



East Asia Business Council's Report to the ASEAN+3 Economic Ministers 2017

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1.0 Introduction

Micro, small and medium enterprises (MSMEs) are at the heart of economic activity and trade in this region. The benefits of new mega trade agreements such as the Regional Comprehensive Economic Partnership (RCEP) and eCommerce efforts in the region are immaterial if MSMEs are not able to access it.

It is not a level playing field between the larger and smaller companies. Larger companies tend to be dynamic exporters who are digitally capable but MSMEs can lag behind because they don't fully understand trade agreements and lack access to digital platforms. If MSMEs cannot capture the opportunities that are being offered by digital trade and find new ways of doing business, this gap will continue to grow.

In order to reduce this gap and enable MSMEs it is important to always reflect MSMEs in policy making. In light of the above, EABC Theme for 2017 was finalised as: Inclusive Development for MSMEs through eCommerce and RCEP.

In this report, EABC will cover the following areas: 1) Updates on EABC Activities in 2017; 2) Deliverables and Achievements in 2017



Phairush Burapachaisri
EABC Chairman 2017

2.0 Executive Summary

The development of RCEP and eCommerce is immaterial if MSMEs are not able to utilise it. Thus, considering the importance of MSMEs in the economy, EABC adopted the theme: -Inclusive Development for MSMEs through eCommerce and RCEP in 2017.

The following is a summary of the key messages contained in the report:

<i>Areas</i>	<i>Expected Outcomes/ Recommendations</i>
Inclusion of EABC in the ASEAN+3 Cooperation Work Plan 2018-2022	Institutionalise EABC's interaction with the ASEAN+3 Governments importance in the ASEAN+3 Cooperation Work Plan 2018-2022. Formalise EABC Working Group for RCEP ¹ as the official platform representing the business interest in the RCEP region.
Injecting business voice into Regional Comprehensive Economic Partnership:	RCEP should be ambitious, comprehensive and integrated but also easy to understand and easy to use.
i. Outcomes of RCEP Business Stakeholder Workshop in ICE, BSD, Tangerang, Indonesia from December 4-5, 2016	RCEP should be used as a tool to enable licensing requirements, customs procedures, technical regulations and other conformity assessment procedures to be transparent, consistent and non-discriminatory.
ii. Outcomes of RCEP Business Stakeholder Workshop in Hyderabad, India on July 25, 2017	Redundant labelling or testing requirements and data localisation requirements should be eliminated. There needs to be constant engagement with businesses to ensure the effectiveness of the

¹ An advisory group of business representatives from ASEAN, Australia, China, India, Japan, Korea and New Zealand formed under the aegis of EABC in response to the request from the ASEAN Plus Three Economic Ministers for effective business inputs into the Regional Comprehensive Economic Partnership (RCEP) negotiations

		<p>RCEP even after its implementation.</p> <p>The summary of EABC’s recommendations on the RCEP and relevant ASEAN Plus Three Working Groups is attached as per Annex II of the report.</p>
<p>Facilitating eCommerce development in East Asia</p>	<p>Survey on eCommerce Utilisation Survey</p>	<p>In order to facilitate digitisation of the region as a whole, development of business-friendly rules and disciplines is the most fundamental element. Specifically, we must avoid any new country-by-country regulations created. Rules should be considered and receive consensus among regional member states, in harmony with globally adopted disciplines.</p> <p>Compared to ASEAN+1 Countries, ASEAN eCommerce users are hesitating to make cross-border transactions. For enhancing inclusive regional growth through utilising eCommerce, simple and predictable border procedures, effective and low-cost logistics would be the keys, especially for MSMEs.</p> <p>Fear of possible fraud and data leak discourage respondents to further utilising eCommerce. Secured payment and data protection systems, through introducing innovative business solutions, as well as industry-led initiatives should be enhanced. At the same time, MSMEs should be enlightened and made aware about the indispensability on personal/company data protection.</p> <p>Insufficient information and in-house human resources are the primal bottleneck on</p>

		eCommerce business from users perspective. Further human resource development by sharing best practices would be necessary in the region.
	Review of Best Practices in the Region	<ul style="list-style-type: none"> i. Introduction of Interpretative Guideline on eCommerce (best practice of Japan) ii. “Non-resident inventory” scheme adopted in foreign trade zone (best practice of China) iii. Facilitation of cross-border transactions by utilising ICT (best practice in APEC and private sectors) <ul style="list-style-type: none"> ▪ Develop and utilise global data standard (GDS) in cross-border supply chain ▪ Innovative business solutions in trading transactions (i.e. block chain technology) iv. Appropriate personal data protection rule development (best practice in APEC) i.e. “Cross-Border Privacy Rules (CBPR)” system v. Utilisation of regional cooperation frameworks/treaties to improve predictability
	Updates on the development of the East Asia Business Exchange Portal	Seek support for EABEX be given the mandate to work with the other regional initiatives to allow a more coordinated and focused endeavour to assist MSMEs.

Table 1: Summary of Recommendations to the AEM+3

We would also appreciate if EABC is given the opportunity to share the final outcomes of our initiatives with the ASEAN+3 Leaders this year.

3.0 Updates on EABC Activities in 2017

3.1 Inclusion of EABC in the ASEAN+3 Cooperation Work Plan 2018-2022

The ASEAN Plus Three Governments are currently finalising the ASEAN+3 Cooperation Work Plan 2018-2022. We understand that the strengthening of the EABC's role is mentioned under the economic and financial cooperation umbrella (item 2.1 promoting trade and investment).

Recommendation

The EABC would like to provide following inputs to be included in the ASEAN+3 Cooperation Work Plan 2018-2022:

Strengthening the role of the East Asia Business Council (EABC) through private sector recommendations in pushing forward economic cooperation in East Asia and promoting business interaction in the region by:

- i. Institutionalising the dialogues between EABC and the ASEAN Plus Three Leaders, AEM+3, SEOM+3 and the ASEAN Plus Three Finance and Central Bank Deputies;*
- ii. Formalising EABC Working Group for RCEP as the official platform representing the business interest in the RCEP region;*
- iii. Supporting the events organised by EABC; and*
- iv. Promote cooperation with EABEX Portal through ASEAN SME Service Centre and ASEAN Single Window.*

Considering the importance of the ASEAN+3 Cooperation Work Plan 2018-2022 and the need to institutionalise EABC's interaction with the ASEAN+3 Governments, we hope that EABC's inputs are incorporated in the Work Plan.

3.2 Collaboration with the ASEAN Plus Three Centres

In response to EABC's proposal, at the 17th ASEAN+3 Economic Ministers Consultation with EABC on August 26, 2014, the Ministers urged EABC and the ASEAN Plus 3 Centres to work closely in developing MSME capacity. This is also consistent with the 18th ASEAN+3 Economic Ministers Consultation with EABC on August 23, 2015 Joint Media Statement, in which the Ministers also encouraged the EABC, ASEAN Business Advisory Council and the ASEAN Plus 3 Centres to establish relevant linkages to support and promote MSMEs.

It is understood that the ASEAN Plus Three Centres are mandated to promote trade, investment, tourism and culture and people-to-people exchanges with the ten ASEAN Member States and requested to engage with each other through trilateral consultations. As such, cooperation between EABC and the ASEAN Plus Three Centres is envisaged to coordinate various initiatives and recommendations to support the development of MSMEs in East Asia within the mandate of respective organisation.

The identified areas of cooperation endeavor to realise the following objectives:

- i. Promoting a joined message of support for the development of MSMEs in East Asia;
- ii. Strengthening existing outreach activities focused on the capacity building of MSMEs in East Asia;
- iii. Addressing the challenges of MSMEs operating in East Asia; and
- iv. Proposing and developing joint cooperation to advise and advocate the ASEAN Plus Three Governments on MSME development in East Asia.

To start with, EABC is now collaborating with the ASEAN-China Centre, ASEAN-Japan Centre and ASEAN-Korea Centre in the following areas:

- i. Cross-promotion of logos and hyperlinks to websites; and
- ii. An annual joint Calendar of Events to streamline MSME outreach activities in East Asia, with this the EABEX (EABC's official website) acts as a data repository on all MSME development activities conducted by the ASEAN Plus Three Centres.

In the future, we aim to explore joint projects and activities aimed at MSME capacity building and addressing the challenges faced by MSMEs operating in East Asia.

3.3 EABC's Initiatives and Activities

Consistent with our theme on inclusive development through RCEP and ecommerce, we are deploying two major projects this year. The following are the Business Council's key initiatives this year:

- i. Survey on Optimal eCommerce Development and a Review of Best Practices in the Region in East Asia with the cooperation from EABC members, Confederation of Indian Industry (CII), Australian Industry Group (AIG) and New Zealand International Business Forum (NZIBF) and supported by Japan External Trade Organization (JETRO) and the Japan Chamber of Commerce and Industry (JCCI); and
- ii. Organised an EABC Workshop for RCEP Business Stakeholders on July 25, 2017 in Hyderabad, Indonesia in the sidelines of the 19th round of RCEP negotiations to ensure that business voice is heard by the RCEP negotiators; and

We will be presenting the progress of these initiatives in this report. However, we would like to request for an **opportunity to share the final outcomes of our initiatives with the ASEAN+3 Leaders** this year.

The EABC- ASEAN Plus Centres calendar of activities is attached as per Annex I of the report.

4.0 Deliverables and Achievements

In line with our theme and work programme this year, the Business Council's recommendations will cover the following areas:

- 4.1 Injecting business voice into Regional Comprehensive Economic Partnership
- 4.2 Facilitating eCommerce development in East Asia

4.1 Injecting business voice into Regional Comprehensive Economic Partnership

The Working Group for RCEP is an advisory group of business representatives in the region formed under the aegis of EABC with business representation from EABC members, Australia, India and New Zealand.

The Working Group has conducted a business survey across the region to identify the barriers to business utilisation of the existing FTA architecture. The outcomes of the survey have been presented to the AEM+3 at the last ASEAN Plus Three Economic Ministers Consultation with EABC on August 4, 2016 in Vientiane, Laos.

The Working Group has also successfully conducted a RCEP Business Stakeholder Workshop in ICE, BSD, Tangerang, Indonesia from December 4-5, 2016. Following the success of the workshop held in Tangerang, Indonesia, the EABC once again organised the Workshop for RCEP Business Stakeholders on July 25, 2017 in Hyderabad. The outcomes of the workshops will be tabled in the following section of the report.

It is important that the negotiators have an opportunity to hear directly from businesses on the challenges as well as potential rewards that could be derived from the outcomes negotiated.

The summary of EABC's recommendations on the RCEP and relevant ASEAN Plus Three Working Groups is attached as per Annex II of the report.

4.1.1 Outcomes of EABC RCEP Business Stakeholder Workshop in ICE, BSD, Tangerang, Indonesia from December 4-5, 2016

The EABC RCEP Business Stakeholder Workshop was held from December 4-5, 2016 in Tangerang Indonesia along the sidelines of the 16th RCEP Negotiations. This workshop was organised by the EABC Working Group for RCEP. The objective of the workshop was to provide an opportunity for business to communicate directly to the negotiators who will be negotiating the outcomes of the FTA.

The 2-day workshop comprised five (5) sessions namely: Goods and Market Access, Services and Investment, SMEs, eCommerce and Implementation and G2B engagement.

Recommendations

Session I: Goods and Market Access

The first session on goods and market access stressed on the negative impact of NTBs. NTBs increase the cost of doing business and reduce transparency resulting in the loss of business opportunities in this region. Ultimately unscrupulous businesses may trade illegally to avoid facing both tariff and NTBs.

An extensive study by the Economic Research Institute for ASEAN (ERIA) and the United Nations Conference on Trade and Development (UNCTAD) highlighted that the number of NTBs has increased tremendously in the past 5 years. The University of Southern California's Marshall School of Business on 'Non-Tariff Barriers in Agriculture and Food Trade in APEC: Business Perspectives on Impacts and Solutions' while supports this findings, the study also shows that food trade is key to global food security.

The following common themes and recommendations were delivered:

- i. High ambitions in tariff elimination and 100% tariff elimination for raw material that are niche products in the region to support the manufacturing and value adding industry i.e. cheese, whey powder, sugar, AMF (Anhydrous Milk Fat);

- ii. Harmonise standards, technical regulations and conformity assessment procedures should be science-based with a risk assessment approach and in alignment with international standards. This can be achieved with strong SPS and TBT provisions. For food standards, all countries should, where possible, align their processes to CODEX. The alignment of other standards can be looked at on a case by case basis;
- iii. Product labelling, testing, licensing and registration requirements should be transparent, fast, economical and consistent and can be adopted through Sectoral Annexes in the RCEP;
- iv. Need for regular reviews on food safety bans or restrictions;
- v. Full cummulation to encourage regional sourcing, manufacturers prefer to source locally, but may not be able to source everything locally. Full cummulation allows sourcing by RCEP companies from RCEP companies for RCEP companies. Focus will be beyond sourcing and also to improve quality by local vocational training;
- vi. Develop regional value chain by flexible, simple and multiple ROOs;
- vii. Institutionalise engagement between the regulators and the private sector through direct intervention on a regular basis.
- viii. There is a need for more government to government commitment;
- ix. Border agencies can use an international system with product/commodity identification to increase supply chain visibility, automate clearance and detect counterfeits; and
- x. Adopting best practices (e.g. advance rulings, rational/liberal set of origin criteria, self-certification system on Rules of Origin, e-certificate of origin, etc.)

Session II: Services and Investment

The services trade is growing faster than the trade in goods and it is important for RCEP to take into account this mega trend. Services matter as part of manufacturing supply chains and it is impossible to split goods from services. Innovation and value added often comes from services and it is often provided by small companies and can be provided across borders. In order to supplement the value adding manufacturing sector and encourage innovation it is important for RCEP to capture services in the industry.

In a nutshell is important for RCEP to:

- i. Broaden the services scope and coverage;
- ii. Trade cannot take place in a legal vacuum, RCEP must include meaningful legal services commitment;
- iii. Minimal discrimination in both services and investment;
- iv. Address services NTBs in relation to streamlining processes;
- v. Remove local presence requirements;
- vi. Lack of information for service providers on FTA utilisation. More focus should be made on providing easy to use guides for service providers to effectively use the RCEP; and
- vii. Ease ROOs and reduce compliance issues by accommodating consistent and streamlined documentations in the region.

There should also be meaningful access for local and foreign lawyers to work together to provide legal advice that seamlessly integrates local and foreign law to support two-way trade and investment. This should extend across all modes, facilitated by light touch domestic regulation of foreign lawyers. RCEP should also include principles to guide future regulation of foreign law.

The panellists were of the view that the following key enhancements in the RCEP provisions would boost investments in the region:

- i. Transparency, integration and harmonisation in terms of ROO, licensing and testing to ease movement of materials, machinery or spare parts across countries;
- ii. Current FTAs to continue and RCEP to enhance and integrate these FTAs; and
- iii. Minimal discrimination between investor and state owned enterprises.

Focus was also made on the development of human capital and movement of people. The panellists requested for proper deregulation, MRAs and clear recognition of certification to enable the movement of human capital to facilitate investments, trading and tourism.

Session III: SMEs

The third session on SMEs focused on how to ensure a more inclusive and easy to use agreement for the SMEs.

The following common themes and recommendations were delivered:

- i. There is an information gap among the SMEs which may lead to anti-trade sentiments. The best way to get information to SMEs is to involve more stakeholders and campaign the benefits of RCEP harder. Similar workshops should be held alongside every RCEP TNC negotiations;
- ii. It is important to make FTA compliance as easy as possible with less administrative and cost compliance
 - Easing CO application procedures, as well as simpler ROO
 - Trade facilitative measures to ease compliance to the RCEP (i.e. implementation of advance rulings and single window)
 - Business-friendly accumulation rule should be introduced
- iii. SMEs also need better access to finance, as well as human resources development opportunities and capacity building in FTA utilisation; and
- iv. In digital policy making, it is important for the policy makers to make non-restrictive and easy to understand policies to ease SME compliance.

Session IV: eCommerce

The eCommerce is a cross cutting issue and a very important element in the RCEP as it is a platform that will be used now and even more extensively in the future. As eCommerce is evolving so quickly, RCEP has an opportunity to regulate this sector before we have regulatory fractions. eCommerce must be addressed holistically and all aspects of eCommerce including supply chain and logistics, trade, finance and legal facilitation, financial services, enablers and Internet of Things should be taken into account.

