The following report is part of a series which attempts to provide a detailed analysis on the ASEAN Economic Community (AEC) Blueprint 2025. Each report will cover a single element of the blueprint, providing a comprehensive look at past achievements, present problems, and the future plans of the AEC. Special attention will be placed upon the strategic measures outlined in the AEC Blueprint 2025. This report aims to provide insight into the viability surrounding regional economic integration under the AEC.

Intellectual Property Rights (IPR)

Intellectual property has been defined by the World Intellectual Property Organization (WIPO) as the creations of mind, such as inventions; literary and artistic works; designs, and symbols, names and images used in commerce. The WIPO also states that IP is protected by law in the forms of patents, copyright and trademarks, which would enable anyone to earn recognition or financial benefit from what they invent or create. A proper IP system promotes an enabling environment in which creativity and innovation can flourish through establishment of a right balance between the interests of innovators and the wider public interests.

As an increasingly important emerging economic region, ASEAN has been working to establish a regional system that enables and promotes IPR as a factor that enhances ASEAN’s competitiveness in the global economy. Proper protection of any sort of inventions would increase the value of and sentiment towards ASEAN as an economic region among global investors. It then makes sense that in the previous and new AEC Blueprints, IPR is placed as one important initiative that would both stimulate innovations and therefore enhance competitiveness of ASEAN.

A. Targets under the AEC 2015 Blueprint

The AEC Blueprint 2015 views IPR as a very important initiative to support the establishment of ASEAN as a competitive economic region. Development of IP policies was aimed at stimulating (i) cultural, intellectual and artistic creativity and their commercialization; (ii) efficient adoption and adaptation of advanced technologies; and (iii) continuous learning to meet the increasing expectations of stakeholders of AEC.

In terms of trade and investment, sound IP policies are deemed very important in encouraging greater volume of cross-border economic activities, especially through determination of local value added and external competitiveness.

Under the AEC Blueprint 2015, measures to develop and integrate IPR policies and laws were guided by the ASEAN IPR Action Plan 2004-2010 and the Work Plan for ASEAN Cooperation on Copyrights. These were aimed at encouraging learning and innovation by businesses, investors, inventors and creators in the ASEAN region, and at the same time, improving public awareness, coordination and networking among the stakeholders. The prescribed actions for IPR under the AEC 2015 are as follows:

1. Member states were expected to fully implement the ASEAN IPR Action Plan 2004-2010 and the Work Plan for ASEAN Cooperation in Copyrights to fully achieve the expected targets.
2. The IP Offices in the region were expected to establish an ASEAN filing system for design to facilitate filings by users and improve coordination among the IP Offices in ASEAN, as receiving office, subject to language requirements.
3. To comply with international standards, member states were also encouraged to become a party to the Madrid Protocol which would allow them to implement the Madrid System, which is the primary
international system for facilitating the registration of trademarks in multiple jurisdictions around the world.

4. To enhance cooperation and coordination, the national enforcement agencies in charge of IPR protection were encouraged to sustain consultations and information exchanges.

5. Member states were urged to further promote regional cooperation on Traditional Knowledge (TK), Genetic Resources (GR) and Cultural Traditional Expressions (CTE).

In the initial stages, implementation of the ASEAN IPR Action Plan was planned to start with studies that would focus on contribution of copyright system to economic development, implications of copyright system to the economy, best utilization by member states of the available flexibilities of various IP agreements including the Free Trade Agreements (FTAs), and collective management societies and copyright tribunals. The follow ups included collection of country reports on business development services (BDS), facilitation of development of copyright-based industries in member states and enhancement of those industries, and development and operation of online systems for copyright notifications and BDS networks. At the end, the expected outcomes would be effective use of copyright system and establishment of collective management societies in all member states.

**B. Significant Achievements To Date**

**ASEAN Achievements**

- As a continuation of the ASEAN IPR Action Plan 2004-2010, member states adopted the ASEAN IPR Action Plan 2011-2015, with five strategic goals:
  - (i) develop a balanced IP system to enable ASEAN IP Offices to provide timely, quality and accessible IP services,
  - (ii) develop legal and policy frameworks and enhance participation by member states in global IP systems,
  - (iii) encourage the use of IP to promote innovation and development through IP creation, awareness and utilization, technology transfer, and protection of indigenous products and services,
  - (iv) enhance regional participation in the international IP community through greater cooperation with dialogue partners, and
  - (v) intensify cooperation and collaboration among member states on capacity building.

