

# ASEAN SCOPING STUDY 2024

**Scoping Study for the  
Development of the  
Post-2025 ASEAN IPR  
Action Plan and the  
Upgraded ASEAN  
Framework Agreement  
on Intellectual Property  
Cooperation**



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## ACRONYMS

<b>ACCMSME</b>	—	ASEAN Coordinating Committee on Micro, Small and Medium Enterprises
<b>ACEBF</b>	—	ASEAN Creative Economy Business Forum
<b>ADB</b>	—	Asian Development Bank
<b>ADM</b>	—	ASEAN Digital Masterplan
<b>AEC</b>	—	ASEAN Economic Community
<b>AFAIPC</b>	—	ASEAN Framework Agreement on Intellectual Property Cooperation
<b>AI</b>	—	Artificial Intelligence
<b>AIPA</b>	—	ASEAN IP Academy
<b>AMs</b>	—	ASEAN Member States
<b>ANIEE</b>	—	ASEAN Network of Intellectual Property Rights Enforcement Experts
<b>APASTI</b>	—	ASEAN Science, Technology & Innovation Plan
<b>ASCC</b>	—	ASEAN Socio-Cultural Community
<b>ASEAN</b>	—	Association of Southeast Asian Nations
<b>ASEC</b>	—	ASEAN Secretariat
<b>ASPEC</b>	—	ASEAN Patent Examination Cooperation
<b>AWGIPC</b>	—	ASEAN Working Group on Intellectual Property Cooperation
<b>BSM</b>	—	Brainstorming Meeting
<b>CCIs</b>	—	Cultural and Creative Industries
<b>CIPO</b>	—	Canadian Intellectual Property Office
<b>CMO</b>	—	Collective Management Organization
<b>CNIPA</b>	—	China National Intellectual Property Administration
<b>COSTI</b>	—	Committee on Science, Technology, and Innovation
<b>CREAM</b>	—	Clear, Relevant, Economic, Adequate and Monitorable
<b>DEFA</b>	—	Digital Economy Framework Agreement
<b>DIF</b>	—	Digital Integration Framework
<b>DTTF</b>	—	Digital Transformation Task Force
<b>EUIPO</b>	—	European Union Intellectual Property Office
<b>EPO</b>	—	European Patent Organization
<b>GHG</b>	—	Greenhouse gases
<b>GI</b>	—	Geographical Indication



<b>GPPH</b>	Global Patent Prosecution Highway
<b>GRTKTCE</b>	Genetic Resource, Traditional Knowledge, and Traditional Cultural Expressions
<b>HLTF-IE</b>	High-level Task Force on ASEAN Economic Integration
<b>IDTF</b>	Industrial Design Task Force
<b>IoT</b>	Internet of Things
<b>IP</b>	Intellectual Property
<b>IPO</b>	Intellectual Property Office
<b>IPOS</b>	Intellectual Property Office of Singapore
<b>IPR</b>	Intellectual Property Right
<b>KIPO</b>	Korean Intellectual Property Office
<b>MSMEs</b>	Micro, Small, Medium, Enterprises
<b>MTR</b>	Mid Term review
<b>PCT</b>	Patent Cooperation Treaty
<b>PPH</b>	Patent Prosecution Highway
<b>PTF</b>	Patent Task Force
<b>PVR</b>	Plant Variety Rights
<b>R&amp;D</b>	Research and Development
<b>RBM</b>	Results Based Management
<b>RCEP</b>	Regional Comprehensive Economic Partnership
<b>SDGs</b>	Sustainable Development Goals
<b>SME</b>	Small and Medium-sized Enterprises
<b>STI</b>	Science, Technology, and Innovation
<b>SWOT</b>	Strengths, Weaknesses, Opportunities and Threats
<b>TISC</b>	Technology Innovation Support Centres
<b>TMTF</b>	Trademark Task Force
<b>USPTO</b>	United States Patent and Trademark Office
<b>UNDG</b>	United Nations Development Group
<b>WCT</b>	WIPO Copyright Treaty
<b>WIPO</b>	World Intellectual Property Organization
<b>WPPT</b>	WIPO Performances and Phonograms Treaty

# EXECUTIVE SUMMARY

*The intellectual property (IP) system is a crucial driver for growth and development, fostering innovation and creativity. It facilitates the emergence of new industries, enhances the competitiveness of existing ones, and contributes to the transformation of industries towards sustainability and inclusivity in today's complex world.*

As the Association of Southeast Asian Nations (ASEAN) sets its sights on ambitious economic and community-building goals for the post-2025 period, fortifying the regional IP ecosystem and aligning it with strategic priorities will be a game-changer for all Member States. The ASEAN Economic Community (AEC) Vision 2045 aims to transform the region into a highly integrated and cohesive economy, characterized by sustainable economic growth, social progress, and equitable development. Innovation, creativity, and IP are key components of this vision, reflecting ASEAN's commitment to becoming a global innovation hub.

This Scoping Study offers a comprehensive approach to elevate IP and broaden its impact, supporting ASEAN's Vision 2045 to become a resilient, innovative, dynamic, and people-centered community. Based on extensive research, survey and consultative process with relevant stakeholders from the ASEAN region, the Study presents key policy recommendations and actionable strategies to leverage IP for regional collaborative innovation and unlock the potential of five strategic growth sectors: the Digital Economy, Green Economy, Blue Economy, Creative Economy, and Science, Technology, and Innovation (STI) Economy.



## Digital Economy:

The study emphasizes the need to modernize IP laws to address the challenges and opportunities of the rapidly evolving digital landscape, including software, data protection, and the IP implications of generative artificial intelligence.



## Green Economy:

The report highlights how integrating IP considerations into green economy initiatives can stimulate investment in sustainable innovations, facilitate technology transfer, and promote the use of eco-friendly products and processes.



## Blue Economy:

The study underscores the importance of utilizing IP rights to protect and commercialize innovations related to marine biotechnology, fisheries, and renewable ocean-based industries, while ensuring equitable access to marine genetic resources.



## Creative Economy:

The report stresses the critical role of IP in safeguarding, promoting, and incentivizing creative endeavours that drive the region's cultural and creative industries, with a focus on supporting marginalized groups and promoting digital distribution channels.



### Science, Technology, and Innovation (STI) Economy:

The study highlights the interdependent relationship between IP and STI, advocating for closer collaboration between the ASEAN Committee on Science, Technology, and Innovation (COSTI) and the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) to foster synergies and maximize the impact of ASEAN's efforts in these areas.

To ensure high-level implementation, the study recommends establishing a high-level inter-ministerial IP Committee chaired by either Prime Minister or President of the country concerned. This body would then be able to provide decisive leadership, ensure policy coherence, and mobilize resources across different government agencies in more effective manner. The report also emphasizes the need to consider appointing a dedicated minister for IP and for these ministers from ASEAN to advocate for the regional IP agenda at the highest political levels.

The study also suggests strengthening ASEAN's IP systems with global best practices and beyond, by first benchmarking the region's performance against other leading economic blocs and pushing boundaries to create new frameworks and initiatives. This will position ASEAN as an IP leader in the developing world.

Furthermore, the Study outlines specific proposals for the development and implementation of the ASEAN IPR Action Plan 2026-2030 and the upgrading of the ASEAN Framework Agreement on IP Cooperation. They are annexed to the Study.

In summary, the ASEAN Scoping Study provides a strategic roadmap with potential areas of action to harness the transformative power of IP, accelerating innovation, boosting regional competitiveness, and driving sustainable and equitable development across Southeast Asia. It emphasizes the importance of inclusive, multi-stakeholder approaches, calling for enhanced public-private partnerships and deeper engagement with the private sector, academia, and civil society. The forward-looking and action-oriented recommendations in this Study are important for realizing ASEAN's collective vision and establishing the region as a global economic powerhouse in the coming decades.





CHAPTER

# 1






## **NATURE, SCOPE AND METHODOLOGY OF THE ASEAN SCOPING STUDY**

# INTRODUCTION

In the 4<sup>th</sup> quarter of 2023, the Member States of ASEAN decided to embark on a Scoping Study for the Development of the Post-2025 ASEAN Intellectual Property Rights Action Plan (ASEAN IPR Action Plan) and the Updated ASEAN Framework Agreement on Intellectual Property Cooperation (AFAIPC).

The study would address the following three main areas:

- 1**  Identification and analysis of relevant ASEAN regional policies, plans of action and frameworks that might have a bearing on IP challenges, issues and priorities of the ASEAN Member States (AMSs) in post-2025 period<sup>1</sup> as well as establishment of linkages between these and IP ecosystems of AMSs;
- 2**  Assessment of the implementation of ASEAN IPR Action Plan 2025 and identification of Deliverables and Initiatives that need to be carried over to the post-2025 Plan (either due to continuous nature of their implementation or their implementation remains incomplete under ASEAN IPR Action Plan 2025);
- 3**  Recommendations on a set of prioritized issues and thematic areas to be considered for inclusion under the post-2025 ASEAN IPR Action Plan as well as to be revised in the updated AFAIPC with emphasis on the community-level, grassroots and human-centric (entrepreneur, innovator, youth, and women) areas.

Chapter 2 and Annex I of this report address the issues in item 1. The assessment referred to in item 2 was made in a separate report produced under Phase 2 of the Scoping Study.

<sup>1</sup> They are identified by AMSs in the ASEAN Community Vision 2045 – “Resilient, Innovative, Dynamic and People-Centered ASEAN”.