The following are the key recommendations that should be considered in the RCEP:

- i. eCommerce related regulations should be clear, transparent and to facilitate and not restrict trade. Over regulation should be avoided as to not stiffen the growth of this industry;
- ii. Data localisation rules inhibit trade and prevent SMEs from engaging the region. Modern trade relies on cross border communication using electronic communications. The communication can be between people, systems or machines and is represented by data. By insisting on data localisation, governments are restricting their businesses' ability to engage with the region. For example, a manufacturer who develops a smart machine in response to Industry 4.0 needs to be able to sell that machine into any country and offer as part of the after sales service remote monitoring of the performance of that machine by using the data that it produces. Data localisation would limit that company's business model, and more broadly, limit the future evolution of the manufacturing industry in that country, which could result in reduced investment and reduced employment;
- iii. Information on customs procedures and import licensing requirements should be transparent and consistent;
- iv. Provisions for trade facilitation for fast clearance and no duties for low value shipments, implementation of eDocuments and Single Window;
- v. In order to enhance user confidence in eCommerce there should be effective regional mechanisms for eTransaction, consumer protection, privacy, data protection, and cyber-crime;
- vi. Issues on cross border ePayment solutions should be addressed; and
- vii. There should also be more focus on eCommerce for trade in services.

Session V: Implementation and G2B engagement

Session five discussed the possible implementation issues of the RCEP in the future by looking at past experiences with other regional and bilateral FTAs.

The following common themes were identified:

- i. The RCEP should be a living document and open to ongoing feedback, monitoring and harmonisation;

- ii. Transparency provisions in each chapter of the agreement will facilitate better implementation of the trade agreement i.e. notification mechanisms;
- iii. There should be a single window and a single point of contact for information dissemination and to receive feedback and queries; and
- iv. Constant industry engagement is vital to monitor and fill the existing gaps in the trade agreements. There also should be a framework in RCEP for private sector roundtables to input into the FTA, pre and post implementation.

In conclusion, in order for RCEP to be inclusive and meaningful to businesses, it should be ambitious, comprehensive and integrated but also easy to understand and easy to use. It is highly important for policies, regulations, licensing requirements, customs procedures, technical regulations and other conformity assessment procedures to be transparent, consistent and non-discriminatory. Redundant labelling or testing requirements and data localisation requirements should be eliminated.

Finally, there needs to be constant engagement with businesses through regular interactions with the regulators to ensure effective implementation of the FTA.

4.1.2 Outcomes of the EABC-CII RCEP Business Stakeholder Workshop held on July 25, 2017 in Hyderabad, India

Following the success of the EABC RCEP Business Stakeholder Workshop held in Tangerang, Indonesia from December 4-5, 2016, the EABC with the support from the Confederation of Indian Industries (CII) once again organised the workshop in Hyderabad, India along the side lines of the 19th RCEP TNC meetings on July 25, 2017 focusing on specific topics.

The workshop aimed to provide a unique opportunity for RCEP negotiators to hear directly from businesses what are the potential rewards that could be derived from the outcomes negotiated. The workshop comprised three sessions namely: MSMEs, Trade Facilitation and eCommerce; Services; and Goods Market Access and Non-Tariff Measures.

Session I: MSMEs, Trade Facilitation and eCommerce

It is very clear that these three chapters are very important, inter correlated and should be given a holistic approach. Some of the common recommendations we heard from the speakers are:

- i. We need business friendly, transparent and consistent rules on Customs procedures and data storage and cross border data flows
- ii. Customs bureaucracy is a huge problem for MSMEs, efficient procedures, such as the advance ruling on HS codes and transparent permit requirements are essential
- iii. A harmonised label to identify products across the RCEP region such as the GS1 labels, can expedite clearance especially for small parcels below the de minimis limit
- iv. Negotiators should have a look at the key areas proposed in the WTO Trade Facilitation Agreement clauses 8.1-8.5, the Bali Agreement and WCO declaration and clearance chapter
- v. Cyber security, secure payment and data and consumer protection is important for businesses as well as consumers
- vi. Access to information is important, there should be no blockage on data flows with no split off on types of data flows and countries should avoid data localisation requirements

- vii. Standardisation is important, for example standardisation of database building rules, standardisation on unsolicited contact rules and there needs to be harmonisation with international standards wherever possible
- viii. MSMEs should be included in implementation discussions to ensure that RCEP continues to meet the needs of smaller firms
- ix. Governments should disclose and update information on rulings on a timely and consistent manner so businesses can stay abreast on the developments

Session II: Services (Movement of People, Financial Transactions Etc)

We have listened from several businesses and research institutions on the services chapter:

- i. In order to have a successful flow of services, free movement of data, people, intellectual property and capital is needed
- ii. The ASEAN Plus FTAs so far has not provided for commercially meaningful opening in the services sector, some examples that the negotiators should consider include: Opening up Mode 1, no local presence requirements, clear timelines and guidelines on subsectors, limits on performance requirements and carve outs, licensing and qualifications to be listed in the texts and allow sufficient transition period for the implementation of new regulations. Members of ASEAN are encouraged to address challenges in the area of service trades, which may also offer them opportunities. This will help push forward negotiations in the RCEP context.
- iii. Ensure that licensing and qualifications do not become unfair barriers to trade and allow sufficient time before new rules take effect
- iv. There is no clarity and subjective discretionary elements in mode 4: there are quotas, increasing visa cost, police verification and other restrictive regulatory barriers
- v. Propose that salary threshold to be defined by countries to safeguard against undercutting of local workers and counter local unions apprehension; No other conditions (caps, quotas, ambiguous definition, levies, charges, etc.); No onerous measures such as certifications from end-consumer (secondary displacement, outplacement measures); No

- contribution required to the host social security regime if applicant shows proof of continuing association with home country regime
- vi. In order to realise free movement of people, there needs to be a totalisation agreement, skills mapping arrangement
 - vii. Introduce common cards; one to support short term travel and another for long term travel, set specific standard requirements for both cards across member states with benefits like faster access/clearance at airports through a pre-clearance mechanism. We can look at the APEC Business Travel Card as a successful business visa for the APEC region and customise an RCEP visa from there

Session III: Goods Market Access and Non-Tariff Measures (Tariff Negotiations And Regulatory Measures such as Standards And Technical Barriers To Trade)

As for the market access chapter, Non- Tariff Barriers seems to be the major issue and sectoral annexes or mutual recognition agreements should be provided for in the RCEP. Representatives from the Indian industries also expressed their concerns on opening the Indian market in the textile, milk, iron and steel, automobile, chemicals and petrochemical sectors among others.

The Chairman of the EABC working Group for RCEP, Mr Phairush Burapachaisri who is also the vice chairman of the Thai Chamber of Commerce delivered the closing remarks and the summary of the sessions at the workshop.

4.2. Facilitating eCommerce development in East Asia

At the EABC Dialogue with the AEM+3 held on August 4, 2016, Vientiane, Laos, the EABC was requested to provide more detailed recommendation and study further the success stories in developing eCommerce in the region.

Following this, EABC with the full assistance from JETRO and side support from JCCI has conducted a Survey on eCommerce Utilisation and a Review of Best Practices in the Region. The observations from this survey and the recommendations on feasible best practices in the region will be tabled in this report.

We also understand that the ASEAN Governments have established an ASEAN Coordinating Committee on Electronic Commerce and also note that the Governments are actively discussing eCommerce in RCEP negotiation framework. **We strongly hope that these discussions shall continue to be well-coordinated and streamlined in business friendly manner, and in due course, business communities shall also be able to participate in these discussions in order to input practical recommendations.** It is vital for ASEAN Governments to learn from the experiences and best practices of these mature eCommerce markets.

4.2.1 Survey on eCommerce Utilisation and a Review of Best Practices in the Region

Today, enhancement of easy to use and safe eCommerce plays a key role in furthering the inclusive economic integration process throughout the Asian region. Recalling to our questionnaire survey on RCEP conducted in 2016, we strongly believe that promotion of eCommerce would provide various opportunities specifically to MSMEs and companies in remote area particularly through easing their access to market and information. However, especially inside ASEAN, due to the relatively small market size in respective AMSs, different and complicated legal structure and introduction of new restrictions related to eCommerce, as well as the different eCommerce infrastructure development stage among countries, eCommerce related investment has not yet become a major and continuous trend in ASEAN region.

In this sense, EABC, with full support of Japan External Trade Organization (JETRO) and administrative support from the Japan Chamber of Commerce and Industry (JCCI) conducted a questionnaire survey to collect business inputs on the constraints in utilising cross border eCommerce as well as their wish list to enhance the utilisation and efficiency of cross border eCommerce. Through interviewing eCommerce related service providers such as eCommerce provider, logistics, IT Service Company, we have also collected some best practices and regulatory information to support our findings in the survey. We hope that the outcomes will be incorporated in the East Asia regional eCommerce development framework in order to make it more user-friendly, safe, widely utilised and successful. The report is attached herewith (Annex III).

Major findings in questionnaire survey

The participating trade associations include Australia Industry Group, National Chamber of Commerce and Industry Brunei Darussalam (NCCIBD), Cambodia Chamber of Commerce (CCC), China Council for Promotion of International Trade (CCPIT), China Chamber of International Commerce (CCOIC), Confederation of Indian Industry (CII), Kamar Dagang Dan Industri Indonesia (KADIN), Asosiasi Pengusaha Indonesia (APINDO), Japan Chamber of Commerce and Industry (JCCI), Lao National Chamber of Commerce and

Industry (LNCCI), Federation of Malaysian Manufacturers (FMM), Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), New Zealand International Business Forum, Philippine Chamber of Commerce and Industry (PCCI), Management Association of Philippines (MAP), Makati Business Club (MBC), ASEAN Women Entrepreneurs Network (AWEN), Philexport, Singapore Business Federation (SBF), Korea International Trade Association (KITA), Thai Chamber of Commerce (TCC) and Vietnam Chamber of Commerce and Industry (VCCI).

In total, we have received 354 valid responses of which 68% are MSMEs and 32% are bigger companies.

The following is the summary of the observations from the survey:

- i. In all categories, majority of the respondents are found to already utilising eCommerce in their current business and also wish to expand their eCommerce business in the next 3 years; iv. Respondents from developing and least developed countries and MSMEs are more inclined to utilise eCommerce in the next 1-3 years, compared to companies from developed countries and large enterprises;
- ii. In general all companies mainly utilise eCommerce in selling products to its own domestic markets. Moreover, ASEAN companies are still lacking behind in cross border eCommerce and B to B eCommerce, compared to the ASEAN+1 companies;
- iii. The main constraint in eCommerce development in companies in this region is the lack of resources;
- iv. Difficulties in internet infrastructure, logistics and payment/financial services were observed more in respondents from least developed and developing countries compared to developed countries;
- v. MSMEs faced more constraints in logistics, customs procedure and payment/financial services compared to larger companies by a big margin;
- vi. While large enterprises considered company/personal data protection as a big issue, MSMEs did not, possibly due to MSMEs' lack of knowledge on this matter; and
- vii. In order to assist them in their eCommerce expansion, the following was identified important by the respondents:

- Common and secured payment services in the region
- Transparent and consistent Customs procedures at the border
- Prompt Customs clearance for low value shipments
- Clarification/harmonisation of regulations on the threshold of imposing tariff/duties at the Customs (e.g. de minimis, tariff exemption on digital product)
- High-quality and punctual logistics services
- Setting up the common free-zone for eCommerce goods storage

Best Practices and Business Recommendations

i. Business dialogue mechanism with regional frameworks:

The following business recommendations shall be considered and incorporated in appropriate regional cooperation mechanisms, including eCommerce sector negotiation under RCEP, and discussion in ASEAN Coordinating Committee on eCommerce (ACCEC).

ii. Introduction of Interpretative Guideline on EC (best practice of Japan)

As we found out, one of the most common business bottlenecks in doing eCommerce business is the lack of sufficient knowledge in this business field, and one of the reasons that makes it difficult is the complexity and ambiguous interpretation of relevant laws and regulations covering eCommerce business in each country.

In order to improve business predictability in doing eCommerce business, since 2002, Ministry of Economy, Trade and Industry (METI) Japan has been developing "Interpretative Guidelines on Electronic Commerce and Information Property Trading", and introduced its idea to APEC economies. For instance, recent revision of the Guideline includes contents such as responsibilities of on-line shopping operator and issues concerning cross-border transactions, which would be also referable in other EABC members.

iii. Non-resident inventory scheme (best practice of China)

Compared to the normal international trade, eCommerce transaction drastically lowers the participants' psychological barrier to decide the purchase/selling action. However, through interviewing companies in ASEAN, there are still many trouble cases observed in cross-border procedure and cross-border delivery, which heavily relies on traditional and normal trade practices. The gap between easy-to-buy process and difficult-to-get reality sometimes hinders the active utilisation of such cross-border eCommerce. Narrowing such gaps through facilitating Customs procedure for small parcel import and developing systems to shorten delivery time is thus required.

In this sense, among others, in China, it is widely considered that the Non-resident inventory scheme adopted in foreign trade zone has been creating big waves of cross-border eCommerce. We believe that such non-resident inventory scheme, which allows non-resident of certain country to possess their product inventory in that country without establishing any business bases, would be indispensable cross-border eCommerce infrastructure specifically for MSMEs, through enabling swift delivery of particular company's product in remote area or in foreign country.

iv. Facilitation of cross-border transactions by utilising ICT (best practice in APEC and private sectors)

For enhancing globalisation through utilising eCommerce, our study identified the traditional trade related issues such as border procedure and logistics infrastructure development also become big agenda in eCommerce businesses, especially for MSMEs.

In addition to develop rules and regulations to facilitate the cross-border transactions as pointed out, it is also necessary to actively utilise private sectors' resources which brings innovative practices to such traditional transactions. In this sense, APEC's effort to develop and utilise global data standard (GDS) in cross-border supply chain, including the GDS Serial

Shipping Container Code (SSCC) would be a good example. The system improves the supply chain visibility through providing a worldwide identification number for each parcel which enables to trace the location of cargo with its status. While private logistics companies have also developed such cargo tracking system by themselves, international standard development in such a methodology greatly supports such logistics companies' work.

Further listening to the innovative business solutions in trading transactions would be another direction to pursue. For instance, several ICT companies recently submit the proposals to drastically change the international trade manner through introducing block-chain technology. Such solutions shall be widely shared and discussed so that cutting-edge technologies and ideas are also closely connected to such regional cooperation frameworks for further sophistication of discussions.

v. Appropriate personal data protection rule development (best practice in APEC)

While observing recent trend in introducing new restrictions on cross-border company/personal data flow, we are in the position that such legislations strongly hinder the activities not only MNCs which develop regional sophisticated value chain with various information flow, but also MSMEs who require additional investment in complying with such regulations, that are sometimes too costly compared with their intended business volume. Also, if such regulations would be introduced without any coordination with surrounding countries' relevant rules, the company cost to acquire such respective regulations information to comply with would be also huge, which might make MSMEs to further hesitate to endeavor to cross-border transactions.

For avoiding such difficult situation, one good reference would be the "Cross-Border Privacy Rules (CBPR)" system introduced in some APEC economies. This system secures the data privacy protection through requiring participating businesses to develop and implement data privacy policies consistent with the APEC Privacy Framework, and assess/certify

such conformity. In adopting such business-based system, total cost to secure data privacy both for governments and businesses would be greatly lessened.

vi. Utilisation of regional cooperation frameworks/treaties to improve predictability

In addition to the aforementioned rules and regulations on data privacy protection, there are also legislation attempts observed in some EABC member countries to mandate location of servers in the territory of these countries or to set the condition to disclose source code to authorities. In the study by European Centre for International Political Economy (ECIPE) for instance, ECIPE estimated GDP loss through full data localisation requirements as -0.7% to -1.7% in selected countries such as China, India, Indonesia and Vietnam.

While noting the importance of national security or data protection, in our interview, through shrinking business scale and hesitating investment decision, such action would cause huge negative impact in the introduced country. In this sense, we strongly believe that the free flow of information should be recognized as a fundamental principle to promote the global economy and development. Especially, in order to ensure fair and equal access to the cyberspace for all players including MSMEs, unjustifiable burdens or barriers should not be introduced. Healthy eCommerce rules and discipline should be developed to achieve these objectives, through regional cooperation frameworks such as AEC and APEC, as well as international treaties such as FTAs and discussions in WTO. Specifically in RCEP, we would like to see high level and business facilitating disciplines development under eCommerce Chapter, at least introducing the rules such as free-flow of cross-border information, prohibition of the requirement to locate computing facilities such as data servers, as well as prohibition of the requirement to disclose source code of software.