- The ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) was established in 1996 to implement the ASEAN Framework Agreement on Intellectual Property Cooperation (1995), which was aimed at supporting the AEC pillar of ASEAN being an innovative and competitive region, and at the same time, ensuring that ASEAN remains active in the international IP community.

- The ASEAN Patent Examination Cooperation (ASPEC) was launched in 2009 as the first regional patent work sharing programme among nine ASEAN IP Offices: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Thailand and Viet Nam. ASPEC serves as a platform to share search and examination results to allow countries to find corresponding patents in a more efficient and timely manner. In 2013, the ASPEC programme was enhanced to include additional benefit of processes at IP Offices advanced out of turn until grant when a request is filed. In 2015, ASPEC went online and requests to all participating IP Offices can now be made through the ASEAN IP portal.

- The ASEAN IP Offices have also launched the Common Guidelines for the Substantive Examination of Trademarks. The Common Guidelines is aimed at enhancing the quality and transparency in the procedure that involves evaluation of the contents of a trademark application to ensure that the trademark can be registered subject to a set of criteria consisting of absolute and relative grounds. The principles and standards may be applied regardless of how each IP Office conducts the examination process according to its domestic laws. This is to ensure a higher level of consistency, transparency and efficiency in the examination and decision making.

- The ASEAN TM View trademark database is an online platform that allows users to obtain data on recorded trademarks in the ASEAN region. As of end of 2015, more than two million trademark applications and registrations that took effect in participating member countries were recorded. The database provides a good source of reference for anyone wishing to find out if a brand is already taken or used. ASEAN businesses can greatly benefit from the services provided by the ASEAN TM View.
Analysis on Progress in Member States

- Despite those initiatives, development of IP policies and laws in the ASEAN is still varied with the most developed country way ahead of the rest in terms of protection of property rights. Oplas Jr (2016) made some interesting observations on the progress of IPR developments in selected ASEAN member states. Based on the International Property Rights Index (IPRI) for 2008-2015 produced by the Property Rights Alliance (PRA), he analysed how six ASEAN member states have performed in promoting IPR in their respective jurisdictions.

- The IPRI scores are basically made up of the how the countries performed in three areas:
  - (i) legal and political environment,
  - (ii) physical property rights, and
  - (iii) intellectual property rights.

- The results can be summarized as follows:

<table>
<thead>
<tr>
<th>Average Score (2008-2015)</th>
<th>Singapore</th>
<th>Malaysia</th>
<th>Thailand</th>
<th>Philippines</th>
<th>Indonesia</th>
<th>Viet Nam</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.1</td>
<td>6.4</td>
<td>5.2</td>
<td>4.8</td>
<td>4.7</td>
<td>4.6</td>
<td></td>
</tr>
<tr>
<td>2015 (out of 129)</td>
<td>8.1 (5th)</td>
<td>6.6 (26th)</td>
<td>4.9 (69th)</td>
<td>5.1 (65th)</td>
<td>7.9 (70th)</td>
<td>4.8 (85th)</td>
</tr>
<tr>
<td>2014 (out of 97)</td>
<td>8.2 (5th)</td>
<td>6.5 (27th)</td>
<td>5.3 (50th)</td>
<td>N/A</td>
<td>5.0 (59th)</td>
<td>4.8 (66th)</td>
</tr>
<tr>
<td>2013 (out of 177)</td>
<td>8.1 (7th)</td>
<td>6.5 (33rd)</td>
<td>5.2 (71st)</td>
<td>5.0 (77th)</td>
<td>4.9 (81st)</td>
<td>4.7 (91st)</td>
</tr>
<tr>
<td>2012 (out of 130)</td>
<td>8.1 (4th)</td>
<td>6.5 (36th)</td>
<td>5.0 (69th)</td>
<td>4.7 (87th)</td>
<td>4.8 (86th)</td>
<td>4.7 (87th)</td>
</tr>
<tr>
<td>2011 (out of 129)</td>
<td>8.3 (3rd)</td>
<td>6.1 (44th)</td>
<td>5.3 (64th)</td>
<td>4.7 (87th)</td>
<td>5.0 (77th)</td>
<td>4.9 (81st)</td>
</tr>
<tr>
<td>2010 (out of 125)</td>
<td>8.2 (8th)</td>
<td>6.1 (41th)</td>
<td>5.2 (59th)</td>
<td>4.5 (80th)</td>
<td>4.1(97th)</td>
<td>4.5 (80th)</td>
</tr>
<tr>
<td>2009 (out of 115)</td>
<td>8.1 (10th)</td>
<td>6.2 (36th)</td>
<td>5.4 (51th)</td>
<td>4.5 (74th)</td>
<td>4.1 (87th)</td>
<td>4.4 (77th)</td>
</tr>
<tr>
<td>2008 (out of 115)</td>
<td>7.9 (13th)</td>
<td>6.4 (31th)</td>
<td>5.6 (49th)</td>
<td>5.0 (62nd)</td>
<td>4.9 (70th)</td>
<td>4.7 (76th)</td>
</tr>
</tbody>
</table>