# ASEAN IPR ACTION PLANS

Over recent years, ASEAN has demonstrated steadfast dedication to enhancing the IP framework within the region through the endeavours of the AWGIPC, ASEAN Secretariat (ASEC) and the assistance of a number of donor countries and organizations. The AWGIPC, established in 1996 subsequent to the signing of the AFAIPC in Bangkok, Thailand, in 1995, operates with the mandate to lead the advancement, coordination, and execution of all IP-centric regional programs and initiatives across ASEAN.<sup>2</sup>

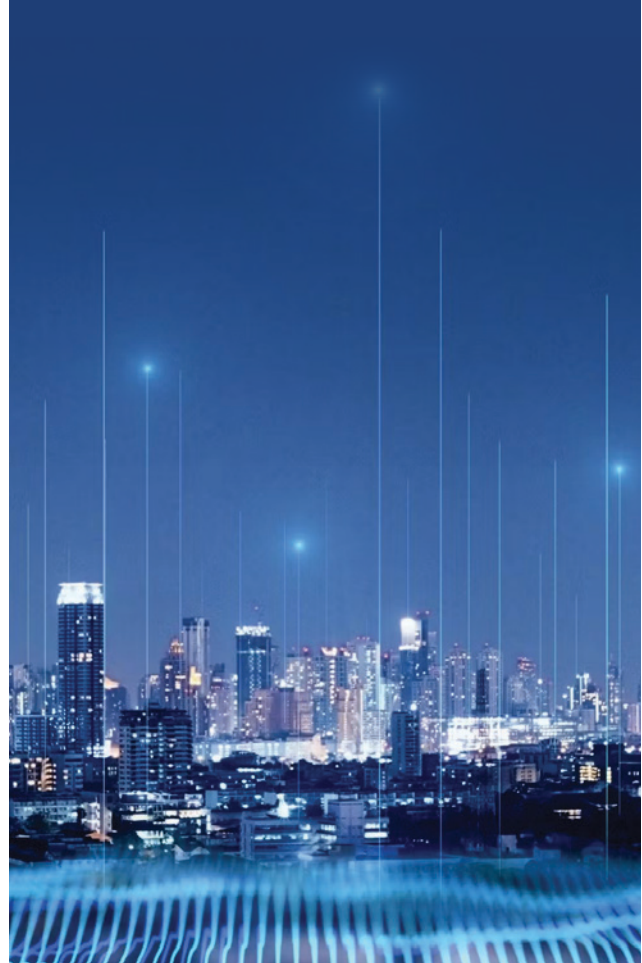
From 2004 to the present, AMSs have jointly developed three ASEAN IPR Action Plans, namely, ASEAN IPR Action Plan 2004-2010, ASEAN IPR Action Plan 2011-2015, and ASEAN IPR Action Plan 2016-2025, to promote more in-depth cooperation on IP in the region.<sup>3</sup>

As the third ASEAN IPR Action Plan term nears its end and preparations for the AEC 2045 are underway, it presents an opportune moment to evaluate the Action Plan implementation and strategize for the post-2025 period to align with the AEC 2045 vision. Within the evolving landscape of the AEC 2045, IP will remain pivotal in fostering the region's economic growth, promoting innovation, creativity, and competitiveness. This will further facilitate ongoing trade, investment, and drive towards sustainable development in Southeast Asia.

In 2020, the AWGIPC embarked on a Mid Term Review (MTR) of the ASEAN IPR Action Plan 2016-2025. This MTR gave rise to the ASEAN IPR Action Plan 2016-2025 v2.0, which saw the addition of new deliverables, the dismissal of some as well as amendments to the existing ones.

Significant shifts have occurred in recent years on national, regional, and international fronts, including the emergence of the Fourth Industrial Revolution and the rapid expansion of the digital economy.

These transformative developments have greatly impacted the AMSs, reshaping both the challenges and development priorities over time.



The AMSs, through the ASEC approached the World Intellectual Property Organization (WIPO) to support a comprehensive scoping study. Accordingly, WIPO allocated necessary resources and engaged required technical expertise to undertake the scoping study in close consultation and cooperation with AWGIPC and ASEC. The present ASEAN IPR Action Plan, spanning from 2016 to 2025, was crafted with the support of WIPO. Prior to this timeframe, WIPO had been engaged to varying degrees in the development of preceding ASEAN IPR Action Plans.

The purpose of this study is to identify prevalent challenges and priorities within the IP ecosystems of the region, particularly in the post-2025 period. Furthermore, it aims to solicit specific recommendations for the subsequent post-2025 ASEAN IPR Action Plan, drawing upon the achievements of the current Action Plan implementation.

Additionally, the outcomes of this study would lay the groundwork for revising and enhancing the AFAIPC. Essentially, the scoping study's objective analysis and findings aim to facilitate informed deliberation by AMSs regarding the enhancements of both the post-2025 ASEAN IPR Action Plan and the AFAIPC.

<sup>2</sup> <https://asean.org/wp-content/uploads/2021/08/ASEAN-IPR-Action-Plan-2011-2015.pdf>

<sup>3</sup> [cil.nus.edu.sg/publication/cooperation-in-intellectual4](http://cil.nus.edu.sg/publication/cooperation-in-intellectual4). *Ideas in Progress 2022 (Archariya Wongburanavart)*

# METHODOLOGY

For the purposes of this study WIPO engaged three experts<sup>4</sup> to address the following three main areas:



**Identify and analyse relevant ASEAN regional policies, action plans, and frameworks that will influence IP challenges, issues, and priorities post-2025.**



**Assess the ASEAN IPR Action Plan 2016-2025 implementation and identify deliverables and initiatives for the post-2025 plan.**



**Provide recommendations on prioritized issues and thematic areas for inclusion in the post-2025 ASEAN IPR Action Plan and updates to the AFAIPC, emphasizing community-level, grassroots, and human-centric aspects.**

The study spread over three phases had been undertaken in close coordination and collaboration with the AWGIPC Chair, AWGIPC Members, AMS focal points, and ASEC.



## Phase 1



Desk research, literature review and data analysis

This phase covered a thorough review of the implementation of the current Action Plan 2025, literature on the existing and available draft regional policy frameworks that have either a direct or some relevance to IP, innovation, and cultural development as well as all available documents, information, and data, provided by AMSs through ASEC. Such resources included the next AEC Blueprint, Plan of Action of Science and Technology, Innovation Roadmap, Strategic Plan for Culture and Arts, ASEAN Gender Mainstreaming Strategic Framework etc.



## Phase 2



Analysis and preliminary research conclusions

Two separate progress reports were delivered, the first delineating the pertinent ASEAN regional policies, plans of action, and frameworks potentially influencing IP challenges, issues, and priorities of AMSs beyond 2025. This report also establishes connections between these regional directives and the IP ecosystems of AMSs, showing how IP or IP systems could align with the objectives outlined in these policies, plans of action, and frameworks.

The second progress report focused on the evaluation of the execution of the ASEAN IPR Action Plan 2016-2025, pinpointing the Deliverables and Initiatives requiring continuation into the post-2025 Plan (either due to their ongoing implementation nature or their incomplete execution within the scope of the ASEAN IPR Action Plan 2025).



## Phase 3



Validation and finalization of the study

The validated final consolidated report containing recommendations on a set of prioritized issues and thematic areas to be considered for inclusion under the post-2025 ASEAN IPR Action Plan as well as AFAIPC would be shared with AWGIPC through ASEC for review, consideration and follow-up.

As AMSs advance towards the vision of a Resilient, Innovative, Dynamic, and People-Centred ASEAN by 2045, and work towards the realization of the AEC Strategic Plan 2026–2030, the ASEAN IPR Action Plan 2030 will serve as an essential guideline for achieving these ambitious goals.

<sup>4</sup> Mr Nick Redfearn, Rouse & Co International, Expert 1 (Indonesia) to cover subject matters 1 and 3. Mr Ernesto Rubio, Expert 2 (Uruguay) to address subject matters 2 and 3. Ms Liew Woon Yin, Expert 3 (Singapore) to support the work of both Experts 1 and 2 through provision of advice and feedback on the work done by them respectively. This included drafting and revising the work of both Experts 1 and 2 where appropriate and deemed necessary. Expert 3 reviewed the current AFAIPC and proposed suitable text to upgrade the document based on the substantive analysis conducted.

CHAPTER

# 2



**IDENTIFY AND ANALYSE RELEVANT  
ASEAN REGIONAL POLICIES, ACTION  
PLANS, AND FRAMEWORKS THAT WILL  
INFLUENCE IP CHALLENGES, ISSUES,  
AND PRIORITIES POST-2025**

# INTRODUCTION

As ASEAN continues to consolidate its community building process through the full implementation of the ASEAN Community Vision 2025, the AMSs have started planning the next phase of the region's future which will now run up to 2045. The groundwork for ASEAN's post-2025 future began with the adoption of the Ha Noi Declaration on the ASEAN Community's Post-2025 Vision at the 37th ASEAN Summit of 2020.

In 2022, the High-Level Task Force on ASEAN Community's Post-2025 Vision (HLTF-ACV) was formed. Comprising an Eminent Person and a High-Level Representative from each AMS, and the incumbent Secretary-General of ASEAN, their collective mission is to craft an ASEAN Vision that embodies the aspirations of both the leaders and the people of ASEAN beyond 2025. There will also be a mid-term review of the new ASEAN vision in 2035 to update it as needed.

Several key milestones have since been achieved in the development of ASEAN Community Post-2025 Vision, including the Core Elements of the ASEAN Community Post-2025 vision, which pertain to the fundamental components of what ASEAN aspires to be, and recommendations for strengthening ASEAN institutional capacity and effectiveness. Inputs from ASEAN stakeholders including from the ASEAN Socio-Cultural Community (ASCC) have also been gathered.<sup>5</sup>

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<sup>5</sup> <https://theaseanmagazine.asean.org/article/achieving-the-asean-community-vision-2045/>



# LEVERAGING NEW GROWTH DRIVERS

Underscoring the importance of continued regional cooperation and collective actions in realizing ASEAN Vision 2045, the ASEAN Leaders' Declaration on ASEAN as an Epicentrum of Growth, presented on the occasion of the 43rd ASEAN Summit in Jakarta on 5 September 2023, highlighted the need to evolve by navigating and responding to global challenges and unleashing the

region's full growth potentials amidst the megatrends that have emerged. They agreed to do so by (i) strengthening ASEAN resilience against future shocks, (ii) leveraging new growth drivers, and (iii) embracing a forward-looking and future-proofed ASEAN agenda. The new growth drivers identified are:

## 1 Global Supply Chains

Recognising trade as a cornerstone of economic growth and employment in the region, ASEAN proposes to participate in global supply chains through the development of higher value-added industry and regional supply chains and seamless cross-border trade.