4.2.2 Updates on the development of the East Asia Business Exchange Portal

We would like to continue to report on EABC's initiative that is the East Asia Business Exchange Portal or better known as EABEX. The EABEX is a business matching portal which enables buyers to search from a reliable database of products and services from authenticated companies or suppliers. To date the EABEX has 5,522 registered accounts with 408,300 page views in the past 12 months.

At the dialogue with the ASEAN+3 Senior Economic Officials in Manila, Philippines two years ago, it was proposed that the EABEX portal exchange data and information services, share experiences and case studies with the ASEAN SME Service Centre. The ASEAN SME Service Centre in essence will make available similar services as the EABEX Portal including an e-market platform and exchange of news and information. To date based on the ASEAN SME Service Centre's preference; the current collaboration is the cross promotion through display of logos and hyperlinks to each other's websites.

In addition, EABEX is now also establishing collaboration with the ASEAN-China Centre, ASEAN-Japan Centre and ASEAN-Korea Centre, beginning with cross-promotion of displaying logos and hyperlinks to each other's websites.

EABEX, through its partner barterfli Holdings, will be able to introduce new services to members including:

- i. **Regional Reach:** Regional networking exposure and market promotion through Product Centers (show cases), trainings and business-oriented events;
- ii. **Regional and Collaboration Facilities:** Regional network of co-working spaces and events; and
- iii. **Regional Business Support:** Business Support including concierge services, legal, and many others.

Recommendation

There are a number of e-platforms in ASEAN, offering various permutations of services that are available in EABEX. ASEAN SME Service Centre is also planning a revised portal next year. While it is useful to have various platforms to services the different needs of SMEs in the region, it may also cause dilution of resources that can be better utilised if aggregated. In addition, it would confuse SMEs who are presented with different platforms. EABEX, and now with the new services being introduced, offers a much needed and much faster time to market to help connect SMEs across the region through the APEX trade associations. By working with the associations, EABEX also offers a higher level of security as members are verifiable. EABEX can be used as a test bed, including the Tariff Gateway to promote the use of FTAs, to better understand and meet the needs of SMEs in the region.

We would like to recommended that EABEX be given the mandate to work with the other regional initiatives to allow a more coordinated and focused endeavour to assist SMEs, and where possible, align resources to maximise effectiveness of initiatives.

5.0 Conclusion

We look forward to the Governments consideration on the above-mentioned recommendations regarding injecting business voice into East Asia economic integration through RCEP and facilitating eCommerce development in East Asia.

In support of effective economic integration in this region, we would appreciate if EABC is given the opportunity to share the final outcomes of our initiatives with the ASEAN+3 Leaders this year.

Merged Calendar of Activities (EABC, AJC and AKC)

FY2017 & 2018 (Q1)										
January	26 Joint Business Council Meeting Manila									
February	13-14 37th EABC Meetings and Related Meetings Bangkok	27 17th RCEP TNC-eCommerce Panel Session Kobe								
March										
April	2-7 Trade Facilitation Workshop for ASEAN MSMEs Food & Packaging by AKC Indonesia	18-20 38th EABC Meetings and Related Meetings Nanning								
May	7-10 Investment and Market Research Mission Agro-industry by AKC Cambodia	17-21 Trade Facilitation Workshop for ASEAN MSMEs Food by AKC Philippines	24-27 Investment Promotion Seminar IT by AKC Seoul (Bru, Ind. Mal. Thai.)							
June	6 Investment Policy Analysis for Institutional Capacities: High-level Tokyo	13 CLMV Support Program: Export Capacity Building by AIC Japan (Tokyo)	20-23 Trade Facilitation Workshop for ASEAN MSMEs IoT by AKC Thailand							
July	3-8 Investment and Market Research Mission E-commerce by AKC Lao PDR & Cambodia	6 EABC Dialogue with SEOM+3 Cebu	17-20 Trade Facilitation Workshop for ASEAN MSMEs Food (Food Packaging) by AKC Brunei	25 EABC Workshop for RCEP and Dialogue with TNC Hyderabad	26 Investment Policy Analysis for Institutional Capacities: High-level Policy Discussion Kanagawa	28 Investment Policy Analysis for Institutional Capacities: High-level Tokyo				
August		21 & 23 ASEAN Human Resources Program: ASEAN HR and FDI in ASEAN Strategy Programs by AIC Nagoya, Tokyo	21-25 Capacity Building Workshop for GMS Cross-border E-commerce by AKC Seoul	29 Promoting Trade in Creative Industries by AIC Cambodia						
September	6-10 39th EABC Meetings and Related Meetings and Dialogue with AEM+3 Manila	7 Investment Policy Analysis for Institutional Capacities: High-level Policy Discussion between ASEAN High-ranking Officials and Japanese Investors (Myanmar Forum) by AIC Hiroshima	11-13 Promoting Services Trade Courier/Transportation Seminar by AIC Malaysia	11, 13 Investment Policy Analysis for Institutional Capacities: Ministerial-Level Discussion Programs for CLMV (Vietnam Dialogue) by AIC Nagano, Gunma	15 Investment Policy Analysis for Institutional Capacities: High-level Policy Discussion between ASEAN High-ranking Officials and Japanese Investors (Vietnam Forum) by AIC Kanagawa	20-23 Investment Promotion Seminar Water by AKC Seoul (Sin)	25&27 Promoting Trade in Creative Industries by AIC Vietnam(Hanoi/HCMC)	21-23 Knowledge-Building for Company Strategy-Making Process: Networking with Japanese Investors in Japan (Malaysia SPM Programme) by AIC Osaka, Kyoto, Hiroshima	29 Promoting New Forms of Trade between Japan and ASEAN by AIC Philippines	29 Value Chains, SMEs and AEC by AIC Philippines
October	3 Investment Policy Analysis for Institutional Capacities: High-level Policy Discussion between ASEAN High-ranking Officials and Japanese Investors (Malaysia Dialogue) by AIC Tokyo	7 CLMV Support Program: Export Capacity Building by AIC Lao P.D.R	18-21 Mekong Business Forum Tourism (TBD) by AKC Lao PDR	22-29 ASEAN Trade Fair by AKC Seoul	10/17-20 CLMV Support Program: Export Capacity Building by AIC Lao P.D.R	EABC Workshop for RCEP (TBD) Busan				
November	7 Promoting Trade in Creative Industries by AIC Myanmar	10-14 40th EABC Meeting and Related Meetings and Dialogue with APT Leaders Philippines	12-17 ADB Joint Training Workshop on ASEAN Energy Connectivity by AKC Seoul	14-19 ASEAN Services Exhibition: Global Game Exhibition G-Star 2017 by AKC Busan	29 ASEAN Connectivity Forum Infrastructure/Energy/ ICT by AKC Seoul	EABC Dialogue with ASEAN+3 Finance and CBD Meeting (TBC) Japan	30*12/2 Promoting Services Trade Tourism Seminar by AIC Thailand	Promoting New Forms of Trade between Japan and ASEAN by AIC Myanmar		
December	Investment and Market Research Mission Industrial Robots by AKC Vietnam	Promoting New Forms of Trade between Japan and ASEAN by AIC Lao P.D.R	Promoting Trade in Creative Industries by AIC Brunei							
January	Investment and Market Research Mission by AKC (TBD) Philippines	15-19 Trade Facilitation Workshop for ASEAN MSMEs by AKC (TBD) Malaysia(TBD)	Promoting New Forms of Trade between Japan and ASEAN by AIC Cambodia	18&23 Promoting Trade in Creative Industries by AIC Lao P.D.R/Thailand						
February	Investment and Market Research Mission Infrastructure by AKC Myanmar	41st EABC Meeting and Related Meetings Singapore	Promoting New Forms of Trade between Japan and ASEAN by AIC Malaysia	6&27 Promoting Trade in Creative Industries by AIC Indonesia/Malaysia						
March	6&13 Promoting Trade in Creative Industries by AIC Singapore/Philippines									

In Green: For all events organised by ASEAN Japan Centre (AJC) kindly contact Ms Kubota Yuka at Email: ykubota@asean.or.jp

In Blue: For all events organised by ASEAN Korea Centre (AKC) kindly contact Mr An Jin-hun at Email: jha@aseankorea.org

In Black: For all events organised by EABC kindly contact Ms Maygelah Siva at Email: maygelah@fmm.org.my

Summary of EABC Recommendations for RCEP/ Relevant ASEAN Plus Three Working Groups

Chapter/ Working Group		Recommendations	Supporting Information
Implementation and G2B engagement		<ul style="list-style-type: none"> i. Current FTAs to continue and RCEP to enhance and integrate these FTAs ii. RCEP should be a living document and open to ongoing feedback and monitoring iii. Governments should disclose and update information on rulings on a timely and consistent manner so businesses can stay abreast on the developments iv. Transparency provisions in each chapter of the agreement will facilitate better implementation of the trade agreement i.e. notification mechanisms v. A single window and a single point of contact for information dissemination and to receive feedback and queries: Propose a regional platform such as the EABEX Portal vi. Constant industry engagement is vital to monitor and fill the existing gaps in the trade agreements. There also should be a framework in RCEP for private sector roundtables to input into the FTA, pre and post implementation. Propose: <u>Biannual engagements with EABC Working Group for RCEP pre and post implementation</u> vii. MSMEs should be included in implementation discussions to ensure that RCEP continues to meet the needs of smaller firms 	<p><u>*EABC survey on FTA utilization</u></p> <p>Among others, industries such as E&E (34.5%), Food (34.1%), Textile (29.4%) and Wholesale/Retail industry (29.4%) requested to secure the dialogue opportunity with government, on commencing/conducting FTA negotiation.</p> <p>On FTA implementation phase, Textile industry (35.3%), Food industry (34.1%) and Wholesale/Retail industry (29.4%) also requested to secure the dialogue opportunity with government.</p>
Working Group on Trade in goods	Tariff negotiations	<ul style="list-style-type: none"> i. Substantially higher than 90% of tariff elimination on imports from each RCEP member (beyond existing ASEAN+1 FTAs) ii. Calls for 100% tariff elimination for raw materials that go into the manufacturing and value added sector in RCEP for example on cheese, whey powder and sugar iii. Need for tariff elimination to address all key items of export interest including both tariff lines and value of trade 	<p><u>*EABC survey on FTA utilization</u></p> <p>Insufficient benefit on tariff reduction has been found as the biggest reason for giving up FTA usage:</p> <ul style="list-style-type: none"> i. 37.9% of E&E industry, 35.3% of Textile industry and 34.2% of Chemical & Drug industry have given up FTA utilization due to limited benefits from tariff reduction ii. 21.6% of manufacturing sector requested to widen and deepen the tariff elimination scope

		iv. Adopt a common concession in tariff schedules with the same preferences to all other RCEP members	compared with existing FTAs More than 20% of Manufacturing sector requested to introduce common concession system in regional FTA.
	STRACAP & SPS	<ul style="list-style-type: none"> i. Establishment of Sectoral Annexes for example for prepared foodstuffs and beverages ii. Product labelling, testing, licensing and registration requirements should be transparent, efficient, economical and consistent: Propose: Adhering to international standards for example the Codex in relation to food will enable this iii. Disciplines that oblige parties to treat and have the same standards applied to imported and domestically produced goods iv. Abolishing import restrictions where possible, there is a need to abolish export restrictions, export quantitative restrictions, and export duties v. Any safety and emergency measures imposed and adopted by RCEP members should have a specific timeframe and must be WTO consistent 	
	Customs Procedures and Trade Facilitation (CPTF)	<ul style="list-style-type: none"> i. Customs bureaucracy is a huge problem for MSMEs, efficient procedures, such as the advance ruling on HS codes and transparent permit requirements are essential ii. Negotiators should have a look at the key areas proposed in the WTO Trade Facilitation Agreement clauses 8.1-8.5, the Bali Agreement and WCO declaration and clearance chapter iii. To raise the aggregate customs value for COs up to a minimum of USD 1000 to enhance user-friendliness of the RCEP iv. Customs clearance procedures that support seamless product returns without charging duties v. Simplified tariff classification systems for low-value goods that use a small set of special Harmonised Tariff Schedule (HTS) codes vi. Simplified exporter/importer registration and waiver of Power of Attorney requirements, particularly for de 	<p><u>*EABC survey on FTA utilisation</u></p> <p>One of the bottlenecks in FTA utilisation is the difficulty of locating appropriate information about FTAs:</p> <ul style="list-style-type: none"> i. More than 40% of companies in Automotive industry, Iron/Nonferrous Metals industry, Food industry and Textile industry are facing the difficulty on searching appropriate information source for FTA application ii. Nearly 30% of Manufacturing sector has experienced the discrepancy of FTA application information on authorities' websites and actual explanation from the officials in charge <p>58.8% of Textile industry, 48.8% of Chemical & Drug industry and 45.5% of Food industry have experienced</p>

		<ul style="list-style-type: none"> vii. minimis and low-value dutiable shipments Border agencies to use international system with product/commodity identification to increase supply chain visibility, automate clearance and detect counterfeits (for example the GS1 coding) viii. A harmonised label to identify products across the RCEP region such as the GS1 labels, can expedite clearance especially for small parcels below the de minimis limit ix. Consolidated website covering RCEP, ASEAN+1 FTAs and bilateral FTAs among RCEP members, which also has links to the ROO procedures: <u>propose the EABEX Portal for consolidated information on ROO, NTMs, and Trade Facilitation measures within RCEP</u> x. Self-declaration or self-certification of Certificates of Origin (COs) xi. To adopt the "advance ruling mechanism" to make inconsistent customs procedures effective and business friendly xii. RCEP Members focus on a) ensuring that National Single Window is in place and b) the rollout of the ASEAN Single Window 	<p>time-consuming process at issuing CO.</p> <p>Approx. 50% of E&E industry, Automotive industry, Food industry and Textile industry requested the introduction or steady implementation of advance ruling system.</p> <p>Strong request to introduce region-wide Single Window system has observed in Textile industry (58.8%) and Wholesale/Retail industry (52.9%).</p>
	Rules of Origin (ROO)	<ul style="list-style-type: none"> i. Exporters to be given a choice of either a "CTH or RVC40" rule, and Product Specific Rules (PSRSs) only where necessary ii. Harmonized and common ROO iii. Include a de minimis provision for all products iv. Full cumulation across the RCEP region 	<p><u>*EABC survey on FTA utilization</u> 24.1% of E&E industry, 23.5% of Wholesale/Retail industry and 23.5% of Textile industry have given up FTA utilization due to not being able to fulfill stringent ROO.</p> <p>Bigger companies had significantly bigger constraint for ROO (insufficient RVC ratio due to insufficient accumulation rule) and give up FTA utilization:</p> <ul style="list-style-type: none"> i. 34.5% of E&E industry and 29.4% of Textile industry have given up FTA utilization due to not being able to fulfill RVC with current partial accumulation rule ii. 19.5% of Chemical & Drug industry and 13.8% of E&E industry requested the introduction of full accumulation rule

			<p>Complexity of ROO in existing FTAs was major bottleneck for FTA utilization especially in the Textile industry (47.1%).</p> <p>Automotive industry (46.7%) and Food industry (43.2%).52.9% of Textile industry, 48.3% of E&E industry and 47.1% of Wholesale/Retail industry requested the harmonization of ROO.</p>
Trade in services		<ol style="list-style-type: none"> i. The ASEAN Plus FTAs so far has not provided for commercially meaningful opening in the services sector ii. In order to have a successful flow of services, free movement of data, people, intellectual property and capital is needed iii. Negative list approach in trade in services negotiations iv. Broaden the services scope and coverage v. Opening up Mode 1, with clear timelines and guidelines on subsectors vi. Limits on performance requirements and carve outs vii. Ensure that licensing and qualifications do not become unfair barriers to trade and allow sufficient time before new rules take effect viii. Licensing and qualifications to be listed in the texts and allow sufficient transition period for the implementation of new regulations ix. MFN and Ratchet commitments, in order to improve predictability for business. x. Remove local presence requirements xi. Produce guide for services exporters on how to use FTAs xii. Ease the development of human capital and the movement of people xiii. There is no clarity and subjective discretionary elements in mode 4: there are quotas, increasing visa cost, police verification and other restrictive regulatory barriers xiv. Propose that salary threshold to be defined by countries to safeguard against undercutting of local workers and counter local unions apprehension; No other conditions (caps, quotas, ambiguous definition, levies, charges, etc.); No onerous measures such as certifications from 	