Source: Case Study: Property Rights Protection in 6 ASEAN Countries – Singapore, Malaysia, Thailand, Philippines, Indonesia and Viet Nam, by Oplas Jr (SEANET, 2016)

- Oplas Jr’s observation is that some member states have actually declined in their performance for the course of 2008 and 2015. According to him,
  - (i) the gap between Singapore and Viet Nam actually widened with Singapore’s scores almost doubled those of Viet Nam,
  - (ii) while some member states experienced periods of improvement and decline, between 2014 and 2015, Indonesia, Thailand, and Viet Nam suffered significant drop in their global ranks, falling between 11 and 19 notches. On the other hand, Singapore and Malaysia were able to maintain their global ranks quite well.

- Focusing on area 3 (IPR), Oplas Jr noted three important observations:
  - (i) except for the Philippines, the IPR scores are lower than the overall IPRI scores, especially for Indonesia, Thailand and Viet Nam,
  - (ii) the gap between Singapore and Indonesia widened during the period, and
  - (iii) significant improvements were made by Malaysia and Viet Nam.
Despite most member states already having IPR laws and policies in place, the younger member states of ASEAN, namely Cambodia, Lao PDR and Myanmar still lack proper IPR legislations. Improving cooperation towards developing IPR legislations and their enforcement could provide significant assistance to those three countries in getting in par with the other member states.

Implementation of IPR protection has been quite patchy with some member states still allowing for infringement of patents through issuance of compulsory licenses. (Oplas Jr, 2016)

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) by the WTO sets down minimum standards for many forms of IP regulation as applied to nationals of other WTO members. In the case of ASEAN, all member states are signatories of the TRIPS Agreement. The agreement allows for IPR to be adjusted to the country’s level of development. While in principle protection standards may be uniform, the enforcement does not have to be uniform, and harmonizing both rules and enforcement is very difficult, even in a more advanced single market like the EU. In the absence of a harmonized system, the flow of foreign direct investment may be lower than if a harmonized system is in place. (Lall and McEwin, 2014)

### C. Current Issues and Challenges

- Oplas Jr noted that in 2014, Singapore was ranked 16th globally on the IPR component despite being ranked 5th for overall IPRI. In Singapore and other member states, IPR is a relatively new concept in public policy. IPR protection was not being strictly implemented in some member states. For example, during the last decade, Indonesia and Thailand issued a number of compulsory licensing, which allows some form of infringement of a patented product, of patented medicines.
- Free Trade Agreements (FTAs) and Economic Partnership Agreements (EPAs) with more developed economies have added pressure for ASEAN to exercise IPR protection. In most member states, improvements can be seen between 2013 and 2014.

### IPR SCORES 2008-2015 (AREA 3 OF THE OVERALL IPRI)

<table>
<thead>
<tr>
<th></th>
<th>Singapore</th>
<th>Malaysia</th>
<th>Thailand</th>
<th>Philippines</th>
<th>Indonesia</th>
<th>Viet Nam</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Score (2008-2015)</td>
<td>7.9</td>
<td>6.1</td>
<td>5.0</td>
<td>4.4</td>
<td>3.8</td>
<td>3.8</td>
</tr>
<tr>
<td>2015 (out of 129)</td>
<td>7.9</td>
<td>6.3</td>
<td>5.1</td>
<td>4.3</td>
<td>4.1</td>
<td>4.1</td>
</tr>
<tr>
<td>2014 (out of 97)</td>
<td>7.9 (16th)</td>
<td>6.3 (32nd)</td>
<td>N/A</td>
<td>4.6(70th)</td>
<td>4.2 (83rd)</td>
<td>4.3(78th)</td>
</tr>
<tr>
<td>2013 (out of 177)</td>
<td>7.9</td>
<td>6.1</td>
<td>5.3</td>
<td>4.2</td>
<td>4.1</td>
<td>3.9</td>
</tr>
<tr>
<td>2012 (out of 130)</td>
<td>7.9</td>
<td>6.2</td>
<td>4.9</td>
<td>4.1</td>
<td>4.0</td>
<td>3.9</td>
</tr>
<tr>
<td>2011 (out of 129)</td>
<td>8.3</td>
<td>5.9</td>
<td>4.9</td>
<td>4.5</td>
<td>3.2</td>
<td>3.8</td>
</tr>
<tr>
<td>2010 (out of 125)</td>
<td>7.9</td>
<td>5.8</td>
<td>4.8</td>
<td>4.3</td>
<td>3.2</td>
<td>3.5</td>
</tr>
<tr>
<td>2009 (out of 115)</td>
<td>7.8</td>
<td>5.9</td>
<td>4.8</td>
<td>4.6</td>
<td>3.4</td>
<td>3.4</td>
</tr>
<tr>
<td>2008 (out of 115)</td>
<td>7.5</td>
<td>5.8</td>
<td>5.0</td>
<td>4.6</td>
<td>4.2</td>
<td>3.2</td>
</tr>
</tbody>
</table>