## 2 Digital Transformation

Recognising the opportunities and challenges presented, ASEAN will commit to accelerated digital transformation and enhanced cooperation to narrow the regional digital gap by creating an enabling comprehensive digital ecosystem in the region that is inclusive, accessible, affordable, people-centred, safe, secure, relevant to the needs of end users and various stakeholders aims, as well as paving the way towards the ASEAN Digital Economic Community 2045.



## 3 Green Economy

ASEAN will accelerate efforts to collectively achieve net-zero carbon emissions around mid-century and promote the flows of sustainable investment through a whole-of-ASEAN approach to address greenhouse gas emissions.





## 4 Blue Economy

Recognising the great value and potential of the region's oceans, seas, and fresh water, and noting the multifaceted, cross stakeholder, and cross-cutting concept of blue economy, and promoting value-added and value-chain creation of resources from oceans, seas, and fresh water in an inclusive and sustainable way, ASEAN agrees to elevate ASEAN's collaborative efforts to advance Blue Economy as a new engine of ASEAN's future economic growth and accelerate the implementation of the ASEAN Blue Economy Framework as part of their efforts on the Blue Economy in ASEAN.



## 5 Creative Economy

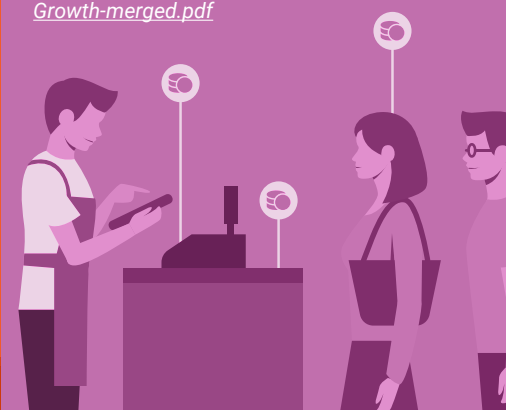
ASEAN notes the potential of the region's cultural and creative industries leveraged by its diversity and heterogeneity, rich cultures, histories, and traditions, as well as the dynamism and creative energy of its youth. ASEAN will uphold the value of a strengthened people-to-people exchange as an opportunity to break barriers, forge partnerships, experience new cultures, and engage in intellectual, traditional, and cultural exchanges among the AMSs. ASEAN undertakes to promote creative economy in the region as a driver of future economic growth based on creativity, innovation, digitalisation, inclusivity, and protection of traditional knowledge (TK), traditional cultural expression (TCE), and IP rights.



## 6 Inclusive Economy

ASEAN acknowledges the need to redouble efforts to ensure inclusive, equitable and sustainable growth in the region by empowering their micro, small, and medium-sized enterprises (MSMEs) through capacity building and promotion of partnership with large enterprises, in areas such as adopting inclusive business models, in fostering a dynamic business environment and a robust trade and investment.<sup>6</sup>

<sup>6</sup> <https://asean.org/wp-content/uploads/2023/09/ALD-Epicentrum-of-Growth-merged.pdf>



This chapter covers a broad overview of the linkages between IP and the new growth sectors such as the Digital Economy, Green Economy, Blue Economy, the Creative Economy and the Science, Technology, and Innovation Economy. It does not delve into specific detailed IP policy recommendations.

Although IP is only mentioned in the Creative Economy the essential role of IP as a critical component in the economic advancement of the new growth areas is

elaborated within the respective sectors to foster a better appreciation and acknowledgement of its significance. Since many recommendations regarding the interface between IP considerations and the growth drivers apply across multiple sectors they are grouped under a general category of Recommendations for easy reference. Furthermore, these growth drivers are interconnected and as such, strategic decisions and actions in onedomain can also stimulate progress in others.

# DIGITAL ECONOMY

*The Digital Economy in ASEAN is projected to triple from approximately USD300 billion to USD1 trillion by 2030 as AMSs embrace the use of digital technologies and services and engage in greater digital trade across different industries. These include an increasing use of digital platforms such as e-commerce and social media, adoption of digital services such as cloud computing and digital marketing, integrating the use of data analytics and artificial intelligence (AI) in decision-making processes and the development of smart cities and their applications.*

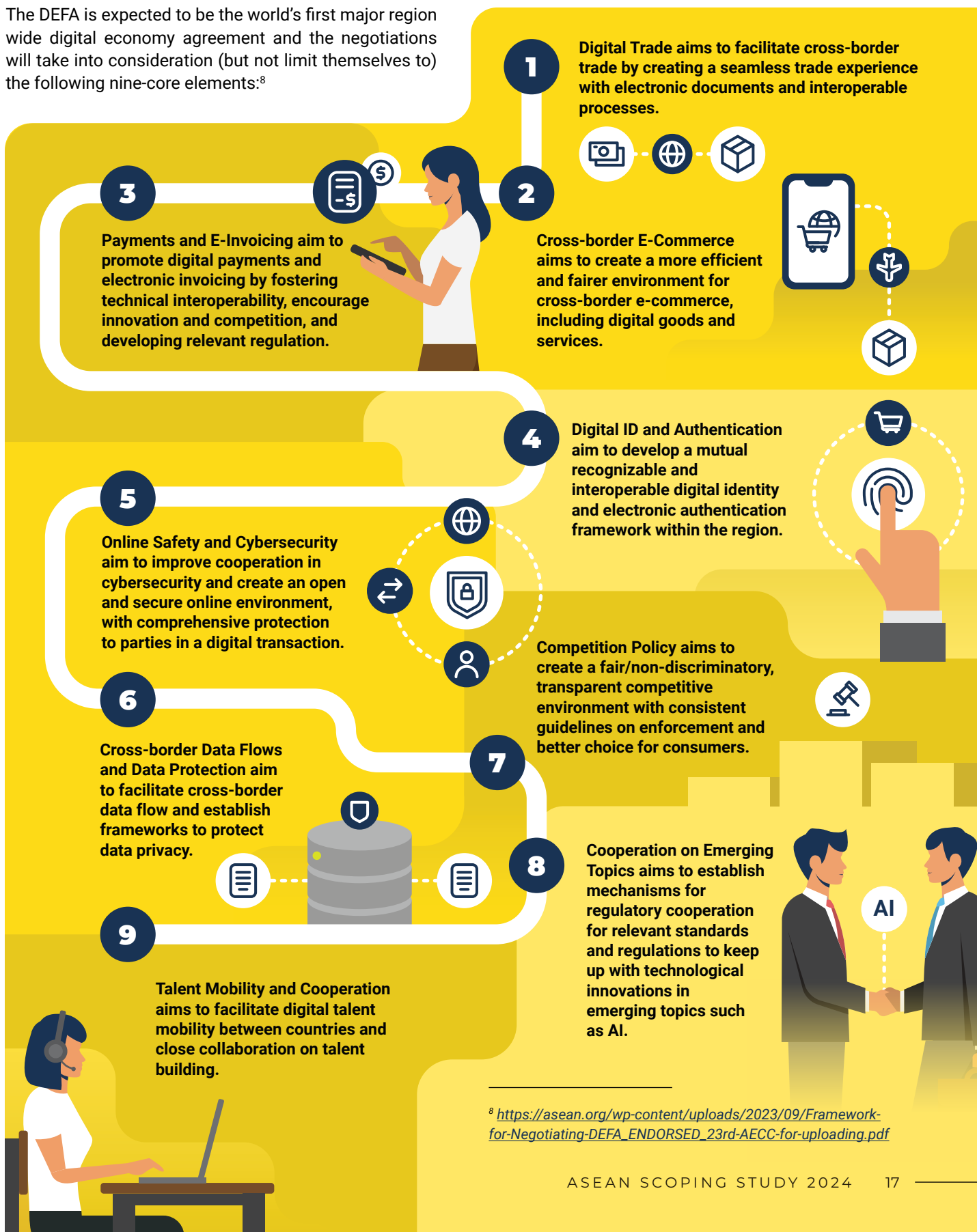
The Digital Economy has transformed traditional industries for ASEAN and created new opportunities for innovation, entrepreneurship, and economic growth. It has also facilitated both intra-regional Southeast Asia and global trade through enabling cross-border trade and commerce, connecting businesses and consumers worldwide. Additionally, the digital economy has democratized access to information, services, and markets, empowering individuals, and communities to participate in the digital marketplace.

While there are already tremendous opportunities through a natural embrace and progression of the digital economy, this could potentially double to USD2 trillion as ASEAN on the back of progressive rules further unlocking the value contribution of the digital economy. In September 2023, the ASEAN Economic Ministers launched the negotiations on the ASEAN Digital Economy Framework Agreement (DEFA) to help foster digital cooperation among AMSs and pave the way for regional digital integration and inclusive growth and development.<sup>7</sup>

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<sup>7</sup> <https://asean.org/asean-launches-worlds-first-regionwide-digital-economy-framework-agreement/>

The DEFA is expected to be the world's first major region wide digital economy agreement and the negotiations will take into consideration (but not limit themselves to) the following nine-core elements:<sup>8</sup>



<sup>8</sup> [https://asean.org/wp-content/uploads/2023/09/Framework-for-Negotiating-DEFA\\_ENDORSED\\_23rd-AECC-for-uploading.pdf](https://asean.org/wp-content/uploads/2023/09/Framework-for-Negotiating-DEFA_ENDORSED_23rd-AECC-for-uploading.pdf)

These negotiations are expected to conclude by end 2025, where the DEFA will exist as a living document that adapts to the constantly evolving socio-economic and technology landscape.

The DEFA is not the only Digital Economy initiative in play with the ASEAN Digital Masterplan 2025 (ADM 2025) having already set the foundation for ASEAN to become a leading digital economy and digital society.<sup>9</sup>

The ADM 2025 envisions “ASEAN as a leading digital community and economic bloc, powered by secure and transformative digital services, technologies and ecosystem” considering the need for high quality and ubiquitous connectivity throughout ASEAN, safe and relevant services to the needs of end users, and the removal of barriers which prevent businesses and consumers from using digital services. The ADM 2025 is characterized by eight desirable outcomes which are to be achieved through 37 enabling actions. The eight desired outcomes are:

- 1 Actions of ADM 2025 prioritized to speed ASEAN’s recovery from COVID-19 or other epidemic/pandemic diseases.
- 2 Increase in the quality and coverage of fixed and mobile broadband infrastructure.
- 3 The delivery of trusted digital services and the prevention of consumer harm.
- 4 A sustainable competitive market for the supply of digital services.
- 5 Increase in the quality and use of e-government services.
- 6 Digital services to connect business and to facilitate cross border trade.
- 7 Increased capability for business and people to participate in the digital economy.
- 8 A digitally inclusive society in ASEAN.