		<p>end-consumer (secondary displacement, outplacement measures); No contribution required to the host social security regime if applicant shows proof of continuing association with home country regime</p> <p>xv. In order to realise free movement of people, there needs to be a totalisation agreement, skills mapping arrangement</p> <p>xvi. Introduce common cards; one to support short term travel and another for long term travel, set specific standard requirements for both cards across member states with benefits like faster access/clearance at airports through a pre-clearance mechanism. <u>We can look at the APEC Business Travel Card as a successful business visa for the APEC region and customise an RCEP visa from there</u></p>	
Investment		<p>i. Negotiations for investment should take a negative approach</p> <p>ii. Clear and concise licensing and legal requirements for the various businesses and trade set-up</p> <p>iii. Provision of transparent information on foreign investment restriction and timely and easy-to-access disclosure of the information on newly introduced regulation</p> <p>iv. Strong provisions that protect investors and investments should be included and imposition or enforcement of performance requirements (TRIMs plus, such as royalty regulations) must be prohibited</p> <p>v. MFN treatment and National Treatment both at pre-establishment stage and at post-establishment stage</p> <p>vi. Provisions on transparency, expropriation and compensation and freedom of transfer of funds, including double taxation treaties and favourable withholding taxes for expropriation of funds</p> <p>vii. Minimal discrimination between investor and state owned enterprises</p>	<p><u>*EABC survey on FTA utilization</u></p> <p>Limitation on capital participation and the request to follow specific regulation which is not in line with the international agreements in effect have been identified as the most major challenges, while large enterprises considered the requests to follow specific Performance Requirements as a bigger issue:</p> <p>i. National Treatment before/after investment had been requested from almost all industry sector, especially from E&E industry (51.7%), Iron/Nonferrous Metals industry (50.0%) and Food industry (47.7%).</p> <p>ii. Iron/Nonferrous Metals industry (45.0%), Chemical/Drug industry (41.5%) and Finance/Insurance industry (40.0%) had raised limited capital participation for business base set up as the big business challenges.</p> <p>iii. E&E industry (44.8%), Construction/Real Estate industry (41.7%), Textile industry (41.2%) and Wholesale/Retail industry (41.2%) had ever been requested to follow domestic regulations which discrepant from international treaties that country already ratified.</p>

			<p>iv. Iron/Nonferrous Metals industry (45.0%) and E&E industry (37.9%) had been requested to follow Performance Requirements.</p> <p>In all industries, specifically Non-Manufacturing sector such as Finance/Insurance industry (90.0%), Construction/Real Estate industry (66.7%) and Automotive industry (60.0%) requested to provide clear, transparent and easy-to-access information on foreign investment restriction.</p> <p>In addition, in introducing new regulations, strong demand on timely and easy-to-access information disclosure had observed in almost all industries especially in Textile industry (64.7%), Finance/Insurance industry (60.0%) and Food industry (50.0%).</p> <p>Manufacturing sector in general has been confronting more difficulties on diversifying access channels to foreign market.</p>
Dispute Settlement		Fair and high standard international legal recourse through an effective, efficient and transparent dispute settlement mechanism	
IPR		<ul style="list-style-type: none"> i. Include seamless, expeditious and transparent procedures for the registration of IP ii. Improved access to IP information, including laws, regulations and practices, patent examination with improved speed and quality Appropriate protection of IP rights including trade secrets, and effective enforcement of IP rights iii. Strengthen the enforcement of intellectual property rights to cope with the infringement of IPRs such as the unlicensed production and distribution of counterfeit trademark goods, design imitation goods, and pirated copyright goods 	<p><u>*EABC survey on FTA utilization</u></p> <p>Infringement of IPR was recognized big business bottleneck especially in Wholesale/Retail industry (23.5%) and Automotive industry (20.0%):</p> <ul style="list-style-type: none"> i. Request to strengthen the IPR enforcement capacity on government officials was especially strong in Wholesale/Retail industry (47.1%), E&E industry (37.9%) and Textile industry (41.2%)

eCommerce		<ol style="list-style-type: none"> i. Many of the recommendations that will facilitate eCommerce development has been identified above under Customs Procedures and Trade Facilitation (CPTF) ii. It is important to neither under or over regulate iii. We need business friendly, transparent and consistent rules on Customs procedures and data storage and cross border data flows iv. Duty drawback procedures for e-Commerce product returns v. Free-flow of cross-border information exchange vi. Avoid/ remove data localization requirements (proposal: prohibit the requirement to locate computing facilities such as data servers, as well as to access source code of the software) vii. Access to information is important, there should be no blockage on data flows with no split off on types of data flows viii. Standardisation is important, for example standardisation of database building rules, standardisation on unsolicited contact rules and there needs to be harmonisation with international standards wherever possible ix. Cyber security, secure payment and data and consumer protection is important for businesses as well as consumers x. Establish a framework for secure cross-border transactions that allows for innovative payment solutions to flourish <ol style="list-style-type: none"> ▪ Enable multiple different payment types across 13 currencies ▪ Promote interoperability between payment systems ▪ Establish a central regulatory body for payments: for harmonization of payments regulations across multiple jurisdictions, such as the EU's European Payments Council ▪ Rules to allow compatible mobile payments systems for the region to encourage digital payment. xi. Develop cross-border payment fraud enforcement mechanisms <ol style="list-style-type: none"> ▪ Implement strong dispute addressal mechanisms and 	<p><u>*EABC survey on FTA utilization</u> E-Commerce utilization is significantly active in MSMEs (17.8%) over LEs (9.9%). Industry wise, Textile industry (41.2%) was identified as the most active E-commerce user:</p> <ol style="list-style-type: none"> i. In Textile industry (58.8%) and Food industry (31.8%) had confronted to limited channels for cross-over product sales. They had also requested to develop clear rules and disciplines to utilize E-commerce (52.9% and 36.4% respectively) <p>**the EABC survey on eCommerce Utilisation and a Review of Best Practices in the Region provides detailed recommendations on eCommerce development in the region</p>
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		<p>strict penalties for fraudsters</p> <ul style="list-style-type: none"> ▪ Educate consumers on liability risks, while establishing clear customer recourse channels in case of fraud ▪ Empower government agencies to address cross-border fraud and data privacy and security concerns ▪ Facilitate region-wide working groups targeted at cross-border fraud discovery and prevention <p>xii. Expansion of cross-border e-commerce test zones to overcome issues of import duties on cross-border e-commerce and complex customs procedures and distribution system</p> <p>xiii. Deregulation on acquiring e-commerce licenses that would further facilitate entry of e-commerce companies in the region and importation of foreign goods</p> <p>xiv. Adopt best practices such as:</p> <ul style="list-style-type: none"> ▪ Interpretative Guidelines on Electronic Commerce and Information Property Trading by Japan has reduced information gap ▪ Customs facilitation via “Non-resident inventory” scheme practiced in China ▪ Develop and utilise global data standard (GDS) in cross-border supply chain, including the GDS Serial Shipping Container Code (SSCC) (similar to APEC’s effort) to enhance transparency in the supply chain ▪ Appropriate personal data protection rule development, “Cross-Border Privacy Rules (CBPR)” system introduced in some APEC economies 	
MSME		<p>i. Access to information about RCEP is very important for SMEs and attention needs to be paid to easing the administrative and cost compliance burden for SMEs. Many of the recommendations that will facilitate MSMEs have been identified above under Customs Procedures and Trade Facilitation (CPTF)</p> <p>ii. Policy makers to develop a comprehensive suite of policy options that support innovative and diversified financing models for SMMEs and start-ups, including the development of new financial instruments, addressing</p>	<p><u>*EABC survey on FTA utilization</u> 2 major FTA utilisation bottlenecks have been identified: lack of reliable information source, and lack of human/financial resources especially for MSMEs</p>

		<p>regulatory barriers to innovative financing and identifying policy frameworks for alternative finance</p> <p>iii. Accelerate the use of internet financing platforms as SMMEs are increasingly making use of this technology to secure and facilitate SMME access to crowdfunding facilities</p>	
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* Survey on optimal regional FTA formation in East Asia was conducted with full support from Japan External Trade Organization (JETRO) and administrative assistance from the Japan Chamber of Commerce and Industry (JCCI) and participation of companies in each RCEP economy through their APEX trade association. The participating trade associations include JCCI, Australian Industry Group (AIG), Young Entrepreneurs Association Brunei (YEAB), Cambodia Chamber of Commerce, China Council for the Promotion of International Trade (CCPIT), Asosiasi Pengusaha Indonesia (APINDO), Federation of Indian Chamber of Commerce and Industry (FICCI), Confederation of Indian Industry (CII), Korea International Trade Association (KITA), Lao National Chamber of Commerce & Industry (LNCCI), Federation of Malaysian Manufacturers (FMM), Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), New Zealand International Business Forum (NZIBF), Philippine Chamber of Commerce and Industry (PCCI), Philexport, Philfoodex, Management Association of the Philippines (MAP), Singapore Business Federation (SBF), Thai Chamber of Commerce and Vietnam Chamber of Commerce and Industry (VCCI). In total, we have received 309 valid responses of which 39.5% are large enterprises and 60.5% are MSMEs; 74.7% are manufacturers and 25.3% are service providers. The scope of the survey includes identifying bottlenecks and challenges in FTA utilisation and the wish list to enhance FTA utilisation. Full report: www.eabex.org/c/document_library/get_file?uuid=31b99f93-d2a8-43cb-aa2d-a93e2d6871a8&groupId=250515

** EABC with full support from Japan External Trade Organization (JETRO) and administrative assistance from the Japan Chamber of Commerce and Industry (JCCI) conducted a questionnaire survey to collect business inputs on the constraints in utilising cross border eCommerce as well as their wish list to enhance the utilisation and efficiency of cross border eCommerce through participating trade associations. We have also collected some best practices and regulatory information to support our findings in the survey. The participating trade associations include Australia Industry Group, National Chamber of Commerce and Industry Brunei Darussalam (NCCIBD), Cambodia Chamber of Commerce (CCC), China Council for Promotion of International Trade (CCPIT), China Chamber of International Commerce (CCOIC), Confederation of Indian Industry (CII), Kamar Dagang Dan Industri Indonesia (KADIN), Asosiasi Pengusaha Indonesia (APINDO), Japan Chamber of Commerce and Industry (JCCI), Lao National Chamber of Commerce and Industry (LNCCI), Federation of Malaysian Manufacturers (FMM), Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), New Zealand International Business Forum, Philippine Chamber of Commerce and Industry (PCCI), Management Association of Philippines (MAP), Makati Business Club (MBC), ASEAN Women Entrepreneurs Network (AWEN), Philexport, Singapore Business Federation (SBF), Korea International Trade Association (KITA), Thai Chamber of Commerce (TCC) and Vietnam Chamber of Commerce and Industry (VCCI). In total, we have received 354 valid responses of which 68% are MSMEs and 32% are bigger companies. Full report: http://www.eabex.org/c/document_library/get_file?uuid=4e73bab1-a6d3-4ec0-ab3a-f6b0ac0483eb&groupId=250515

Survey Report on e-Commerce Utilization

Aug 10, 2017

Japan External Trade Organization (JETRO)
For East Asia Business Council (EABC)

1. Outline of the Survey

- (1) Survey Period: Mar-May 2017
- (2) Methodology: Web questionnaire to respective companies (JCCI web platform base)
- (3) Target: Domestic companies in each RCEP country

2. Respondents No. by Categories

By Region

- ASEAN: 195 Companies
- ASEAN+1: 159 Companies

By Tiers

- Tier 1: 134 Companies
- Tier 2: 121 Companies
- Tier 3: 99 Companies

By Company Size

- MSMEs: 242 Companies
- LEs: 107 Companies

(Note) LEs are defined as the companies that hire more than 250 employees.

(Note 2)

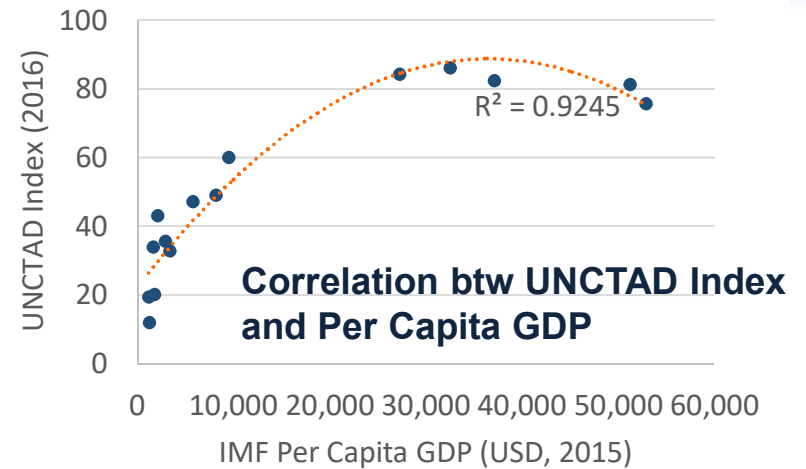
- Tier1: Australia, Japan, Korea, New Zealand, Singapore
- Tier2: China, Malaysia, Thailand, Viet Nam
- Tier3: India, Indonesia, Philippines, Brunei, Cambodia, Lao PDR, Myanmar

3. Cooperating Organizations/Associations

In addition to the special cooperation from ASEAN-BAC, following organizations/associations supported the questionnaire survey.

Country	Cooperating Organizations/Associations	No. of Respondents
Australia	Australia Industry Group	7
Brunei	National Chamber of Commerce and Industry Brunei Darussalam (NCCIBD)	11
Cambodia	Cambodia Chamber of Commerce (CCC)	8
China	China Council for Promotion of International Trade (CCPIT) China Chamber of International Commerce (CCOIC)	34
India	Confederation of Indian Industry (CII)	1
Indonesia	Kamar Dagang Dan Industri Indonesia (KADIN) Asosiasi Pengusaha Indonesia (APINDO)	4
Japan	Japan Chamber of Commerce and Industry (JCCI)	51
Lao PDR	Lao National Chamber of Commerce and Industry (LNCCI)	7
Malaysia	Federation of Malaysian Manufacturers (FMM)	34
Myanmar	Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI)	9
New Zealand	New Zealand International Business Forum	4
Philippines	Philippine Chamber of Commerce and Industry (PCCI) Management Association of Philippines (MAP) Makati Business Club (MBC) ASEAN Women Entrepreneurs Network (AWEN) Philexport	58
Singapore	Singapore Business Federation (SBF)	10
S.Korea	Korea International Trade Association (KITA)	62
Thailand	Thai Chamber of Commerce (TCC)	31
Vietnam	Vietnam Chamber of Commerce and Industry (VCCI)	22
Total		353

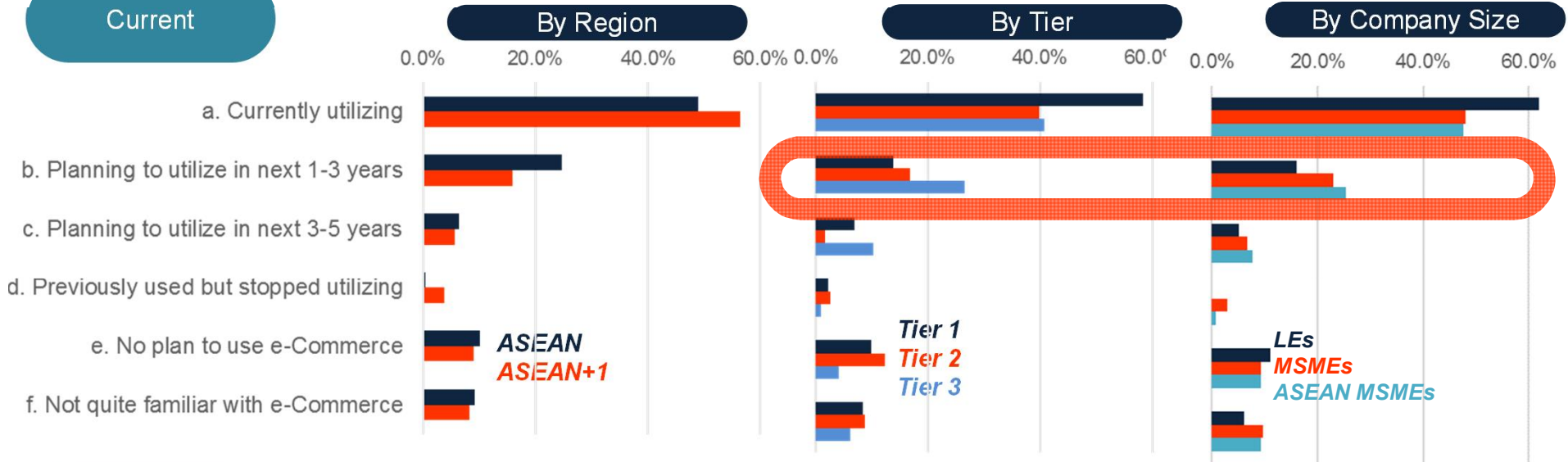
- ✓ UNCTAD B2C e-Commerce Index 2016 has utilized to classify the tiers, considering the high correlation ratio with UNCTAD e-Commerce Index.
- ✓ Regarding the UNCTAD e-Commerce Index, while high-rankers increased its competitiveness from 2014, low-rankers after India dropped its ranking, indicating widening the business environment gaps in these 2 years