Source: Case Study: Property Rights Protection in 6 ASEAN Countries – Singapore, Malaysia, Thailand, Philippines, Indonesia and Viet Nam, by Oplas Jr (SEANET, 2016)
### D. Plans under the AEC 2025 Blueprint

- The AEC Blueprint 2025 recognises that implementation of IPR initiatives is critical in increasing the role of ASEAN technology in economic development, promoting transfer of technology, and stimulating innovation and creativity. For the period of 2016-2025, IPR will play a greater role in supporting the regional development, and in improving the competitiveness of ASEAN. Therefore, IP Offices in member states need to achieve technical and procedural convergence and adopt modern business models and practices to be able to provide quality services to the relevant stakeholders.

- As the next phase from the previous blueprint, the strategic measures in the new blueprint are more detailed in terms of what needs to be developed and implemented, covering issues related to further development of the IP Offices, development of IP platforms and infrastructure, expansion of IP ecosystem, and enhancement of mechanisms to promote asset creation and commercialization.

### E. AEC 2025 Blueprint Analysis

<table>
<thead>
<tr>
<th>Strategic Measure</th>
<th>Current Status and Development</th>
</tr>
</thead>
</table>
| 1 IP offices and infrastructure | • Improve IP services, particularly in the areas of patents trademarks and industrial designs  
  • Expand work-sharing activities among member states to reduce the workload of IP Offices and duplication of activities  
  • Promote improvement of IP services in terms of timeliness and quality of output  
  • Complete accession to the Patent Cooperation Treaty (PCT), Madrid Protocol, Hague Agreement and endeavor to undertake accession to the Singapore Treaty on the Law on Trademarks (STLT) and other WIPO-administered international treaties  
  • Develop competency-based training programmes for trademarks, patents and industrial design through the virtual ASEAN IP Academy, with a focus on Cambodia, Lao PDR and Myanmar  
  • The ASPEC has served as a platform to share search and examination results among the participating member states to allow applicants to obtain patents faster and more efficiently  
  • The current practice is that patents granted based on domestic national laws. The coverage of the patents has been limited to where the application is made. If an applicant wishes to expand the coverage, applications must be made in the jurisdictions where the coverage of the patents is desired. With the ASPEC, research for the existing patents and trademarks can be carried out in a more efficient manner  
  • The Common Guidelines encourages member states to apply IP principles and standards regardless of different domestic practices. The aim is to improve consistency in examiner’s decisions  
  • WIPO and ASEAN have engaged in different initiatives including capacity building and technical assistance to support member states accession to the international agreements, protocols and treaties. |
### E. AEC 2025 Blueprint Analysis

#### Strategic Measure | Current Status and Development
---|---
2 Regional IP platforms and infrastructure | • The ASEAN IP Portal provides a one-stop service for IP related services in the region, containing information on IP Offices in member states; trademark, patent, design and copyright; member states’ accession to international treaties, agreements and protocols; and statistics/resources.  
• The portal also provides services offered by ASPEC, including online application.  
• The ASEAN TM View is an online platform providing data on trademarks in the ASEAN region. More than two million trademark applications and registrations taking effect in eight member states have been recorded. Businesses and other parties can conduct trademark screening on the existing trademarks’ status in ASEAN.  
• The WIPO has supported ASEAN through the establishment of a regional network of patent libraries (Technology and Innovation Support Centres – TISCs) to increase the capacity of IP Offices in technology knowledge relevant to IP.