The ADM 2025 outlines 6 intended outcomes which include the development of a fair and competitive market where IP rights are respected with fair regulations established. This would be delivered through outcomes 4 and 6.

Another relevant action plan led by the ASEAN Coordinating Committee on Electronic Commerce is the ASEAN Digital Integration Framework (DIF) with the action plan finalized in July 2018.<sup>10</sup> The DIF is meant to serve as the blueprint for ASEAN’s integration efforts in line with the AEC Blueprint 2025 and identifies six priority areas to address to realize digital integration in ASEAN. These are:

- 1 Facilitate seamless trade
- 2 Protect data while supporting digital trade and innovation
- 3 Enable seamless digital payments
- 4 Broaden digital talent base
- 5 Foster entrepreneurship
- 6 Coordinate actions

IP would undoubtedly play a key role in many of these areas, particularly in the fifth priority area to foster entrepreneurship. One of the initiatives of the DIF action plan, namely 2.2 includes the need to “Develop coordination mechanisms to enhance enforcement of intellectual property rights in the digital environment” which is led by the AWGIPC.

IP is closely intertwined with the digital economy, playing a crucial role in both facilitating innovation and protecting digital assets which are pivotal in fostering economic growth within the digital ecosystem. IP rights can incentivize businesses big and small to innovate and develop new technologies, products, and services, leading to greater competition and differentiation.

Southeast Asia is home to several unicorn start-ups including Grab, Goto, Sea Group, Lazada, and others which stand as testament to the region’s potential to serve as a hub for innovation, offering invaluable inspiration and guidance to aspiring enterprises seeking to make their mark in the digital landscape.

The global nature of the digital economy necessitates international cooperation to harmonize IP laws and enforcement mechanisms. Collaborative efforts between countries can establish consistent standards for protecting digital innovations and content across borders. This fosters a more predictable and stable environment for businesses and creators to operate in.

<sup>9</sup> <https://asean.org/wp-content/uploads/2021/08/ASEAN-Digital-Masterplan-2025.pdf>

<sup>10</sup> [https://asean.org/wp-content/uploads/2018/02/AECC18-ASEAN-DIFAP\\_Endorsed.pdf](https://asean.org/wp-content/uploads/2018/02/AECC18-ASEAN-DIFAP_Endorsed.pdf)



As technology advances at an unprecedented pace, IP laws must evolve to address the distinct challenges and opportunities presented by the digital realm. This necessitates the revision of IP laws to effectively manage the realities of digital content creation and dissemination, and to address issues while establishing robust frameworks for safeguarding crucial digital IP rights. These rights encompass copyright (for digital content and software), trade secrets/confidential information (for digital data and algorithms), and unfair competition (business models and get up). These areas are often misunderstood, particularly by MSMEs, and are not properly documented, recorded, or effectively commercialized. ASEAN must also determine whether to protect software patents to stimulate technological growth in the digital sector.

The impact of AI will be substantial. A report published by the WIPO titled, “*WIPO Technology Trends 2023: Generative Artificial Intelligence - Navigating Intellectual Property*”<sup>11</sup> discusses the IP implications of generative AI, a subset of AI capable of creating new content such as text, images, and music. The report underscores the rapid growth and potential of generative AI, along with the challenges it presents to the IP system. It raises questions about the ownership and authorship of AI-generated content, as well as the potential for infringement of existing IP rights. The report also delves into the various IP rights that may be pertinent to generative AI, including copyright, patents, trademarks, and trade secrets. It suggests that the existing IP framework may not be adequately equipped to handle the unique challenges posed by generative AI, implying that novel approaches may be required.

Overall, the report emphasizes the need for a balanced approach to the IP implications of generative AI, one that encourages innovation and creativity while also protecting the rights of creators and users. It calls for further research and dialogue on this important topic. Undoubtedly, generative AI will significantly impact various industries (not only digital economy) offering new capabilities to create, synthesize, and optimize the use of data. However, concerns arise regarding its use, including copyright infringement, misuse, and job displacement. Regulations and responsible AI practices are being developed even by AMSs<sup>12</sup> to harness the benefits of generative AI while mitigating the risks.

<sup>11</sup> [https://www.wipo.int/web-publications/patent-landscape-report-generative-artificial-intelligence-genai/assets/62504/Generative%20AI%20-%20PLR%20EN\\_WEB2.pdf](https://www.wipo.int/web-publications/patent-landscape-report-generative-artificial-intelligence-genai/assets/62504/Generative%20AI%20-%20PLR%20EN_WEB2.pdf)

<sup>12</sup> *ASEAN Guide on AI Governance and Ethics* - [https://asean.org/wp-content/uploads/2024/02/ASEAN-Guide-on-AI-Governance-and-Ethics\\_beautified\\_201223\\_v2.pdf](https://asean.org/wp-content/uploads/2024/02/ASEAN-Guide-on-AI-Governance-and-Ethics_beautified_201223_v2.pdf)





# GREEN ECONOMY

*The Green Economy refers to a more sustainable and inclusive approach to living, focusing on reducing environmental risks, minimizing the carbon footprint, using natural resources more efficiently, and improving waste management. This approach is characterized by both private and public investments in economic activities that support sustainable practices. The push towards a Green Economy is driven by multiple factors, notably the recognition of the severe impacts of global warming and climate change. Economic growth and development have significantly strained the world's natural resources and environment, highlighting the urgent need for more sustainable practices.*

This increased attention has been reflected globally, with the United Nations Sustainable Development Goals emphasizing the need for greater sustainability and responsibility alongside economic activities. The Paris Agreement further underscores the urgency of reducing climate change. AMSs have committed to these objectives, pledging to reduce greenhouse gas emissions by 2030. In September 2023, ASEAN reaffirmed these commitments, aiming to achieve the goals set by the United Nations Framework Convention on Climate Change and the Paris Agreement.<sup>13</sup>

Efforts towards building a green and more sustainable future are referenced in various ASEAN frameworks such as the ASEAN Strategy for Carbon Neutrality<sup>14</sup> and the Framework for Circular Economy.<sup>15</sup> However, there is no specific action plan dedicated to developing an ASEAN Green Economy. The importance of sustainability is embedded within numerous ASEAN and AMSs policy documents and initiatives that aim to integrate sustainability into economic and socio-cultural development. These include the AEC Blueprint, the ASCC Blueprint, and the ASEAN Political-Security Community (APSC) Blueprint.

These documents highlight several key areas: green technology, reduction of greenhouse gases, sustainable growth, green jobs, plastic waste and marine plastic debris mitigation, environmental technologies, clean and renewable energy, energy security, climate forecasting, disaster mitigation, adaptation of indigenous and traditional practices, water management, green finance, protection and utilization of biodiversity and natural resources, and the use of geoinformatics and bioinformatics.

<sup>13</sup> <https://asean.org/wp-content/uploads/2023/09/ASEAN-JS-on-Climate-Change-to-the-UNFCCC-COP28.pdf>

<sup>14</sup> <https://asean.org/wp-content/uploads/2023/08/Brochure-ASEAN-Strategy-for-Carbon-Neutrality-Public-Summary-1.pdf>

<sup>15</sup> <https://asean.org/asean-adopts-framework-for-circular-economy/>

Complementing these frameworks, a Green Economy action plan would support the transition to a sustainable future by mainstreaming green technologies within existing economic activities, alongside attracting new investments and the development of innovative green solutions. IP can play a crucial role in this transition by protecting and incentivizing the creation and dissemination of these green technologies, fostering innovation, and encouraging investments in sustainable practices.

The Framework for Circular Economy for the AEC, although primarily focused on circularity (i.e. more efficient use of existing materials and energy) looks at five strategic priorities including:<sup>16</sup>

- 1 Standard Harmonisation and Mutual Recognition of Circular Products and Services;
- 2 Trade Openness and Trade Facilitation in Circular Goods and Services;
- 3 Enhanced Role of Innovation, Digitalisation, and Emerging/Green Technologies;
- 4 Competitive Sustainable Finance and Innovative ESG Investments; and
- 5 Efficient Use of Energy and Other Resources.

The role of green technologies is identified to “Encourage protection of intellectual property for environmentally sound technologies to foster innovations that promote CE” under initiative 4 of strategic priority 3.



Leveraging IP offers myriad benefits for advancing the green economy and fostering sustainable development. IP plays a pivotal role in incentivizing research and development, as well as the dissemination of green technologies. It safeguards innovative solutions and fosters collaboration among stakeholders. By integrating IP strategies into green economy initiatives, it can stimulate investment in sustainable innovations, facilitate technology transfer, encourage the adoption of sustainable practices, and bolster the development of eco-friendly products and processes. Such integration not only aligns with objectives for a carbon-neutral future but also unlocks substantial socioeconomic opportunities. For instance, the Boston Consulting Group estimates a GDP value-add of USD 3-5.3 trillion by 2050,<sup>17</sup> and another report by Bain & Company, GenZero, Standard Chartered and Temasek projects USD 300 billion in additional annual revenues from green investment.<sup>18</sup>

ASEAN should promote inclusivity by establishing collaborative platforms and networks that connect academia, research institutions, and the private sector. These partnerships have the potential to bridge the divide between innovation and application by facilitating technology transfer, thus democratizing access to green technologies, especially in less developed countries. This approach not only drives economic growth but also tackles environmental challenges head-on.