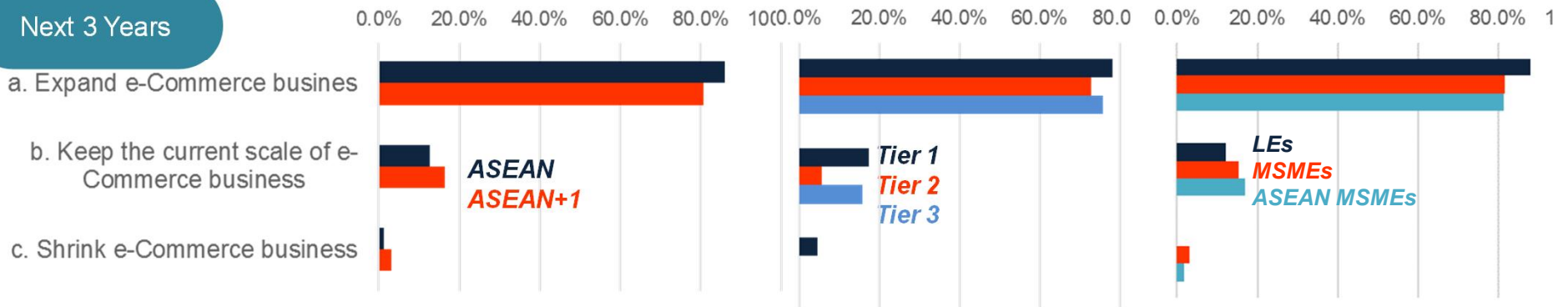
UNCTAD B2C E-Commerce Index 2016

2016 Rank	Economy	Share of individuals using Internet (2014 or latest)	Share of individuals with credit card (15+, 2014 or latest)	Secure Internet servers per 1 million people (normalized, 2014)	UPU postal reliability score (2013/14)	UNCTAD B2C e-commerce Index value 2015	2014 Rank
Tier 1	5 Japan	91	66	89	99	86.1	12
	7 Korea	84	56	97	100	84.3	8
	10 New Zealand	86	61	92	93	82.5	13
	12 Australia	85	59	93	89	81.4	6
	23 Singapore	82	35	88	98	75.8	26
Tier 2	44 Malaysia	68	20	69	84	60.1	45
	64 China	49	16	48	83	49.1	65
	69 Thailand	35	6	58	90	47.2	70
	75 Vietnam	48	2	52	70	43.1	90
Tier 3	89 Philippines	40	3	52	48	35.7	N/A
	90 India	18	4	46	68	34	83
	93 Indonesia	17	2	47	66	33	88
	115 Lao PDR	14	3	38	26	20.3	105
	119 Cambodia	9	3	41	25	19.5	91
133 Myanmar	2	0	25	21	12	N/A	

Current

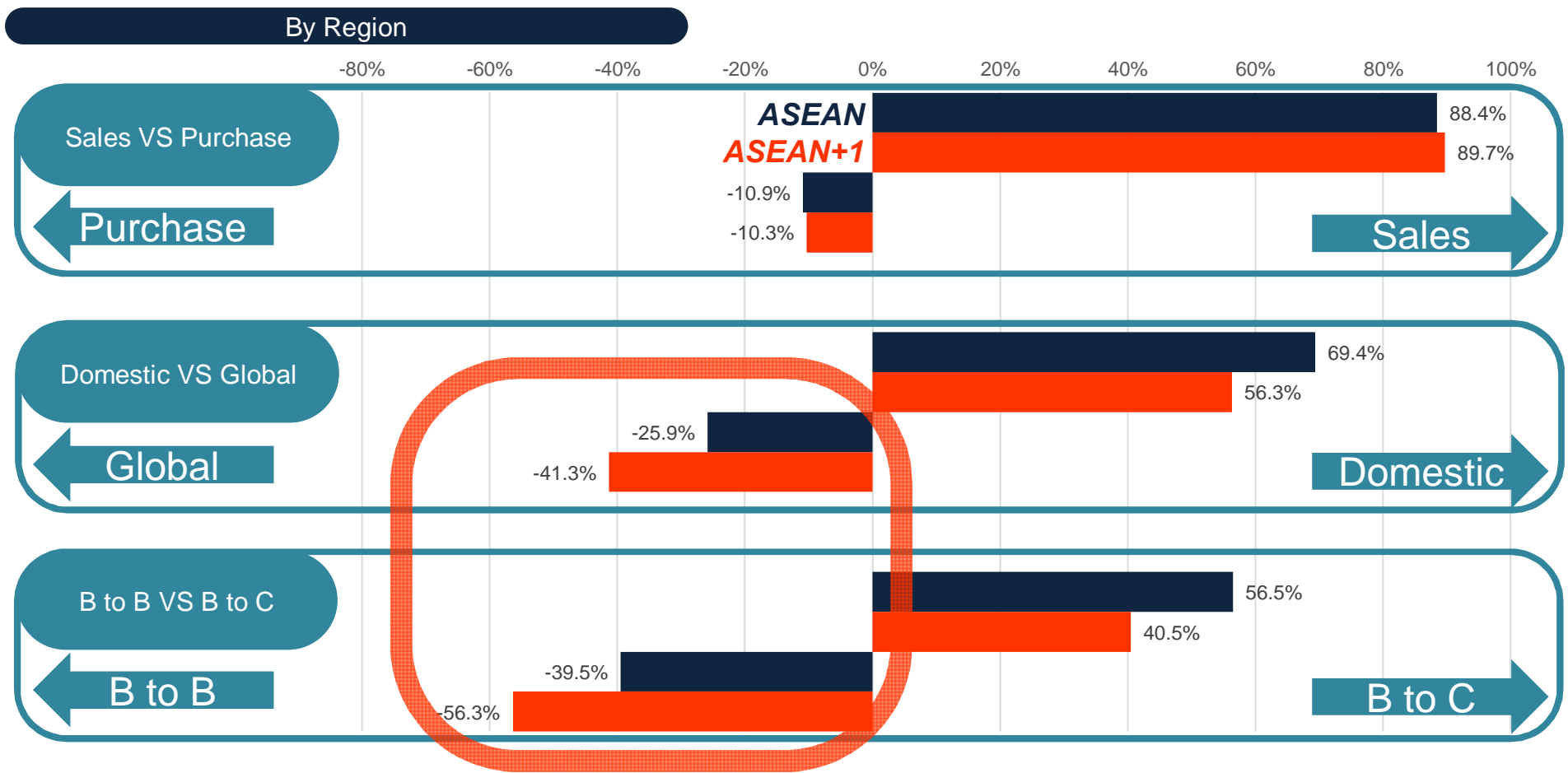


Next 3 Years



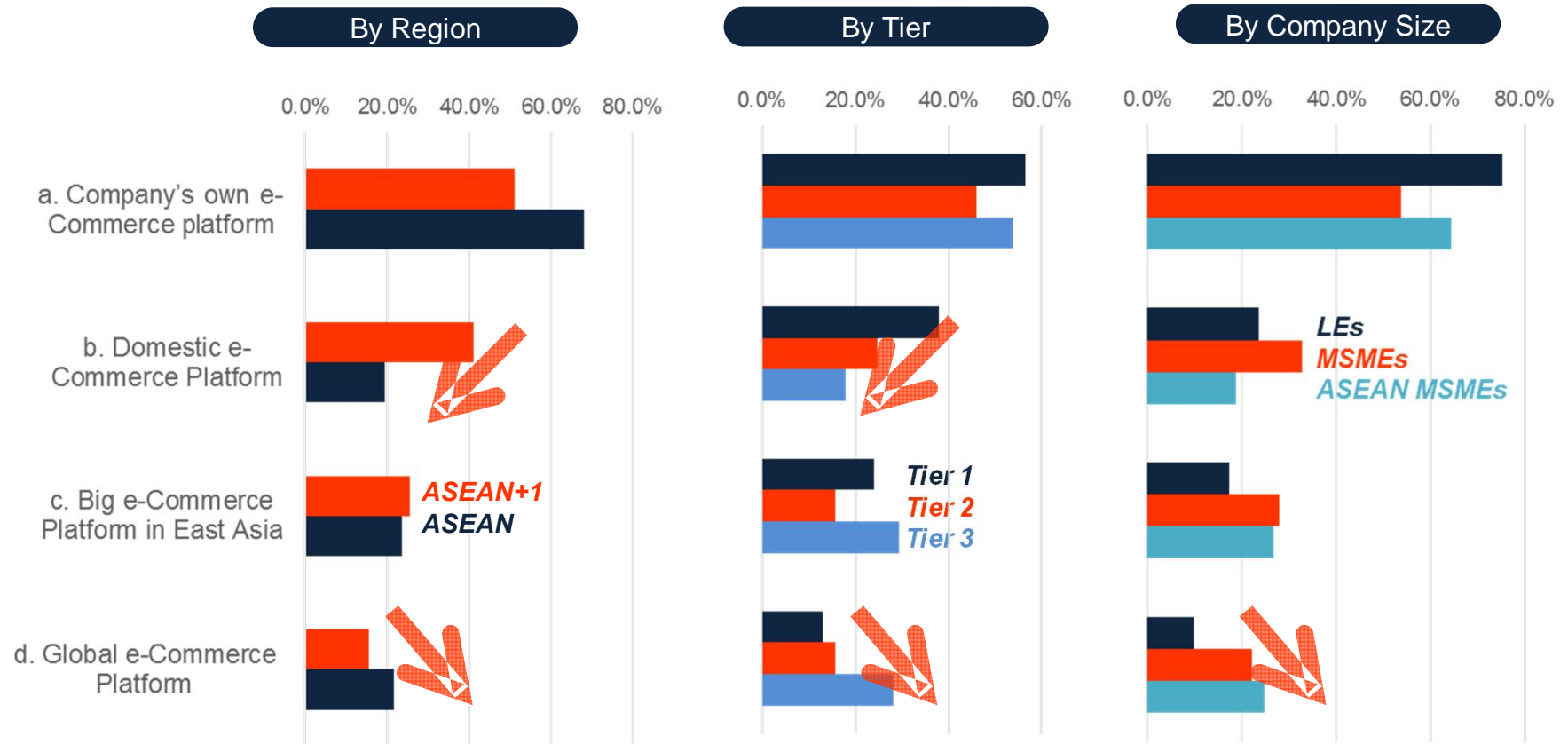
- ✓ In all categories, respondents are found as quite positive to utilize e-Commerce, and their expansion direction is also quite obvious.
- ✓ **Tier 2, Tier 3 and MSMEs have more tendencies to utilize e-Commerce in next 1-3 years**, compared with Tier 1 and large enterprises.

- ✓ Both ASEAN and ASEAN+1 companies mainly utilize e-Commerce for selling products to its own domestic markets.
- ✓ **ASEAN companies are lacking behind for cultivating foreign markets and B to B business**, compared with ASEAN+1 companies.



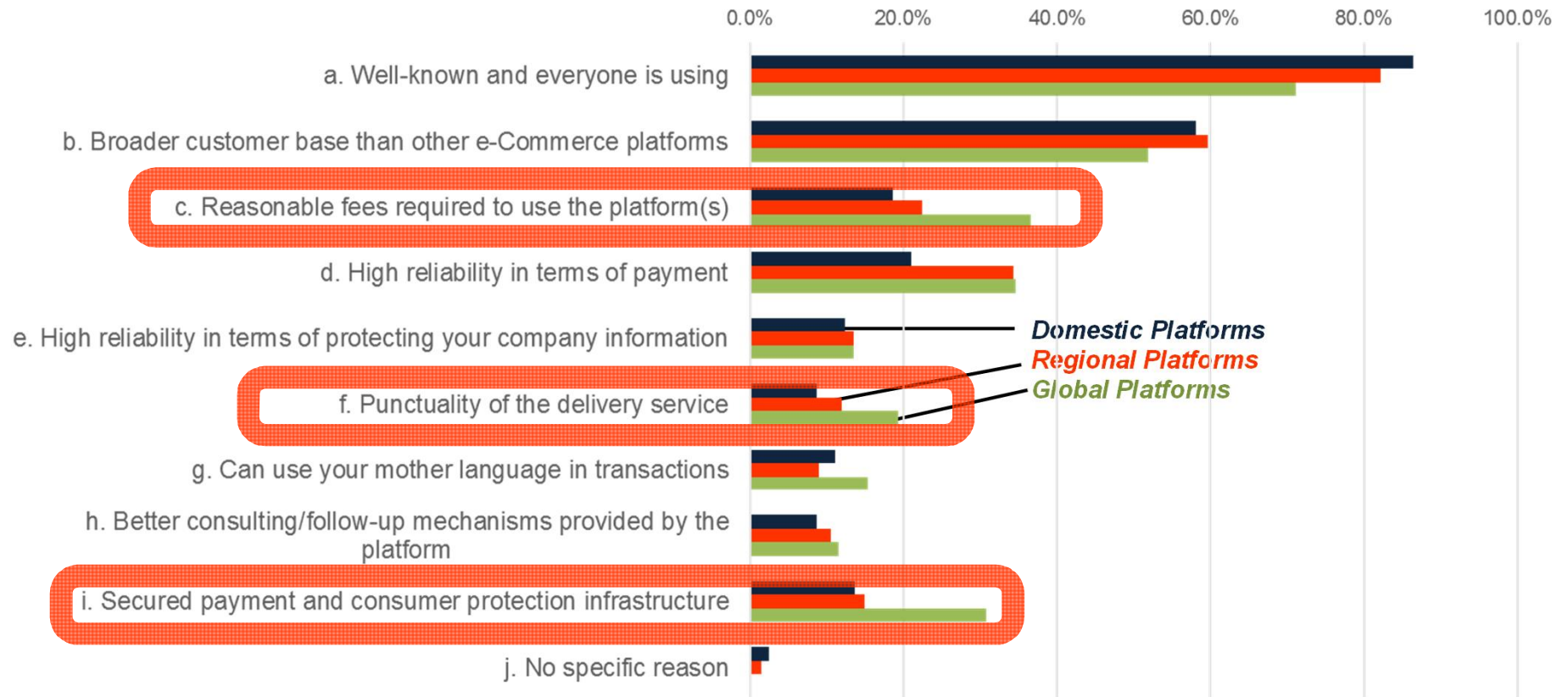
- ✓ While in all Tiers companies utilize e-Commerce for selling products to its own domestic markets, Tier 1 companies utilize e-Commerce much for global marketing to the B to B market compared with Tier 2 and Tier 3.





