

Re: Follow-Up Letter on DEFA: pre-signing

5 September 2026

Your Excellencies,

We, undersigned organizations, write to follow up on the [previous letter](#) from October 2025 regarding the Digital Economy Framework Agreement (DEFA). We note that the [DEFA negotiations have concluded](#) and it is [scheduled to be signed in November 2026](#).

We remain concerned that, despite the significance of this agreement, we have received no response from the ASEAN Secretariat or ASEAN Member States regarding our earlier request for transparency and meaningful engagement. It appears that negotiations have concluded without addressing these concerns. This is disappointing, particularly given the far-reaching implications of DEFA for digital governance, economic policy, and regulatory autonomy across the region.

In the absence of transparency, civil society is left to rely on publicly available information and secondary sources, including the Boston Consulting Group (BCG) [slides summarizing its study](#). These suggest that DEFA may include provisions on cross-border data flows, source code, server location requirements, non-discrimination, and platform liability. Such rules could significantly constrain the policy space ASEAN countries need to regulate in the public interest, support local innovation, and pursue inclusive digital development.

We are particularly concerned because these provisions resemble digital trade rules advanced in other agreements, including the recent Agreements on Reciprocal Trade (ARTs) that some ASEAN countries signed with the United States. Those rules triggered significant public concern and backlash. The experience demonstrates that rules developed without transparency and public engagement risk undermining trust and legitimacy.

If the DEFA is signed without even releasing the text with sufficient time and opportunity for public consultation and comment, it would face similar criticism and resistance. The possible handicapping of regulatory power is not just an issue of democratic deficits. We are concerned that ASEAN governments may be locking our societies into agreements that reinforce North-South inequalities, and will hamper attempts at inclusive, sustainable development and poverty alleviation.

We therefore urge ASEAN and its Member States to proceed with caution. At a minimum, DEFA should not include commitments that:

- (A) restrict governments' ability to regulate data flows,
- (B) limit access to source code or algorithms *ex post* and *ex ante*,

- (C) require non-discriminatory treatment of foreign digital services and products that undermines platform accountability and restricts industrial policies
- (D) undermine ASEAN countries' ability to: implement industrial policies that support local digital development and innovation including customs duties on electronic transmissions, or protect consumers such as electronic authentication requirements

ASEAN has repeatedly committed itself to a people-oriented and people-centred future. An agreement of this scale and consequence cannot be signed without meaningful consultations with affected communities based on the public release of the negotiated text. Transparency, public accountability, and meaningful participation are not optional. They are essential to the legitimacy of the process.

We remain ready to engage constructively and reiterate our request for a meaningful dialogue with the ASEAN Secretariat and Member States on these issues before the negotiations move any further. We urge you before signing the DEFA to:

1. Ensure the DEFA does not contain provisions above including those restricting: access to/transfer of source code or algorithms or governments' ability to regulate data flows since even the USA no longer supports these provisions because they restrict the ability to regulate this rapidly developing technology so significantly. The then United States Trade Representative explained why the USA no longer supported these source code and data flow provisions saying because of recent developments in generative artificial intelligence, agreeing to such provisions would be '[committing massive malpractice and probably committing policy suicide](#)'.
2. Publicly release the full BCG DEFA study including the methodology and assumptions behind its claimed benefits for the growth of ASEAN's digital economy and the distribution of those benefits among ASEAN countries.
3. Immediately publicly release the full DEFA text as almost all free trade agreements (FTAs) containing these types of provisions are released before signing (and often [before legal scrubbing](#)).
4. Hold consultations with civil society organisations and affected communities on the concluded text.
5. Publicly release their cost-benefit analyses of the concluded text including all the laws, regulations and policies they will need to change to comply with the DEFA.

Furthermore we urge you not to sign or ratify the DEFA if it includes any of the provisions in (A)-(D) above.

Yours sincerely,

Civil Society Organisations in Southeast Asia (Listed below):

Organization	ASEAN country
Puskaha Indonesia	Indonesia
Women's Peace Network	Myanmar
Manushya Foundation	Regional
International NGO Forum on Indonesian Development (INFID)	Indonesia
ALTSEAN-Burma	Myanmar
The Barefoot Institute	Regional
Public Services Labor Independent Confederation (PSLINK-PUBLIK)	Philippines
Women's Legal and Human Rights Bureau, Inc.	Philippines
Human Rights Online Philippines (HRonlinePH)	Philippines
Tifa Foundation	Indonesia
ELSAM	Indonesia
Cambodian Center for Human Rights (CCHR)	Cambodia
Indonesia for Global Justice (IGJ)	Indonesia
Gender and Development Advocates (GANDA) Filipinas	Philippines
Human Rights Myanmar	Myanmar
Southeast Asia Freedom of Expression Network (SAFEnet)	Regional
Public Services International Asia Pacific	Regional
Labor Education and Research Network (LEARN)	Philippines
Sentro ng mga Nagkakaisa at Progresibong Manggagawa (SENTRO)	Philippines
Sabah Medical Services Union	Malaysia
Manila Water Employees Union	Philippines
Women's Peace Network	Myanmar
WomanHealth Philippines	Philippines
Human Rights Online Philippines (HRonlinePH)	Philippines
SPELL-Solidarity for Peace, Equity, and Lifelong Learning	Philippines
Alliance of Filipino Workers (AFW)	Philippines
PATAMABA Workers in the Informal Sector Enterprise	Philippines
PIPSEA	Philippines
Public Virtue Research Institute	Indonesia
Legal Aid Center for the Press (LBH Pers)	Indonesia
Foundation for Media Alternatives	Philippines