<sup>16</sup> <https://asean.org/asean-adopts-framework-for-circular-economy/>

<sup>17</sup> <https://asean.org/asean-charts-course-for-a-sustainable-future-with-ambitious-asean-strategy-for-carbon-neutrality/>

<sup>18</sup> <https://www.bain.com/insights/southeast-asias-green-economy-2024/>

# BLUE ECONOMY

Both the Green Economy and the Blue Economy focus on sustainable development. While the Green Economy emphasizes reducing ecological risks and improving the efficiency of natural resource use, the Blue Economy concentrates on the sustainable use of oceanic resources to drive economic growth while protecting marine and coastal environments. Importantly, the Blue Economy is viewed as a potential growth driver for ASEAN, particularly for lower middle-income countries within the region. The Blue Economy has emerged as a global movement promoting sustainable development through the responsible use of our oceans, seas, and inland water resources. The “blue” in the Blue Economy concept recognizes that the health and productivity of freshwater and ocean ecosystems are the foundation for thriving marine and freshwater-based economies. This ensures that coastal nations, islands, and even landlocked states can all benefit from their resources<sup>19</sup>

Prior to the development of a Blue Economy roadmap in ASEAN, various aspects of sustainable development in areas such as fisheries and aquaculture, and renewable marine energy were already recognized as important. These efforts laid the groundwork for a more structured and comprehensive approach to leveraging oceanic resources sustainably -



## The ASEAN Economic Community Blueprint 2025:

highlights sustainable development, including the promotion of sustainable fisheries and aquaculture practices, which are essential to the blue economy.<sup>20</sup>



## The ASEAN Plan of Action for Energy Cooperation (APAEC):

while essentially focused on energy, APAEC includes provisions for promoting renewable energy sources such as offshore wind and ocean energy, contributing to the blue economy agenda.<sup>21</sup>

In October 2021, AMSs adopted the ASEAN Leaders’ Declaration on the Blue Economy, acknowledging that the “ocean and seas are key drivers of economic growth and innovation, while taking into account the need to ensure ocean sustainability and rules-based ocean governance”.<sup>22</sup> The ASEAN Coordinating Council (ACC) was tasked to oversee the implementation of this Declaration leading to the development of the ASEAN Blue Economy Framework. This framework, developed by the Ministry of National Development Planning of the Republic of Indonesia (BAPPENAS) and supported by the Economic Research Institute for ASEAN and East Asia (ERIA) was endorsed at the 43rd ASEAN Summit in September 2023.<sup>23</sup>

<sup>19</sup> <https://asean.org/wp-content/uploads/2023/09/ASEAN-Blue-Economy-Framework.pdf>

<sup>20</sup> [https://asean.org/wp-content/uploads/2021/08/AECBP\\_2025r\\_FINAL.pdf](https://asean.org/wp-content/uploads/2021/08/AECBP_2025r_FINAL.pdf)

<sup>21</sup> <https://asean.org/wp-content/uploads/2023/04/ASEAN-Plan-of-Action-for-Energy-Cooperation-APAEC-2016-2025-Phase-II-2021-2025.pdf>

<sup>22</sup> <https://asean.org/wp-content/uploads/2021/10/4.-ASEAN-Leaders-Declaration-on-the-Blue-Economy-Final.pdf>

<sup>23</sup> <https://asean.org/wp-content/uploads/2023/09/ASEAN-Blue-Economy-Framework.pdf>



Within this Framework, the Blue Economy is defined as “an integrated, holistic, cross-sectoral, and cross-stakeholder approach that creates value-added and value-chain of resources from oceans, seas, and fresh water in inclusive and sustainable way, making the blue economy the new engine for ASEAN’s future economic growth. The ASEAN Blue Economy covers upstream-downstream sectors, serving as an accelerator of the conventional marine sector such as fisheries, aquaculture, fish-only processing, and tourism and a catalyst for emerging sectors such as renewable energy, biotechnology, and marine and freshwater-based research and education as well as other emerging sectors from aquatic resources.”<sup>24</sup>

The Framework comprises three main objectives: firstly, to foster a collaborative, cross-sectoral, and cross-stakeholder approach centered on inclusiveness and sustainability, positioning the blue economy as the catalyst for ASEAN’s economic growth. Secondly, to establish a shared understanding and foundation for blue economy initiatives. Lastly, to serve as a non-binding reference document for ongoing engagement and dialogue among AMSs, ASEAN itself, and its partners. This aspect is particularly significant as it paves the way for further discussions on the role of and integration of IP into related Blue Economy initiatives.

Among the three Blue Strategies identified, Strategy 2 focuses on Blue Science, Technology, and Innovation, leveraging marine and freshwater science, data, and technological innovations to enhance the efficiency, traceability, and resilience of the blue economy value chain and facilitate trade within ASEAN. This emphasis on science and technology naturally aligns with the utilization of IP incentives to encourage blue solutions, commercialization, and technology transfer through licensing and sharing arrangements. Similar to the promotion of Green Solutions, innovations related to the Blue Economy can be prioritized and supported, alongside leveraging IP registration to foster the development of new technologies or processes in this domain. For instance, advancements in marine biotechnology may lead to the discovery of new pharmaceuticals,

cosmetics, and industrial products derived from marine organisms. Patents and other IP rights can incentivize the development of technologies aimed at ocean clean-up, reducing marine pollution, improving waste management, and enhancing the sustainability of fishing practices.

IP protection is crucial in attracting investment and facilitating collaboration in bioprospecting and the development of marine-based products, as well as ensuring equitable and sustainable sharing of marine genetic resources. The intersection of IP and the Blue Economy is a growing area of interest, as the sustainable use and management of ocean and coastal resources present unique opportunities and challenges for IP rights. Open access to data and research is essential for advancing global initiatives in the Blue Economy. Excessively restrictive IP rights can impede collaboration and delay progress, hinder sustainable use of marine resources, and diversification of ocean-based industries. The creation of infrastructures that will enable and facilitate open access to data in the Blue Economy and other growth drivers, as well as that a carefully formulated IP strategy on how to openly share knowledge is needed.

ASEAN has already undertaken several initiatives to promote the Blue Economy, emphasizing sustainable and innovative use of marine resources. One notable project is the Blue Innovation Project, launched in collaboration with the United Nations Development Programme (UNDP) and the Government of Japan, which aims to encourage the creation of innovative blue solutions through financial support and mentorship programs.<sup>25</sup> Another significant effort is the ASEAN Climate Change and Energy Project (ACCEPT) in collaboration with Norway, which explores partnership opportunities to support the development of the Blue Economy in ASEAN. This collaboration focuses on leveraging sustainable marine practices and innovations to drive economic growth and environmental sustainability in the region.<sup>26</sup> Balanced IP systems can play a key role here to protect the innovations that emerge from these efforts and ensure the licenses and technologies are equitably shared.

<sup>25</sup> <https://asean.org/charting-a-sustainable-future-asean-japan-and-undp-unveil-blue-economy-innovation-project/>

<sup>26</sup> <https://accept.aseanenergy.org/shaping-asean-norway-collaboration-in-supporting-asean-blue-economy-framework>

# CREATIVE ECONOMY

*The Creative Economy encompasses goods and services rooted in creativity, intellectual capital, and cultural expression. It spans various fields, including the arts, media, entertainment, design, fashion, and digital content. In Southeast Asia, this economy includes traditional sectors such as textiles, crafts, music, food, and tourism, alongside modern industries like animation, app development, and web design. Increasingly, creators in traditional sectors are also leveraging digital technologies and platforms, such as social media and networking sites, to reach and engage with broader audiences.*

Policy makers in ASEAN have acknowledged the vital role of the creative economy in stimulating innovation, nurturing cultural diversity, and fostering both economic and sustainable growth across the region. Although ASEAN may lack a dedicated action plan specifically targeting the Creative Industry, emphasis on this sector is nonetheless integrated within overarching frameworks and initiatives aimed at advancing economic integration, fostering cultural collaboration, and promoting sustainable development. The Cultural and Creative sectors are frequently grouped together within these efforts.

The ASEAN Economic Community Blueprint 2025 for example, with regional economic integration as its primary objective highlights among other matters the importance of the development of supporting schemes for MSMEs and creative sectors through the following key measures:<sup>27</sup>

- 1** Improve awareness and respect of IP to promote its protection and utilisation, including incentive schemes for MSMEs and creative sectors.
- 2** Develop IP valuation services to create awareness of the value of IP as a financial asset.
- 3** Promote the commercialization of geographical indication (GI) products in ASEAN by improving the capacity of the productive sector in the development of protection and branding strategies.
- 4** Promote a protection mechanism for GIs and genetic resources, traditional knowledge, and traditional cultural expressions (GRTKTCE) and assist in their protection in ASEAN and in foreign markets.

Both the importance of supporting the creative sectors and leveraging IP as assets are clearly identified there.

<sup>27</sup> [https://asean.org/wp-content/uploads/2021/08/AECBP\\_2025r\\_FINAL.pdf](https://asean.org/wp-content/uploads/2021/08/AECBP_2025r_FINAL.pdf)