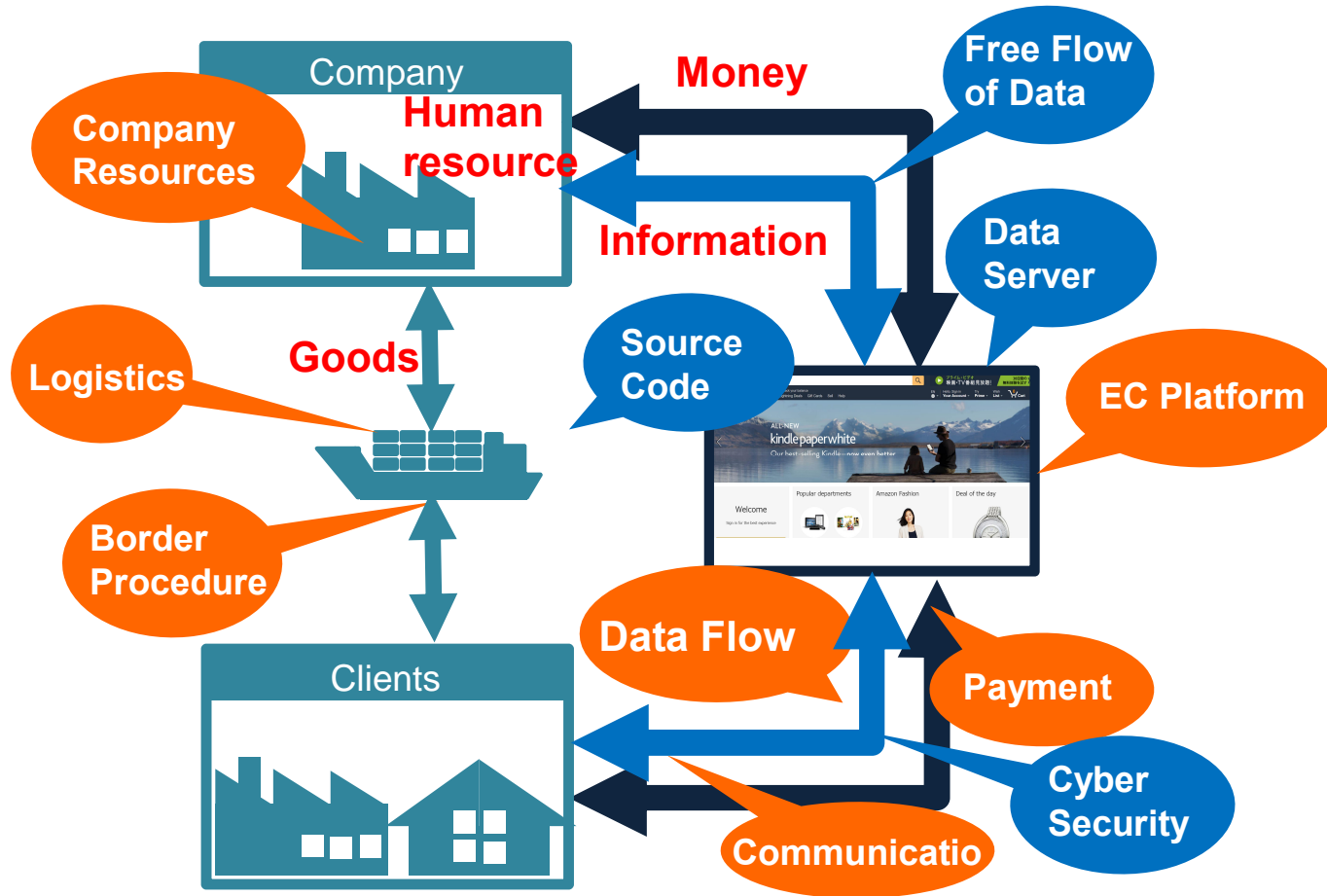
- ✓ In all segments, own e-Commerce platform was found as most popular window to do e-Commerce business.
- ✓ ASEAN+1 companies, and Tier 1 companies have utilized domestic e-Commerce platform more active than ASEAN and Tier 2, Tier 3 companies, while **ASEAN, lower tier, and MSMEs tends to rely more on the global e-Commerce platforms.**

Reasons to Select the e-Commerce Platforms



✓ Reasonable fee structure, secured payment and consumer protection infrastructure and delivery punctuality the typical reason to select global platforms. At least domestic platformers need more reliability on data protection and delivery system.

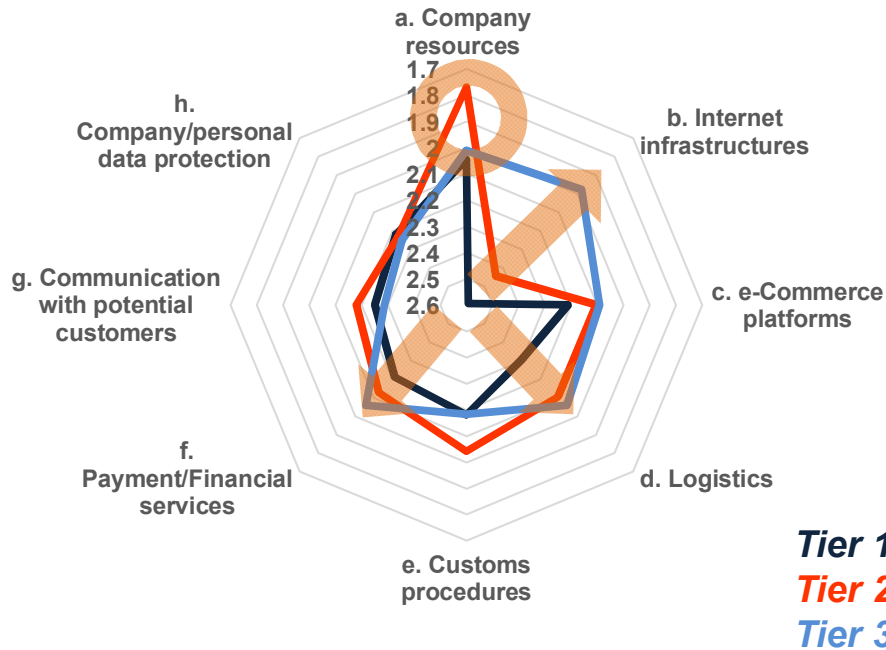
3. Business Bottlenecks



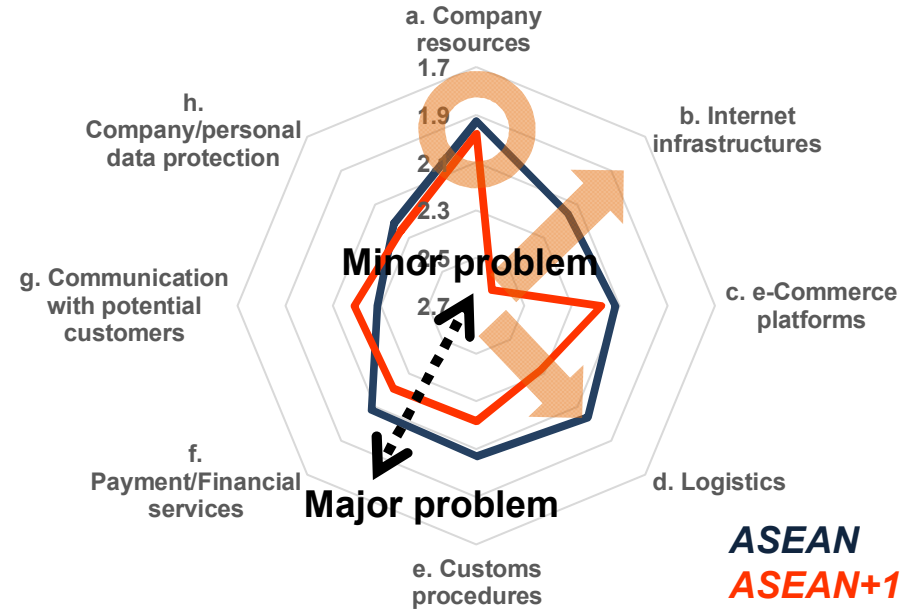
Business bottlenecks covered by the questionnaire survey

Rules and disciplines covered by the best practices (data flow would be covered by both)

By Tier



By Region

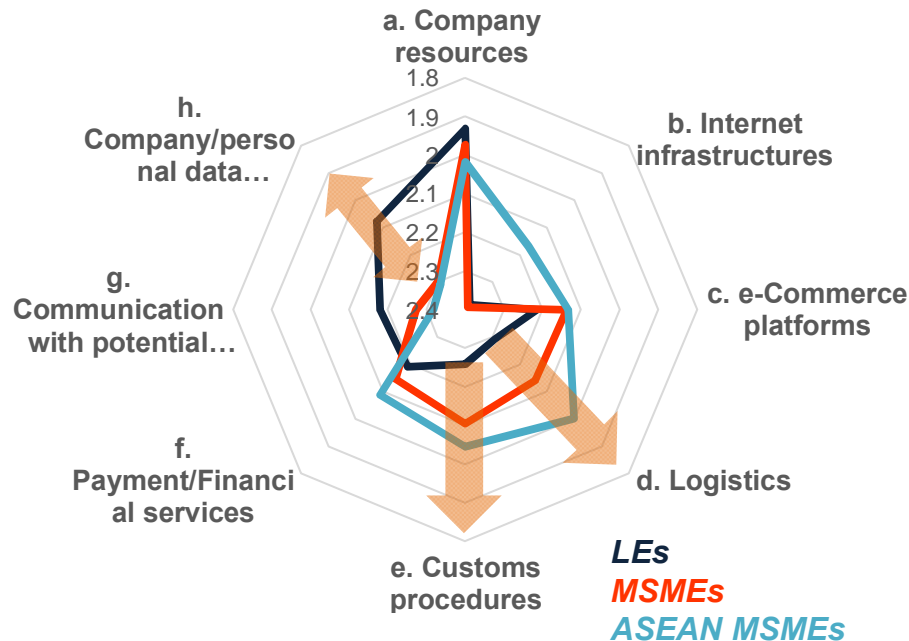


- ✓ In every tier and every segment, difficulties on company resources can be found as the biggest concern for respondents.
- ✓ The lower the tier goes, the more difficulties in **internet infrastructure, logistics and payment/financial services** were observed.

- ✓ Same as Tier-based result, ASEAN companies has more difficulties in both **internet infrastructure and logistics**.

By Company Size

(Ref) ASEAN LEs VS ASEAN MSMEs

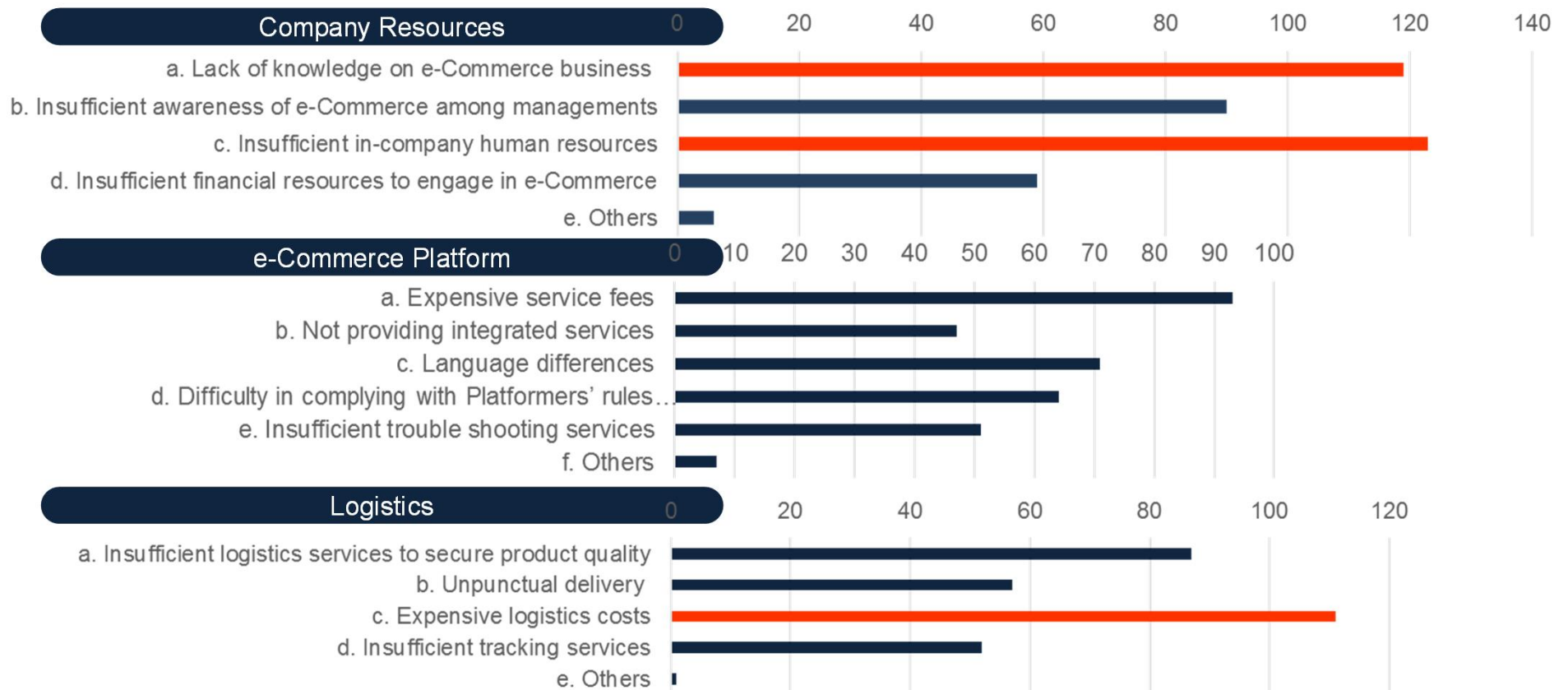


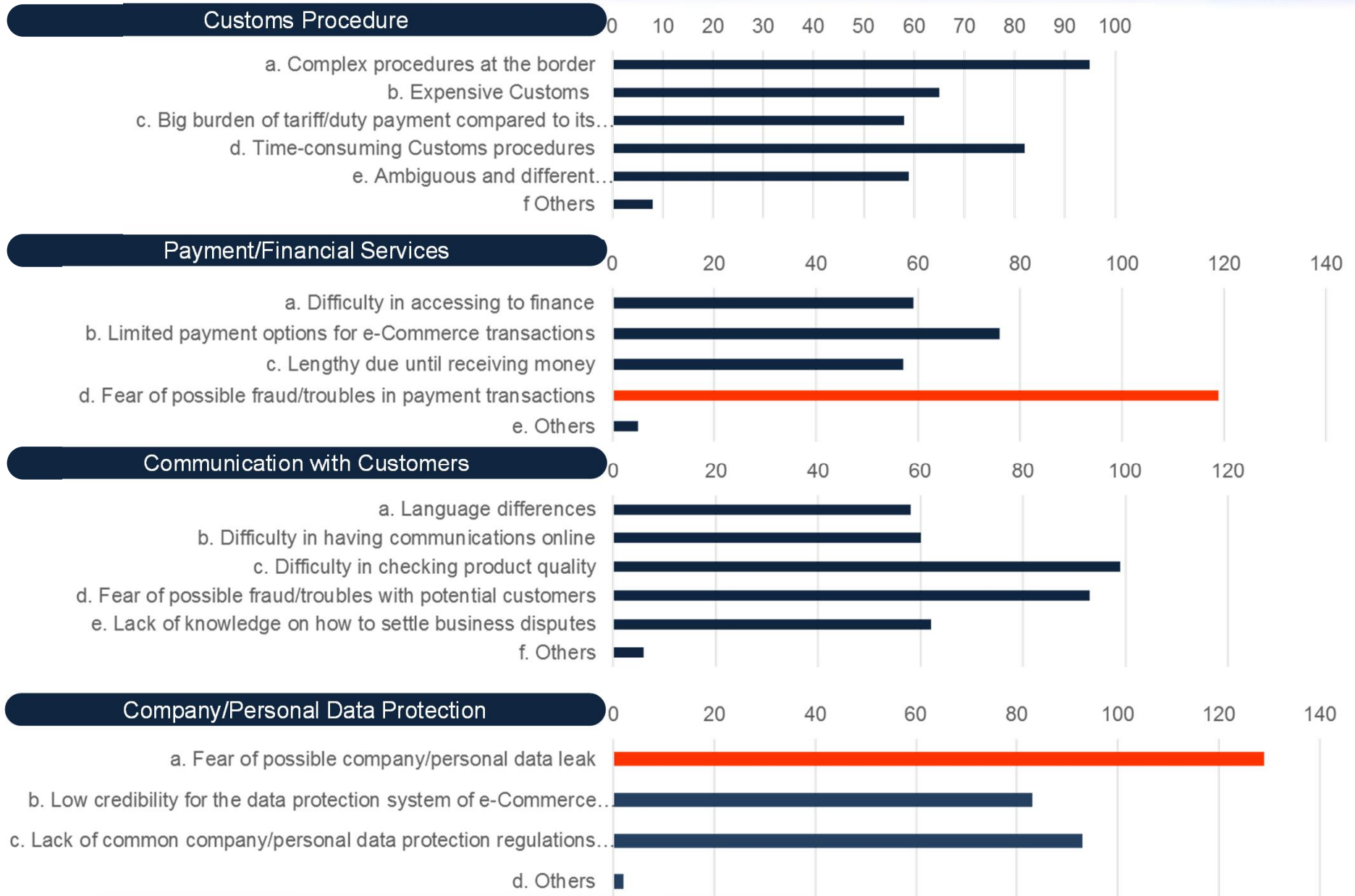
- ✓ Compared with large enterprises, MSMEs, and ASEAN MSMEs felt more difficulties in **logistics, customs procedure and payment/financial services** in a big margin.
- ✓ While large enterprises considered company/personal data protection as a big issue, MSMEs and ASEAN MSMEs did not, **possibly due to MSMEs' lack of knowledge on this matter.**

- ✓ Almost the same result was observed between ASEAN LEs and ASEAN MSMEs; ASEAN MSMEs felt more difficulties in **logistics and customs procedure** than ASEAN LEs, and with bigger margin ASEAN MSMEs had not much concern on company/personal data protection than ASEAN LEs.

