan to bring digital trade practices under their new laws and regulations, keeping with requirements of modern trade agreements (CPTPP, EVFTA, etc). Without proper private sector participation, a number of conservative clauses are likely to be introduced to preserve line Ministries’ vested interests that delay digital trade potential.

Private enterprises have attended a number of outreach activities led by some big tech firms with increasing competition from different platforms.

CONCLUSIONS

There is a high requisite for public private partnership in boosting digital trade and ecosystem development. Given the public-private mismatch and fragmented GVN Agency authority, investment in deepening public-private mutual understanding and confidence not only addresses the urgent demands of market development, but also cultivates long-term national benefit.

There are diversified platforms introduced by different agencies and departments without taking private sector effectiveness into account. Most of the introduced platforms resulted from a projects-based approach and implementation which responded to donors’ wishlist rather than sustaining Vietnam’s private sector development.

As a matter of fact, most firms, especially SMEs, thirst for market linkages and business matchmaking. MoIT and the Trade Promotion Agency recognised the immense gap between their targets and realization. MoIT’s request for technical support to support Vietnam SMEs participation into Global Supply Chains using digital platforms is urgent and officially declared.

Customs-to-business consultations regarding conventional cross-border trade are established through the ongoing TFP which is funded by USAID. The continuity of these activities are incumbent and pressing for consideration.

The research team also finds evidence to the needs of addressing logistics constraints. This area, however, is cross-cutting among Government Agencies and received assistance from different donors including the WB team, and some bilateral ODA channels.

RECOMMENDATIONS

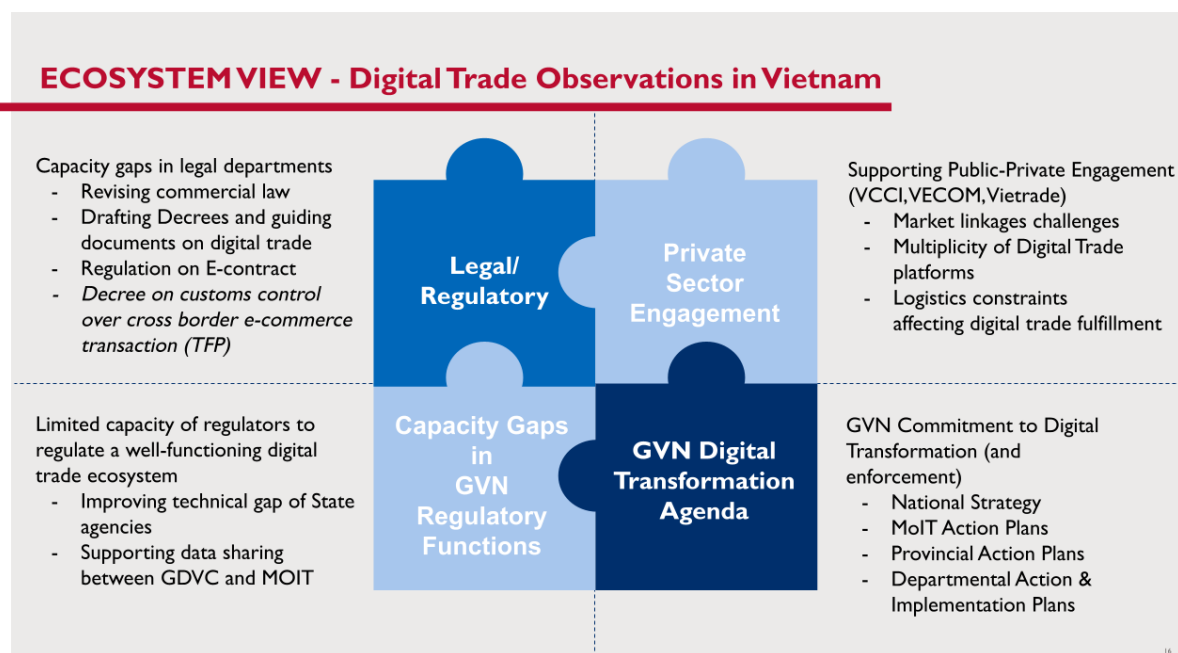
The VDT should consider providing MoIT with technical support to facilitate public-private dialogue regarding the digital trade lawmaking agenda.

The Trade Promotion Agency under MoIT has presented DECOBIZ as a potential candidate for connecting the private sector to a unified state-sponsored system. The research team recommends the Mission to provide support to the specific modules of business matchmaking, policy in digital trade, and traceability.

The Legal Affairs Department under MoIT has maintained a private sector consultation network in the course of trade-related laws and regulations departments. It is recommended to support this department to nurture a quality network to bring on the private sector's voice in the ongoing effort of digital trade framework development.

VCCI and VECOM are latent partners which encompass the participation of global players such as Meta, Google, and Amazon, applying the digital platform to foster modern trade. Capacity building for SMEs toward global and domestic compliance is insisted on.

Figure 4: Digital Trade Observations in Vietnam



UTILIZATION PLAN

The research team suggests interventions that can be considered for activity design as noted below:

OBJECTIVES

The VDT will enhance Vietnam's digital trade ecosystem to help businesses of both countries through:

- (1) the strengthening of digital trade regulations as adapted to GVN institutional policy objectives
- (2) the facilitation of private sector engagement in digital trade through the digital trade promotion platform by MoIT; and other rule-based ecosystems by business associations and enterprise advocacy groups.