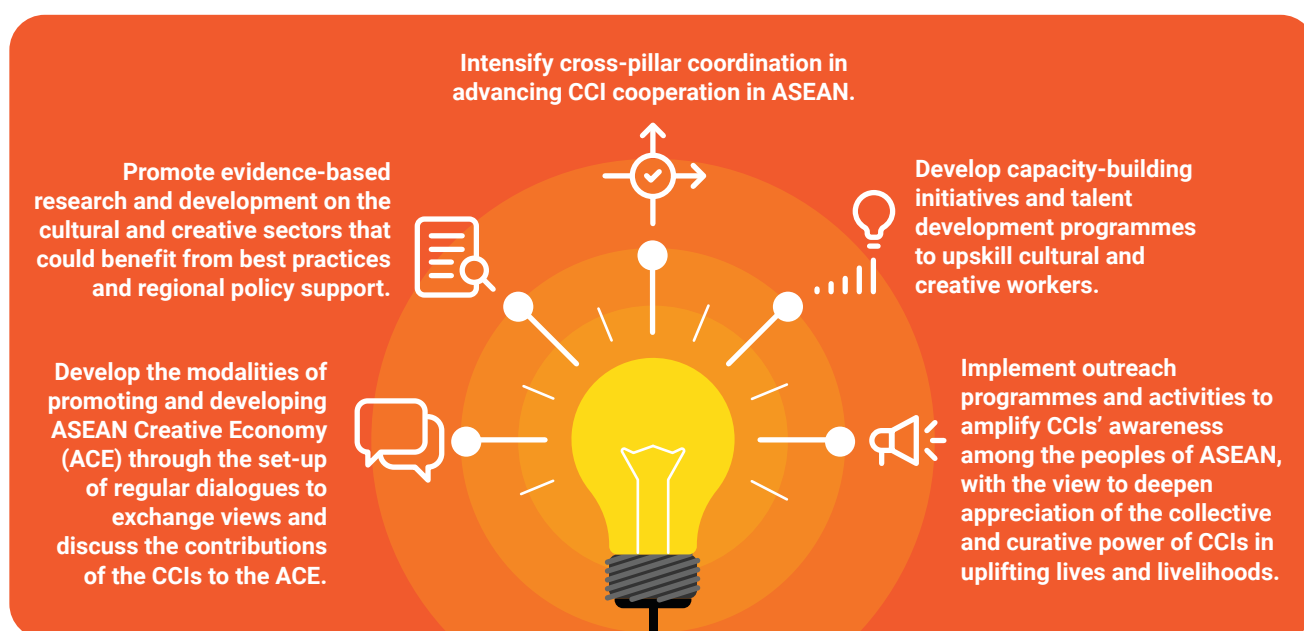


Similarly, the ASCC Blueprint 2025 underscores the significance of fostering cultural creativity, diversity, and innovation as integral elements of the region's socio-cultural progress. Under the Dynamic pillar, efforts are directed towards establishing a Creative, Innovative, and Responsive ASEAN. Amongst the 10 strategic measures identified within this focus is to "Promote registration of IPR and strengthen its cooperation and implementation in ASEAN in areas such as food safety, medicines, traditional cultural assets and biodiversity-based products."<sup>28</sup>

The ASEAN Strategic Plan for Culture and the Arts 2016-2025 also includes as an objective the desire to "Harness the contribution of the creative industries towards innovations, generating livelihoods and supporting economic development in AMSs."<sup>29</sup> Eleven priority areas of action are further identified under this objective, including "Facilitate IPR cooperation and implementation, including policy options concerning IPR of cultural and creative products".

More recently, the ASEAN Creative Economy Business Forum (ACEBF) stands out as one of the inaugural official platforms to acknowledge the significance of the creative economy sector. Held in Bali in November 2021 amidst the backdrop of the pandemic, this forum convened stakeholders from the creative economy to facilitate discussions on fostering an inclusive creative economy ecosystem in aid of post-pandemic recovery efforts.<sup>30</sup>

The Siem Reap Declaration on Promoting a Creative and Adaptive ASEAN Community was adopted by AMSs on July 7, 2022 and acknowledged the importance of the Cultural and Creative economy as a key sector, particularly as part of the post pandemic economic recovery plan.<sup>31</sup> The Declaration not only recognizes the importance of cultural and creative industries but also tasks the ASEAN Senior Officials Responsible for Culture and Arts (SOMCA), the ASEAN Committee on Culture and Information (ASEAN-COCI) and the Subcommittee on Culture (SCC) of the ASEAN-COCI to intensify efforts to promote and develop the CCIs, including but not limited to the following:



<sup>28</sup> <https://asean.org/wp-content/uploads/2021/08/8.-March-2016-ASCC-Blueprint-2025.pdf>

<sup>29</sup> <https://asean.org/wp-content/uploads/2021/01/ASEAN-Strategic-Plan-for-Culture-and-Arts-2016-2025.pdf>

<sup>30</sup> <https://www.eria.org/news-and-views/the-digital-creative-economy-can-be-a-driver-of-the-post-pandemic-economy-in-asean/>

<sup>31</sup> [https://asean.org/wp-content/uploads/2022/07/Siem-Reap-Declaration\\_AMCAadopted\\_7July2022.pdf](https://asean.org/wp-content/uploads/2022/07/Siem-Reap-Declaration_AMCAadopted_7July2022.pdf)



Apart from the bundling of culture and creative sectors together, there is also a broad recognition that many of the participants in these sectors include MSMEs, women, and local ethnic groups. These groups are often found to have lesser resources and could benefit from specific grants and human capacity programs, including on the use of digital technologies. Importantly, these groups often do not fully appreciate nor understand the value of IP.

The ASEAN Strategic Action Plan for SME Development (2016-2025) covers initiatives to support SMEs in the creative industries.<sup>32</sup> The strategic goals are to:

- 1 Promote Productivity, Technology, and Innovation;
- 2 Increase Access to Finance;
- 3 Enhance Market Access and Internationalization;
- 4 Enhance Policy and Regulatory Environment;
- 5 Promote Entrepreneurship & Human Capital Development.

Within the action plan, there are multiple references to enhancing knowledge-based creative industries, particularly by leveraging technology. This includes modernizing IP laws to adequately address the complexities of digital creative content creation and distribution. It also involves addressing commercialization and safeguarding crucial creative, largely unregistered IP rights. These rights encompass copyright (for all types of content), trade secrets/confidential information (for data and algorithms), unfair competition (business models and get up), and design protection, whether registered or, more crucially, unregistered designs (for a wide range of creative designs, from computer graphical user interfaces to fast fashion). Given that the creative sector is predominantly powered by MSMEs, a better understanding of IP, improved recording and cataloguing, and effective commercialization of IP are of paramount importance.

<sup>32</sup> <https://asean.org/wp-content/uploads/2015/12/SAP-SMED-Final.pdf>



There is a growing recognition of cultural and creative industries in the region, with the Creative Economy now occupying a prominent position on the agenda. Moreover, there's widespread acknowledgment of the vital role of IP in safeguarding, promoting, and incentivizing creative endeavours and innovations that drive the creative economy. This encompasses the essential protections afforded to various forms of creative works, including copyright for literary, artistic, and musical creations, design rights for industries such as fashion, furniture, consumer electronics, patents for inventions, trademarks for local regional brands and logos and GIs for specific handicrafts and produce.

The creative sector encounters numerous hurdles that impede its growth. These encompass restricted access to financing, information, technology, and markets; inadequate comprehension of IP rights; and insufficient domestic policies aimed at attracting investment and nurturing opportunities for creation and innovation.

Promoting and fostering a creative economy requires inter-ministerial efforts as well as public-private partnerships. IP rights are fundamental to the functioning and growth of the creative economy. Given the diverse spectrum of activities within the creative economy, it is prudent to integrate IP considerations into relevant government agenda for the creative sector rather than developing an IP-centric creative economy roadmap.

Furthermore, it's important to provide additional support and capacity-building for marginalized groups within these sectors, addressing issues such as digitalization while also prioritizing education on the importance of IP and related IP systems. IP plays a crucial role in promoting inclusive ASEAN growth, ensuring that the benefits of innovation and protection are accessible to all segments of society. This multifaceted approach ensures the continued growth and sustainability of the creative economy while fostering inclusivity and empowerment within the sector.

# SCIENCE, TECHNOLOGY AND INNOVATION ECONOMY

*STI have consistently held strategic importance for ASEAN, with priorities evolving to align with global trends and collective goals across AMSs. This involves fostering enhanced collaboration with relevant stakeholders and institutions in areas such as capacity building, research, and development (R&D), technology diffusion, and commercialization. Efforts also focus on improving STI infrastructure, governance, and support systems, as well as raising awareness about the benefits derived from the development and utilization of STI products and services. Additionally, ASEAN aims to strengthen cooperation with the private sector, engage in dialogue, and forge partnerships with other stakeholders to advance STI across the region.*

Economic complexity and relatedness can guide countries' industrial policy priorities as shown by the findings in the World Intellectual Property Report 2024<sup>33</sup> which focuses on how countries can promote innovation, economic development and sustainability by developing new innovative capabilities. Robust STI ecosystems, backed by innovation policies, can stimulate investment in emerging technologies, forming the basis for future innovation and industrial development. Examples include penicillin production, the Internet, and autonomous vehicles. In developing economies, STI ecosystems can facilitate knowledge assimilation and adaptation. Universities and research institutes can adapt new technologies to local conditions. For instance, publicly funded research organizations have contributed to the development of the pharmaceutical industry in India and the semiconductor industry in the Republic of Korea. Government incentives, such as R&D subsidies, tax credits, subsidized loans, and IP systems, can encourage new technology development and innovative goods and services production. Most agricultural R&D is publicly financed, with Brazil's ethanol production transition being an example of public financial incentives.

Recent years have seen a resurgence of industrial policies addressing global challenges like the pandemic and climate change. The European Green Deal and the U.S. Inflation Reduction Act provide incentives for carbon-reducing technology development and deployment. Many countries promote electric vehicle adoption through subsidies and tax credits. Analyzing economic complexity and relatedness can inform these policies by identifying innovation ecosystem gaps. By comparing scientific output and international patents, policymakers can identify untapped technological potential and prioritize between domains. Managing innovation capabilities and mapping relatedness can establish long-term growth and competitiveness foundations. Embracing complexity and smart specialization principles can help policymakers make informed strategic decisions that drive innovation, economic success, and sustainability.