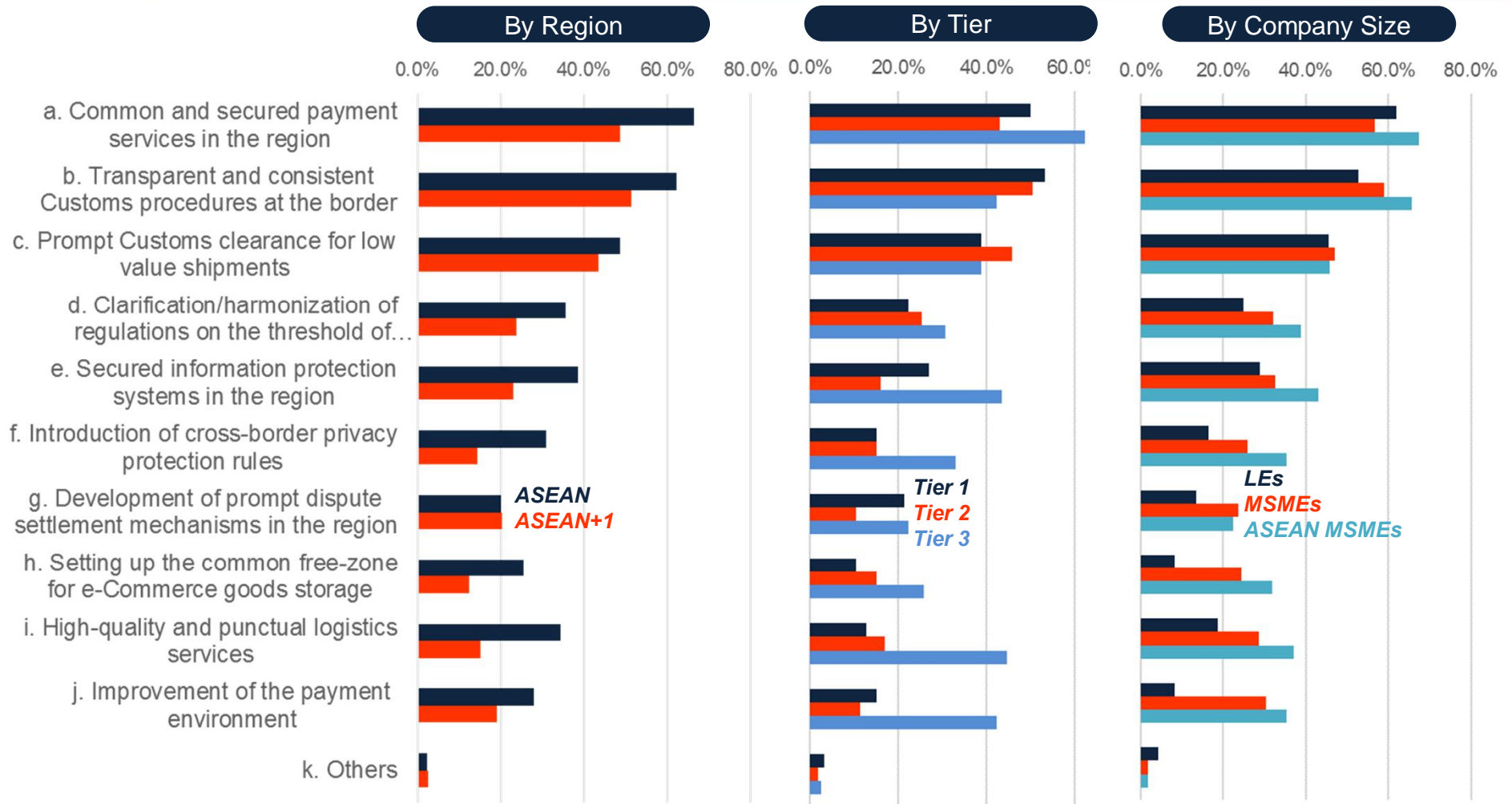
- ✓ Among respective categories, issues on company resources are identified as major bottlenecks.
- ✓ Top 5 outstanding business bottlenecks for expanding e-Commerce business are; i) Fear of possible company/personal data leak, ii) Insufficient in-company human resources, iii) Fear of possible fraud/troubles in payment transactions, iii) Lack of knowledge on e-Commerce business, and v) Expensive logistics costs.

Total (N=274)





4. Necessary Infrastructure



- ✓ Payment related infrastructure, Customs procedure and logistics improvement scored high demand in all segments in general.
- ✓ Development of regional data/privacy protection system and common regional free-zone also got relatively high score specifically in the lower tiers/MSMEs.

i. Business Dialogue Mechanism with Regional Frameworks

The following business recommendations shall be considered and incorporated in appropriate regional cooperation mechanisms, including e-Commerce sector negotiation under RCEP, and discussion on ASEAN Coordinating Committee on e-Commerce (ACCEC)..

ii. Introduction of Interpretative Guideline on EC (Best Practice of Japan)

As we found out, one of the most common business bottlenecks in doing eCommerce business is the lack of sufficient knowledge in this business field, and one of the reasons what makes it difficult is the complexity and ambiguous interpretation of relevant laws and regulations covering eCommerce business in each country.

In order to improve business predictability in doing eCommerce business, since 2002, Ministry of Economy, Trade and Industry (METI) Japan has been developing Interpretative Guidelines on Electronic Commerce and Information Property Trading, and introduced its idea to APEC economies. For instance, recent revision of the Guideline includes contents such as responsibilities of on-line shopping operator and issues concerning cross-border transactions, which would be also referable in other EABC members.

iii. Non-resident inventory+Scheme (Best Practice of China)

Compared to the normal international trade, e-Commerce transaction drastically lowers the participants' psychological barrier to decide the purchase/selling action. However, through interviewing companies in ASEAN, there are still many trouble cases observed in cross-border procedure and cross-border delivery, which heavily relies on traditional and normal trade practices. The gap between easy-to-buy process and difficult-to-get reality sometimes hinders the active utilization of such cross-border e-Commerce. Narrowing such gaps through facilitating Customs procedure for small parcel import and developing systems to shorten delivery site is thus required.

In this sense, among others, in China, it is widely considered that the Non-resident inventory+ scheme adopted in foreign trade zone has been creating big waves of cross-border e-Commerce. We believe that such non-resident inventory scheme, which allows non-resident of certain country to possess their product inventory in that country without establishing any business bases, would be indispensable cross-border e-Commerce infrastructure specifically for MSMEs, through enabling swift delivery of particular company's product in remote area or in foreign country.

iv. Appropriate Personal Data Protection Rule Development (Best Practice in APEC)

While observing recent trend in introducing new restrictions on cross-border company/personal data flow, we are in the position that such legislations strongly hinder the activities not only MNCs which develop regional sophisticated value chain with various information flow, but also MSMEs which are required additional investment in complying with such regulations, which sometimes too costly compared with their intended business volume. Also, if such regulations would be introduced without any coordination with surrounding countries relevant rules, the company cost to acquire such respective regulations information to comply with would be also huge, which might make MSMEs to further hesitate to endeavor to cross-border transactions.

For avoiding such difficult situation, one good reference would be the %Cross-Border Privacy Rules (CBPR)+system introduced in some APEC economies. This system secures the data privacy protection through requiring participating businesses to develop and implement data privacy policies consistent with the APEC Privacy Framework, and assess/certify such conformity. In adopting such business-based system, total cost to secure data privacy both for governments and businesses would be greatly lessened.

v. Utilization of Regional Cooperation Frameworks/Treaties to Improve Predictability

In addition to the aforementioned rules and regulations on data privacy protection, there are also legislation attempts observed in some EABC member countries to mandate location of servers in the territory of these countries, or to set the condition to disclose source code to authorities. In the study by European Centre for International Political Economy (ECIPE) for instance, ECIPE estimated GDP loss through full data localization requirements as -0.7 to -1.7 in selected countries such as China, India, Indonesia and Vietnam.

While noting the importance of national security or data protection, in our interview, through shrinking business scale and hesitating investment decision, such action would cause huge negative impact in the introduced country. In this sense, we strongly believe that the free flow of information should be recognized as a fundamental principle to promote the global economy and development. Especially, in order to ensure fair and equal access to the cyberspace for all players including MSMEs, unjustifiable burdens or barriers should not be introduced. Healthy e-Commerce rules and discipline should be developed to achieve these objectives, through regional cooperation frameworks such as AEC and APEC, as well as international treaties such as FTAs and discussions in WTO. Specifically in RCEP, we would like to see high level and business facilitating disciplines development under e-Commerce Chapter, at least introducing the rules such as free-flow of cross-border information, prohibition of the requirement to locate computing facilities such as data servers, as well as prohibition of the requirement to disclose source code of software.