- Develop new networks of integrated IP services for the region, including technology transfer offices and innovation technology support offices (patent libraries) focusing on commercialization and linking existing or new virtual IP marketplaces of member states  
- Improve service delivery of member states through connected online services, including patent, trademark and design search systems, and online filing systems  
- Improve and centralize the management of the ASEAN IP Portal by ensuring that IP information, including statistical data, is accurate and regularly updated  
- Adopt information technology (IT) modernization to improve quality of services, including the development of an automated translation system for sharing of patent information, and regional patent and trademark databases

3 Expand the ASEAN IP ecosystem | • Currently an ASEAN network of relevant offices to promote IP is non-existent, and efforts to bridge the gap must be worked out by member states. IP protection requires strong cooperation among the authorities to ensure proper enforcement of the policies and laws.  
• Engagement with the private sector has been minimum and needs to be enhanced further.

- Establish an ASEAN network of offices (IP, judiciary, customs and other enforcement agencies) to enhance effective cooperation on the regional IPR enforcement and to promote building respect for IP  
- Enhance engagement with private sector, IP associations, and other stakeholders within the region and external parties  
- Increase the capacity of ASEAN IP practitioners through a study on a regional accreditation system

4 Regional mechanisms to promote asset creation and commercialisation | • The ASEAN IP Portal currently serves as the most complete online service that provides all information related to ASEAN IP development, implementation and enforcement.  
• Degelsegger, Remoe and Trienes (2016) argued that in general, ASEAN’s situation is complex and challenging with mostly under developed and immature systems for IP generation. The most pressing issues involve overall ecosystem for commercialization, science-industry cooperation, funding of research and development in universities, institutional set-up and coordination, and human capital. These must be addressed if ASEAN expects to encourage greater innovation and IP as important component in the AEC for the next ten years of development.

- Improve awareness and respect of IP to promote its protection and utilisation, including incentive schemes for MSMEs and creative sectors  
- Develop IP valuation services to create awareness of the value of IP as a financial asset  
- Promote the commercialisation of geographical indication (GI) products in ASEAN by improving the capacity of the productive sector in the development of protection and branding strategies  
- Promote a protection mechanism for GIS and generic resources, traditional knowledge, and traditional cultural expressions (GRTktTCe) and assist in their protection in ASEAN and in foreign markets
F. Conclusion: Moving Forward with the AEC 2025 Plans

- IPR is a relatively new initiative and the implementation of the strategic measures under the AEC Blueprint 2015 was quite patchy, despite the important progress made, as shown by the global ranks of member states under the IPRI. Closer cooperation among member states and with the WIPO would ensure that the implementation of the next phase (2016-2025) would be consistent with international best practices, supported by accession to the international agreements and protocols by ASEAN members.

- The ASEAN IP Portal will have to be continuously updated to support the utilization of ASPEC so that stakeholders will benefit more from the information provided. Improvement of the capacity of the IP Offices is imperative in ensuring that IP protection can be enforced properly to attract more investors to do business in ASEAN.

- A proper IP ecosystem needs to be nurtured further to ensure that all relevant government authorities and other stakeholders (private sector, IP associations, universities, research institutes) can establish a mutual relationship to support IP enforcement in the region.
References

ASEAN IP Portal at https://www.aseanip.org/
ASEAN Secretariat (2008). ASEAN Economic Community Blueprint.
ASEAN Secretariat (2015). ASEAN 2025: Forging Ahead Together
Degelsegger, Alexander, Svend Otto Remoe and Rudie Trienes; ASEAN Economic Community and intellectual property rights: an assessment of framework conditions for innovation; SEA-EU-NET, 2016
Oplas Jr, Bienvenido: Case Study: Property Rights Protection in 6 ASEAN Countries – Singapore, Malaysia, Thailand, Philippines, Indonesia and Vietnam; Southeast Asia Network for Development (SEANET), 2016 (available at http://internationalpropertyrightsindex.org/asean)

Contributing Writer:
Dr. Bambang Irawan was formerly an Assistant Director at the ASEAN Secretariat, Jakarta, Indonesia. His portfolio covered cooperation and initiatives under the ASEAN finance integration. In his capacity, he coordinated activities and initiatives under financial services liberalisation, capital account liberalisation, capital market development, insurance and taxation.

Editor:
Jukhee Hong

Contact Details:
Please contact the CARI for information about this paper: enquiries@cariasean.org

Disclaimer:
Any analysis, opinion or editorial contained in this report is based on information sourced from or made available in the public domain. CIMB ASEAN Research Institute (CARI) assumes no liability and makes no guarantee, representation or warranty, whether express or implied, as to the adequacy, accuracy, completeness or reliability of any such information and analysis, opinion or editorial contained in this report. All readers are advised to conduct their own independent verification and/or evaluation of such information and analysis, opinion or editorial.