<sup>33</sup> <https://www.wipo.int/web-publications/world-intellectual-property-report-2024/en/index.html>

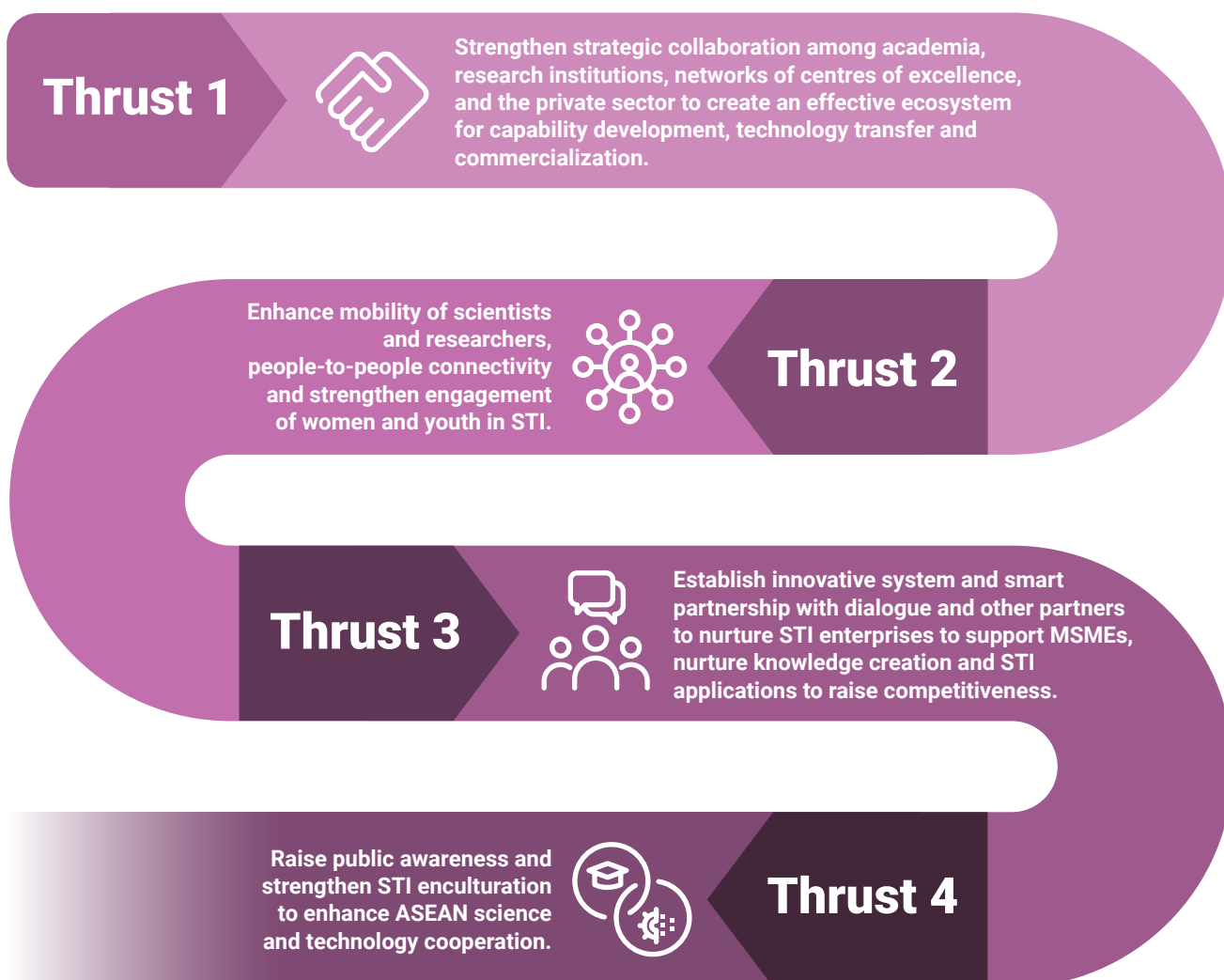


The direction for ASEAN's Science and Technology Action Plans are primarily guided by the ASEAN Plan of Action on Science and Technology (APAST), which was rebranded as the ASEAN Science, Technology & Innovation Plan (APASTI) in 2018. The APASTI 2016-2025 is the fifth roadmap guiding AMSs on how to leverage science, technology, and innovation. Although the latest APASTI 2016-2025 maintains continuity with previous plans, it also incorporates new approaches and

strategies aimed at enhancing the level and efficiency of implementing specific actions.

The APASTI 2016-2025 is guided by an overarching vision for a "Science, Technology and Innovation-enabled ASEAN, which is innovative, competitive, vibrant, sustainable and economically integrated." The six goals of the APASTI are in turn guided by four Thrusts and their respective Actions.

### The Strategic Thrusts are as follows:



Science and Technology are intrinsically linked to IP due to their mutually beneficial as well as symbiotic relationship. This relationship fosters innovation and stimulates creativity by safeguarding IP assets and encouraging their commercialization. The various ASEAN Science and Technology strategies throughout the years have always included action items on IP such as the establishment of guidelines on the sharing of IP and royalties (APAST 1996-2000), the development of an intra-ASEAN IP protection and technology transfer framework (APAST 2002-2006) and developing the necessary policies and system to promote and manage regional S&T enterprise including IP protection for commercial spin-offs and joint ventures (APAST 2007-2015).

The ASEAN Science, Technology, and Innovation Fund (also known as ASEAN Science Fund, or ASTIF) was established for the purpose of providing seed financing for the various programmes, projects and activities under ASEAN science and technology cooperation, as identified and approved by the ASEAN COSTI. Given these close linkages between STI and IP, it is imperative that COSTI maintains a close and collaborative relationship with the AWGIPC. This collaboration is essential to ensure that their respective roadmaps beyond 2025 complement each other effectively. Such collaboration should involve regular communication and contact and close coordination in both planning and implementing their roadmaps, particularly in areas of common interest. Additionally, the respective STI and IP roadmaps should feature relevant focus areas, including the incorporation of IP policies into pertinent priority areas, thereby fostering synergy and maximizing the impact of ASEAN's efforts in S&T and IP cooperation and integration.

Support for MSMEs and start-ups should encompass initiatives aimed at enhancing their understanding of IP and facilitating the registration process for their innovations. This could involve providing MSMEs and start-ups with educational resources and guidance on the importance of IP protection and the steps involved in acquiring the necessary registration for their intellectual assets. Additionally, implementing a streamlined process for MSMEs and start-ups to register their IP would further alleviate barriers to entry and encourage greater participation in the IP system, ultimately stimulating innovation and economic growth within the ASEAN region.

Public awareness programs should incorporate IP as a pivotal strategic component for scientists and innovators, emphasizing its significance in the commercialization and protection of their assets. Universities, in particular, hold immense potential in nurturing a culture of strong IP appreciation among students, researchers, and innovators. By integrating IP education into their curriculum and fostering partnerships with industry stakeholders, universities can equip future professionals with the knowledge and skills necessary to navigate the complexities of IP law and effectively leverage their intellectual assets for economic growth and societal benefit. Such initiatives contribute to building a more innovation-driven ecosystem within the ASEAN region, thereby fostering sustainable development and prosperity.





A study conducted by WIPO, with financial support from the Government of Japan, aimed to develop a “Regional Institutional Intellectual Property Policy in the AMSs.” The study revealed that many IP policies in ASEAN research institutes were not aligned with national guidelines or recommendations. Several weaknesses were identified, including a lack of clarity regarding IP commercialization, gaps in IP management, and a tendency to prioritize publication over protection. These shortcomings need to be addressed to encourage cross-border collaborations in R&D and to facilitate technology transfer and monetization of research outputs as well as transformation of research outputs into demonstrable prototypes/minimum viable products, and access to funding for this purpose.

Innovation in the agriculture sector is crucial for the ASEAN region, where over 40% of the population is engaged in farming, and the sector contributes around 10-30% of GDP in several member states. As food demand rises with population growth and climate change impacts intensify, innovation becomes essential to ensuring food security, enhancing productivity, and building resilience. Plant Variety Protection (PVP) plays a pivotal role in this transformation by incentivizing the development and distribution of improved plant varieties. PVP provides breeders with rights, allowing them to recoup investment in research and breeding. Evidence from countries like Viet Nam demonstrate that PVP has led to a surge in private sector investment in seed development, accelerating the introduction of high-yielding, pest-resistant, and climate-adapted crops. By protecting breeders’ rights, PVP not only drives innovation but also fosters the wider dissemination of new varieties, boosting productivity and sustainability in ASEAN’s agricultural landscape. Innovation in the agriculture sector is essential for AMSs to achieve food security, sustainability, climate resilience, economic growth, technological advancement, and social inclusion. It is important to promote and support innovation in agriculture through policies, investments, and partnerships.

Malaysia, the Philippines, and Thailand are collaborating with WIPO in a pilot project called Artificial Intelligence (AI) and Agriculture 4.0. This project empowers stakeholders and beneficiaries with the knowledge, skills, and AI tools to create smarter and more sustainable agricultural practices. By doing so, it contributes to achieving the Sustainable Development Goals and fosters awareness of IP as a valuable business tool for market expansion and economic growth in this sector. Tailored IP management strategies will also be developed for selected group of Agriculture 4.0 enterprises to strengthened local and regional expertise in IP (e.g., smart farming, new plant varieties, management of genetic resources, etc.) and frontier technologies. By teaching selected farming communities about IP and the use of AI and digital technologies, Agriculture 4.0 promotes more efficient, productive, and environmentally friendly farming methods.

Lessons learned from this initiative will be shared with other AMSs and developing countries, empowering their farming communities to harness the potential of advanced technologies for increased efficiency, sustainability, and profitability.

# RECOMMENDATIONS

*ASEAN aspires to build an environment where IP rights drive innovation, entrepreneurship, economic evolution, and sustainability, thereby contributing to ASEAN's dynamic role in the global knowledge economy. Five sectors, namely the Digital Economy, the Green Economy, the Blue Economy, the Creative Economy and the Science, Technology and Innovation Economy as the new growth drivers in the ASEAN Leaders' Declaration on ASEAN as an Epicentrum of Growth have been identified.*

Strengthening the linkages between IP and the identified sectors involves a multi-pronged approach that includes policy reform, technological advancements, education, and international cooperation.

While this report focuses on several priority sectors identified by ASEAN, the potential benefits extend to a wider range of industries. Agricultural IP encompasses an increasingly complex landscape, including GIs, plant varieties, and new technologies. Similar opportunities exist in tourism, where regulatory alignment for brands, licensing, and franchising could unlock significant growth. These strategies, with adjustments tailored to each sector in collaboration with relevant departments, can be effectively applied to traditional sectors like public health, tourism, agriculture, manufacturing, and services. By fostering a more supportive IP framework across all industries, ASEAN can promote sustainable economic growth throughout the region.

Here are some key strategies requiring policy attention in ASEAN in the years to come to facilitate the achievement of the desired goals under the AEC 2045.