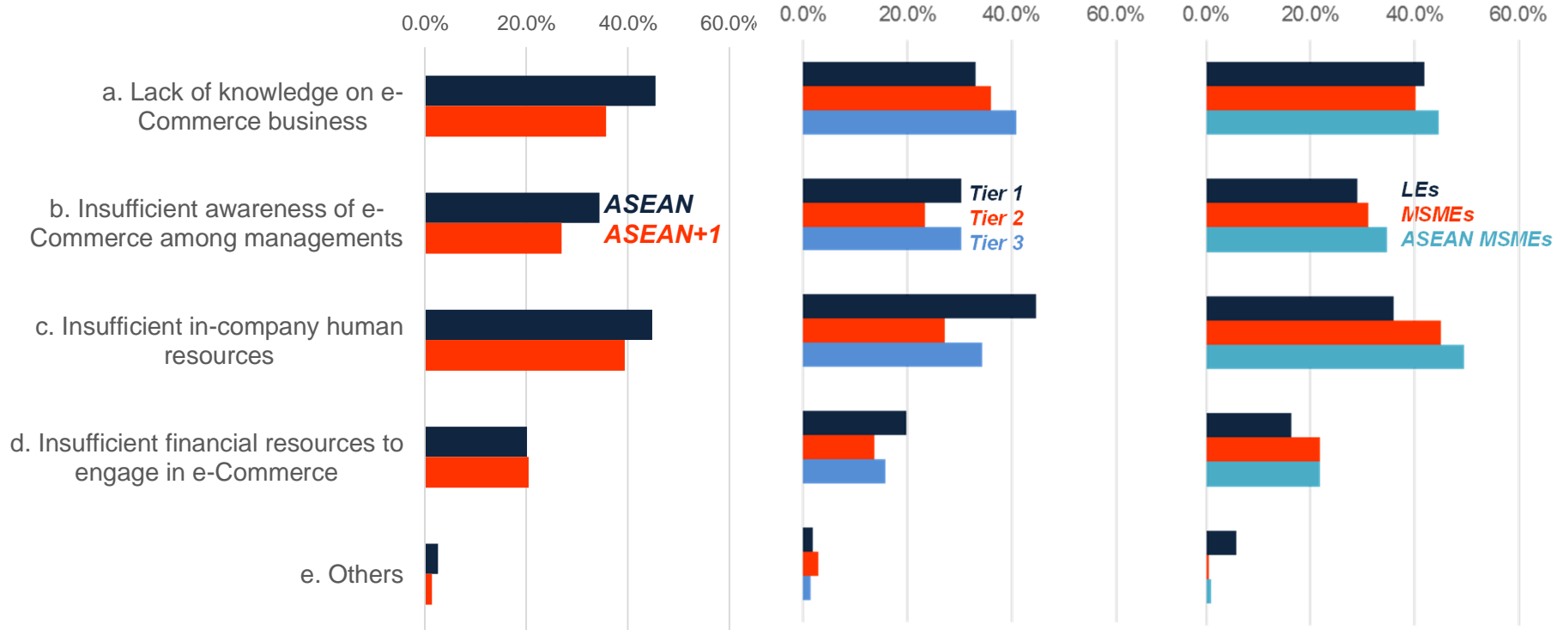
ANNEX

Business Bottlenecks on Respective Elements by Classification

By Region

By Tier

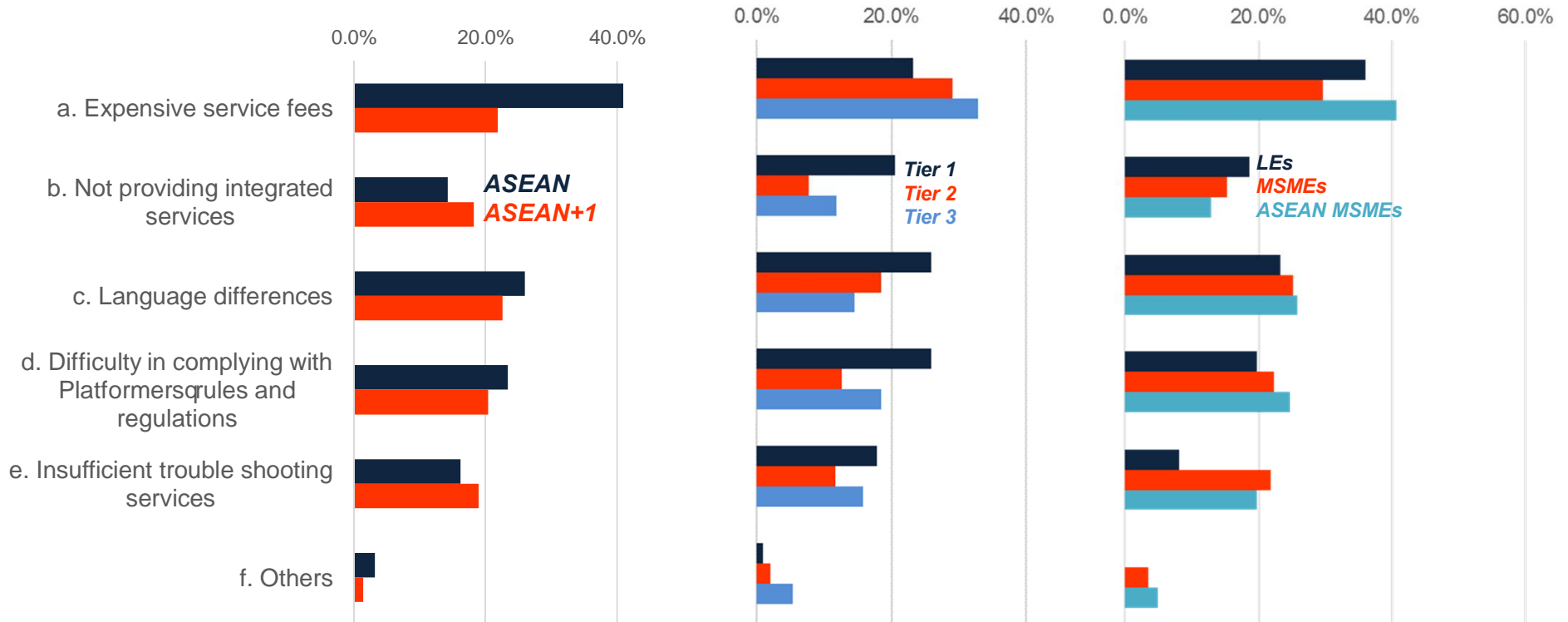
By Company Size



By Region

By Tier

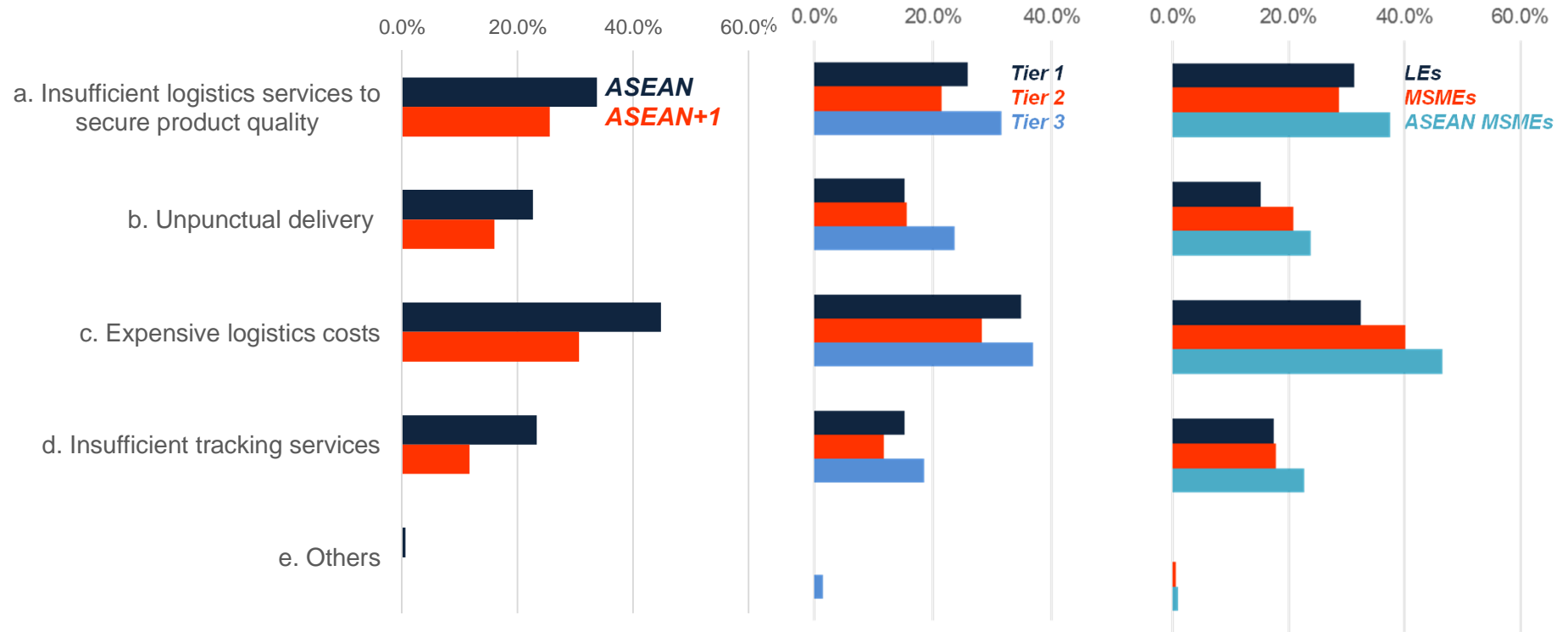
By Company Size



By Region

By Tier

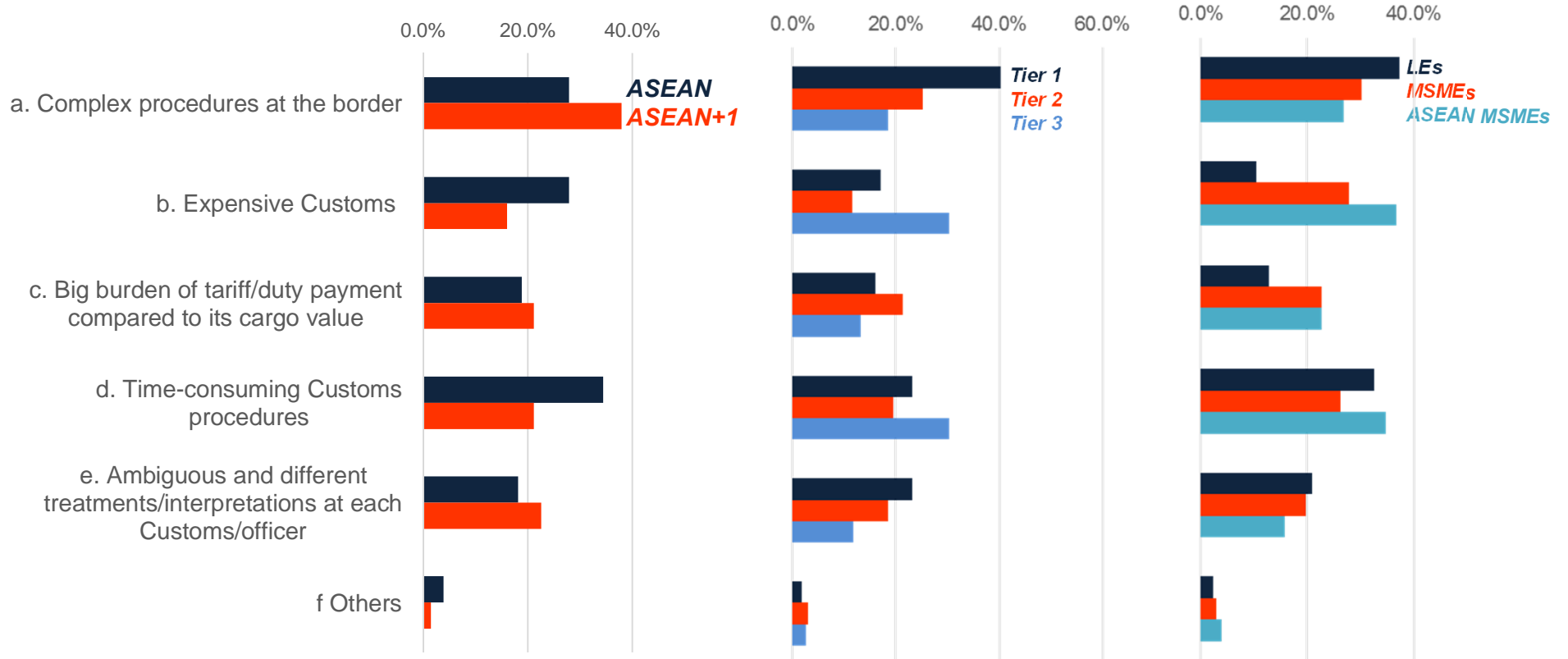
By Company Size



By Region

By Tier

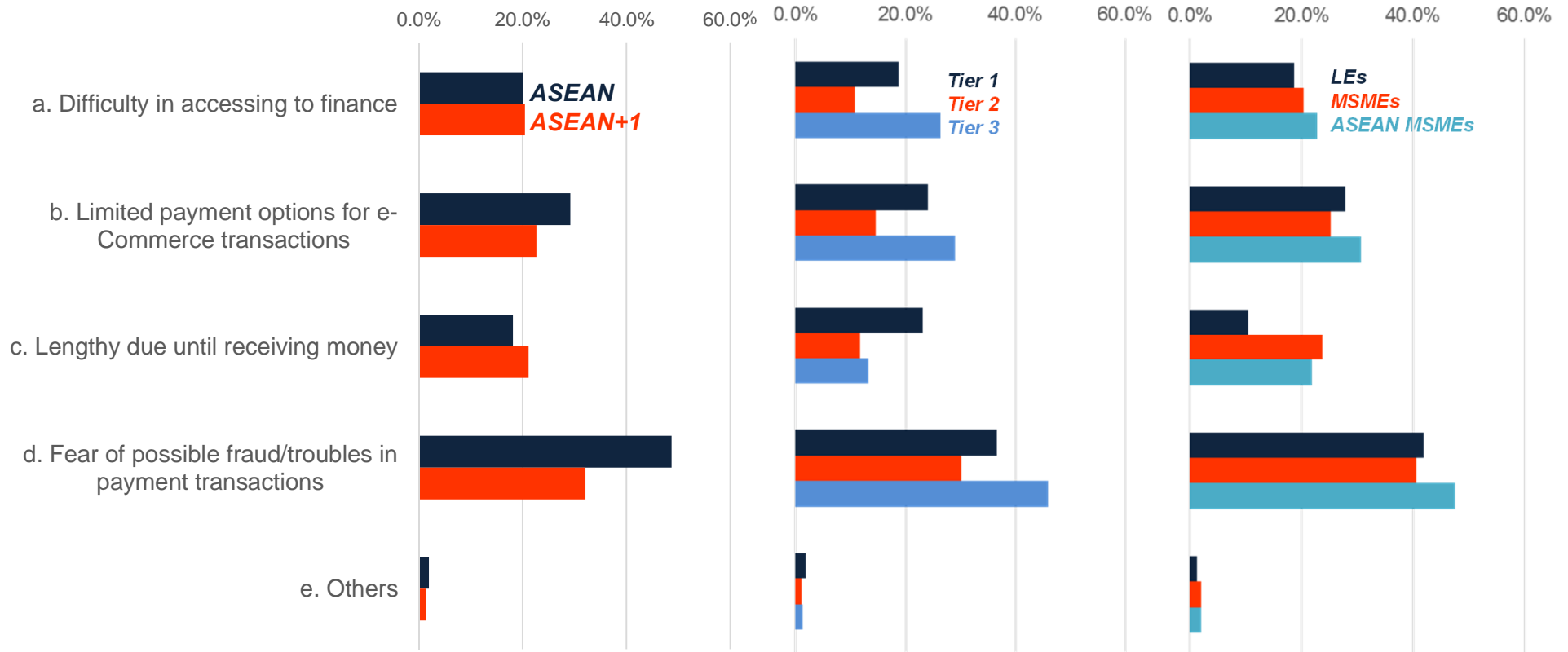
By Company Size

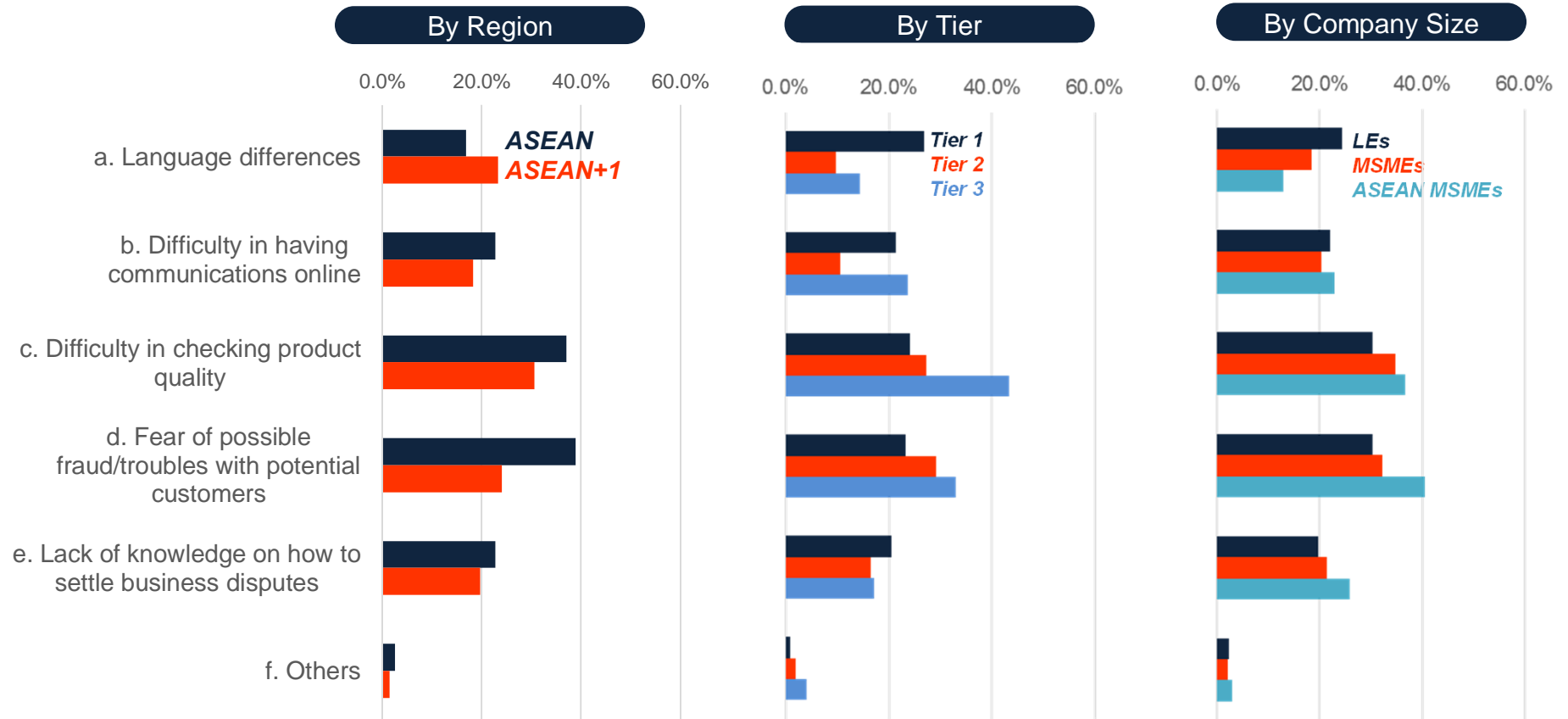


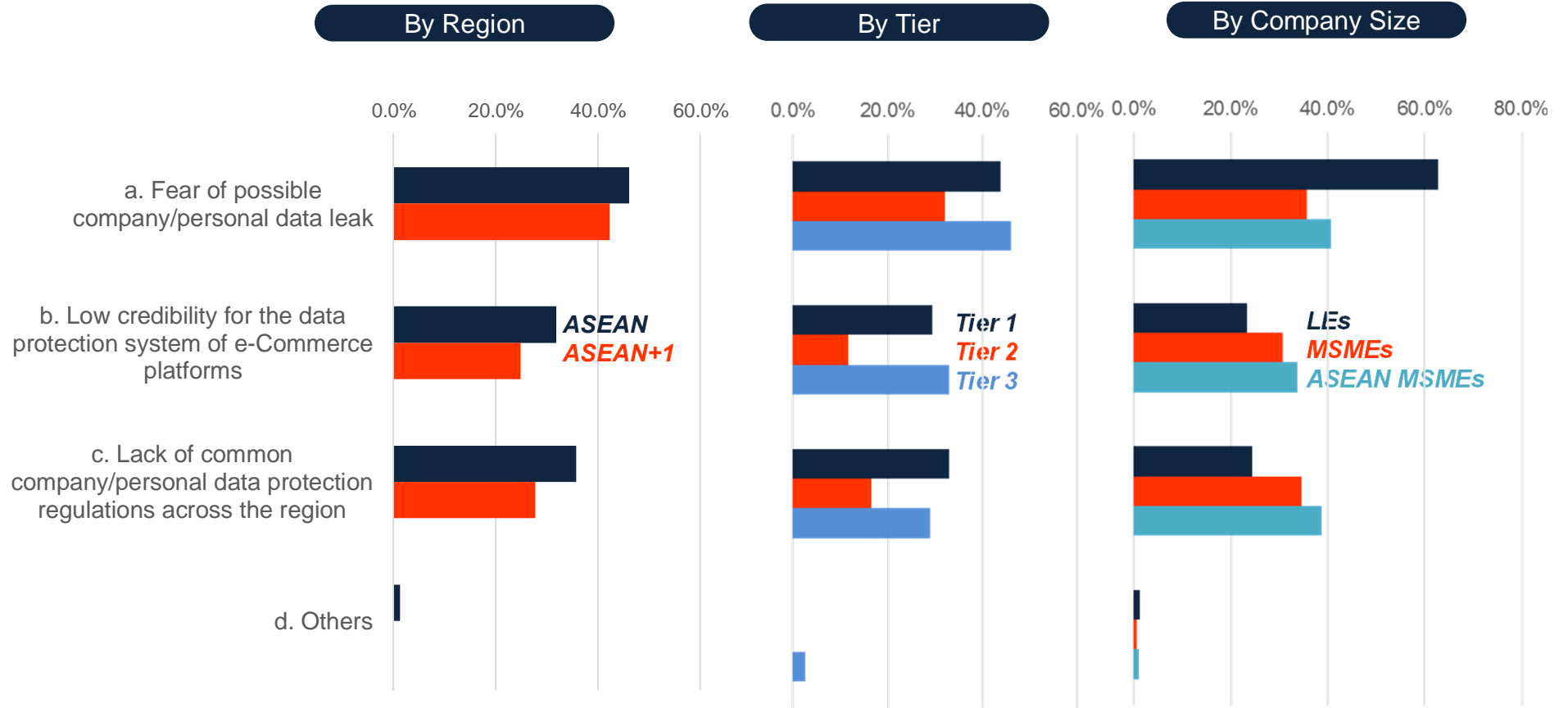
By Region

By Tier

By Company Size







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2017**

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