ILLUSTRATIVE INTERVENTIONS

The VDT will enhance Vietnam's digital trade ecosystem to help businesses of both countries through:

- (1) The strengthening of digital trade regulations as adapted to GVN institutional policy objectives:
 - Consultancy and technical support (sharing sessions, workshops, assessments, etc.) for various departments under MoIT, with a focus on the implementation of MoIT's action plans regarding digital transformation in trade promotion.
 - Public-private dialogues (enabling private sector participation and contribution) for the promulgation of upcoming digital trade regulations in 2023-2024.
- (2) The facilitation of private sector engagement in digital trade through the digital trade promotion platform by MoIT and other rule-based ecosystems by business associations and enterprise advocacy groups.
 - Introduction of strategies and systems, including market access, trade promotion, traceability, cross-border digital trade match-making as components of DECOBIZ by Vietrade to facilitate participation by target enterprises.
 - Supporting private sector participation in ecosystems by business associations and enterprise advocacy groups.
- (3) Capacity building for targeted groups
 - Capacity building for business associations (VCCI and VECOM) and other advocacy groups as coordinated by MoIT.
 - Support for female-owned enterprises and those from underrepresented communities.

EXPECTED RESULTS

1. Interventions 1

- Transparent and practical official guidance and regulations for the digital trade promotion ecosystem is launched by MoIT leadership.
- Action plans of departments under MoIT will be developed toward digital trade promotion, taking into account global best practices.
- The upcoming policy and regulations on Digital Trade scheduled in 2023 and 2024 reflect quality voices of the private sector through assisted public-private dialogues.
- The covered departments issue and implement effectively their digital transformation action plans in line with the Ministry's Master Plan in 2023-2024.

2. Interventions 2

- MoIT set up an ecosystem connecting SMEs with technology firms.

- The covered enterprises by DECOBIZ (operated by Vietrade/MoTI) outperform the control group in terms of new clients and other business performance indicators.
- Increased participation in digital trade by women-owned enterprises and underrepresented communities and provinces.

3. Interventions 3

- MoIT officials acquire the requisite knowledge and capacity to fulfill their mandatory policy making responsibilities regarding digital transformation and digital trade facilitation.
- Department of Export and Import officials receive modern knowledge and skills to be capable of electronic Certificate of Origin operation.
- Enhanced capacity of business associations, including VCCI, VECOM, and other advocacy group members to strategize and participate in digital trade capacity-building activities for their members.
- Targeted enterprises will be capacitated to apply digital certifying tools to issuing/obtaining the electronic Certificate of Origin.

ANNEX I: FULL LISTING OF REFERENCES AND REPORTS UTILIZED

Google, 2022, Southeast Asia e-Economy report, 2022. Google, Temasek, Bain & Company, https://services.google.com/fh/files/misc/vietnam_e_economy_sea_2022_report.pdf

MoIT, Vietnam E-commerce White book 2022, <http://idea.gov.vn/?page=document>

VECOM, Vietnam E-business Index 2022, <https://vecom.vn/bao-cao-chi-so-thuong-mai-dien-tu-vietnam-2022>

Cameron A, Pham T H, Atherton J, D H, Nguyen, T P, Tran S T, Nguyen T N, Trinh H Y & Hajkowicz S (2019). Vietnam's future digital economy – Towards 2030 and 2045. CSIRO, Brisbane.

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Le Duy Binh, Tran Thi Phuong (2020), DIGITAL ECONOMY AND DIGITAL TRANSFORMATION IN VIETNAM, A Reader Prepared for Roundtable Series on EVFTA, EVIPA and Post-COVID-19 Economic Recovery in Vietnam

SECO (2021), Vietnam Cooperation Programme 2021 – 2024

UNCTAD (2022), Digital trade: Opportunities and actions for developing countries

UN (2022), Regional Digital Trade Integration Index (Version 1): A Guide

National Assembly of Vietnam (2023), Electronic Transactions Law (Upcoming amended)

National Assembly of Vietnam (2023), Law on Protection of Consumer's Right (Upcoming amended)

ANNEX II: FULL LISTING OF ORGANIZATIONS INTERVIEWED

DATA COLLECTION RESPONDENTS			
AFFILIATION	RESPONDENT TYPE	TOOL	NUMBER OF RESPONDENTS
LOCATION 1: FACE-TO-FACE INTERVIEW			
MOIT	MoIT representatives - 1st meeting	KII	4
	Planning department	KII	2
	Vietnam E-commerce and Digital Economy Agency (IDEA)	KII	2
	INTEC, Vietnam Trade Promotion Agency	KII	3
	Trade Remedies Authority of Vietnam (TRAV)	KII	4
	Agency of Foreign Trade (AFT)	KII	1
	Department of Legal Affairs	KII	1
	Science and Technology Department	KII	1
	MoIT representatives - 2nd meeting	KII	12
MIC	Department of International Cooperation	KII	2
	Department of Digital Economy and Digital		1
Private Sector	VECOM	KII	2
	VCCI	KII	2
	Rikeisoft	KII	3
Other Stakeholders	CIEM	KII	1
	Board VI	KII	3
	TFP	KII	1
	US ABC	KII	1
	SECO	KII	2
	Department of Industry and Trade	KII	2
Focus Group Discussion	Nextrade	KII	1
	AWS	KII	1
	Google	KII	1
LOCATION 2: ONLINE INTERVIEW			
USAID SEGA	Nathan Group	KII	4
Total			48

United States Agency for International Development
Hanoi, Vietnam