## Develop a balanced, robust and inclusive IP system

- Maintain an appropriate balance between the interest of IP right holders and the legitimate interests of users and the public. IP laws provide a legal and ethical framework for the utilization and dissemination of scientific and technological innovations. This framework balances the interests of creators, users, and the public, ensuring that advancements benefit society while safeguarding the rights of innovators.
- Ensure that IP laws are updated to remove gaps in IP protection and enforcement, reflect current technological advancements and aligned with international standards to provide clear and robust protection and enforcement.
- Regularly review and update IP policies to assure they remain pertinent and effective in a rapidly evolving technological and digital landscapes.
- Take measures to help reduce IP development gaps within the region and promote inclusive and equitable access to IP by all sectors in society.
- Encourage protection of innovations/IP related to marine biotechnology and fisheries such as pharmaceuticals and bioproducts derived from marine organisms, including promoting the use of GIs for sustainably sourced marine products to enhance market value and ensure authenticity.
- Protect trademarks and branding of creative products, including those related to local cultures and heritage, copyright and collective management.
- Establish patent pools to promote voluntary sharing of technology while protecting inventors' rights, especially in critical areas like healthcare and environmental technology that are of common regional interests and concerns.<sup>34</sup>



## Modernized IP Processes

- Enhance the efficiency of national IP offices by reducing application processing times through leveraging technology including intensifying the use of AI for examination, considering deployment of blockchain for secure IP registration and implementing user-friendly procedures.
- Simplify the IP application processes to make it easier and expedient for users to obtain protection for their innovations and creations.
- Elevate market access and integration through enactment of enabling legislation, harmonization of legal framework, infrastructure enhancement, and procedural improvements encompassing possible:
  - a. Collaboration among AMSs in the examination of IP applications, to facilitate a more efficient and consistent evaluation process.
  - b. Acceptance of search and examination results conducted by other AMSs or selected IPOs, to reduce redundancy and to expedite the approval process for IP applications.
  - c. Alignment of IP laws across AMSs to simplify cross-border IP protection and enforcement.
  - d. Establishment of a regional IP office responsible for protection and registration of all or specific IP.

<sup>34</sup> ASEAN members may benefit from WIPO expertise and collaboration with other stakeholders like the Medicines Patent Pool (MPP), especially in the field of health. For instance, the report *"Voluntary Licensing: Right for Health, Smart for Business: How voluntary licensing advances global health while being economically viable for biopharmaceutical companies,"* April 2024.



## Integrate IP considerations into relevant government programs

- Incorporate IP policies and strategies into relevant government programs and initiatives, ensuring that IP considerations are consistently integrated into broader governmental agendas, thus enhancing coherence and complementary development across various policy domains. This can be achieved by incorporating IP-related objectives, indicators, and criteria into program guidelines, funding requirements, and evaluation frameworks.
- Encourage collaboration and coordination among government agencies responsible for IP matters and those implementing the identified programs. This can help ensure that IP considerations are consistently integrated across various policy domains and that efforts are not duplicated or contradictory.
- Strengthen the capacity of government officials to understand and address IP matters by providing training, resources, and expertise, ensuring that IP considerations are effectively integrated into government programs and that IP policies and strategies are effectively implemented.



## Develop IP Valuation and Monetization Expertise<sup>35</sup>

- Develop expertise in IP valuation and monetization to help inventors and companies maximize the economic value of their IP assets.
- Make available analytical tools to assess the value and potential of IP assets, helping owners make informed decisions about licensing and commercialization as well as formulate defensible positions from which to negotiate with, for example, potential licensees, investors or other stakeholders.



## Enhance Capacity Development

- Enhance IP knowledge and skills among stakeholders in ASEAN, focusing on IP officers, government agencies, research and development institutions, the judiciary, enforcement authorities, academia, the private sector, and professional bodies. This can be achieved through the establishment of a dedicated ASEAN Regional Centre for IP education (the ASEAN IP Academy for instance) or other suitable structures or mechanisms. Such efforts will standardize training across all AMSs, ensuring a consistent and effective approach.
- Adopt an interdisciplinary approach to IP education by including IP education into various programs, including law, business, engineering, arts, and sciences. This ensures that all students, regardless of their major, understand the significance and implications of IP and develop into skilful and resourceful IP-savvy innovators and expert intermediaries.
- Establish innovation hubs and business incubators on campus where start-ups, students and researchers can develop their ideas into marketable products and learn about IP protection, enforcement and commercialization in the process as an extension of IP education and skill development.
- Promote greater use of patent analytics tools and landscape reports by government regulatory bodies, R&D institutions, technology transfer offices, innovators, start-ups, SME's, and other relevant stakeholders. These tools and reports span multiple sectors, offering valuable insights that enable informed decision-making, strategy development, and innovation management.
- Support digital entrepreneurship and innovation, especially among women and youth, by providing mentorship, training, funding, and networking opportunities

<sup>35</sup> Additional information on the proposed actions related to this area is included under Annex I of the Scoping Study.



## Strengthen IP Awareness

- Implement comprehensive IP awareness programs in schools, universities and to the general public to raise awareness about the value of IP, the negative impact of piracy and counterfeiting and the availability of alternatives.
- Educate creators, businesses, and innovators about the importance of IP protection and enforcement as well as how to navigate the IP system to empower them to protect their own works and respect the rights of others.
- Broaden the scope and reach of awareness programs and activities conducted by national IP offices in order to bring focus on unregistered rights that drive sectors such as digital and creative industries, and are crucial for MSMEs. These rights may include, but are not limited to, copyrights, trade secrets, unregistered designs, unfair competition rights, and database rights.



## Develop Green Standards and Certifications and Eco-labeling

- Create and promote standards and certifications for green technologies and products. These can help protect IP while assuring consumers of the environmental benefits and quality of products.
- Create/strengthen frameworks and platforms to facilitate the voluntary transfer of green technologies within ASEAN, promoting partnerships to bridge the divide between innovation and application and facilitating access to green technologies.
- Promote the growth of eco-labeling schemes that certify sustainably sourced products, encouraging consumers to choose environmentally friendly options.



## Provide IP Match-making and Collaborative Platforms

- Create platforms to facilitate the collaboration, exchange and licensing of IP among individuals, businesses, and institutions to increase the accessibility, utilization, and commercialization of IP assets, promoting innovation and reducing barriers to entry for smaller entities. Some examples could be:
  - a. A marketplace where IP owners can showcase and promote their patents, trademarks, and other IP assets for sale or licence.
  - b. Patent pools where multiple patent holders contribute their IP, making it easier for green technology developers to access and use these innovations without negotiating multiple licences.
  - c. Identification and management of Standard Essential Patents (SEPs) for key green and other areas of technologies of priority importance to AMS, ensuring they are accessible under fair, reasonable, and non-discriminatory (FRAND) terms.
  - d. Connect IP owners and seekers from different countries, as well as problem-solvers with IP owners looking for solutions, to facilitate cross-border collaborations and access to global markets.
  - e. Leverage digital technologies and platforms to expand the reach and impact of creative work - Encourage and facilitate the use of digital technologies and platforms, such as social media, e-commerce, and streaming services, to create, distribute, and access creative works across borders and markets (including developing digital infrastructure, promoting digital literacy, and ensuring digital security and privacy).



## Provide IP Support and Financial Incentives

Offer grants, subsidies, and tax incentives for R&D activities that result in IP creation and economic activity, encouraging investment in innovation and creativity<sup>36</sup>.

Facilitate IP frameworks that support joint ventures and research partnerships (joint and collaborative research projects across borders) in prioritized areas, including tax incentives and grants.

Provide tailored IP support and resources for SME's and start-ups to help them navigate the IP system and leverage their intellectual assets.

Maximize the impact of the Agriculture 4.0 pilot program by including additional AMSs. This strategic expansion will foster the development of robust local and regional expertise in IP and cutting-edge technologies like AI for Agriculture 4.0.

Establish recognition programs to acknowledge companies that demonstrate best practices in IP management and compliance across all sectors.

<sup>36</sup> The World IP Report 2022 entitled "The Direction of Innovation" discussed how these types of policy interventions – i.e., R&D subsidies, loans, R&D tax incentives, procurement, etc. - are especially key for addressing climate change. The Report can be consulted at - <https://www.wipo.int/wipr/en/2022>

<sup>37</sup> Further information on some of the main barriers to enforcement of IP rights in the ASEAN region is provided in Annex I of the Scoping Study.



## Enhance IP Enforcement<sup>37</sup>

Enhance IP dispute resolution mechanisms within AMSs to build confidence in the region's commitment to protecting IP rights including:

- a. Setting up specialized IP courts or having specially trained or dedicated judicial officers to adjudicate IP cases.
- b. Supporting and promoting the use of private alternative dispute resolution processes, such as mediation and arbitration.

Strengthen regional cooperation among ASEAN enforcement authorities to ensure consistency and effectiveness. This may involve the establishment of regional IP enforcement networks, the sharing of best practices and intelligence, and the development of joint enforcement operations. With digital platforms transcending borders, heightened regional cooperation and collaboration are important to help enforce IP rights and safeguard against various forms of infringement, and piracy of digital goods. These challenges encompass counterfeit products sold through digital channels, unauthorized utilization of IP assets, and other related issues. Such collaborative efforts are pivotal not only for nurturing intra-ASEAN trade dynamics but also for fostering confidence among companies regarding the protection of their digital assets within the global marketplace.

Adopt international best practices such as the establishment of cross-national specialized IP enforcement units, and the use of advanced technologies such as blockchain and AI to detect and prevent IP violations.

Foster collaboration among national IP offices and enforcement agencies to combat IP violations more effectively.





## Encourage International and Regional Cooperation

Foster international and regional collaboration on IP issues, including joint projects and the sharing of best practices.

Establish an ASEAN IP Fund/Foundation dedicated to strategic innovative projects that benefit ASEAN countries. This initiative aims to:

- a. Support collaborative projects undertaken collectively by ASEAN R&D institutions.
- b. Focus on areas of strategic importance to AMSs.
- c. Encourage partnerships with international public and private researchers.
- d. Strengthen R&D as well as manufacturing capabilities and capacities across ASEAN.
- e. Promote innovation and technological advancement.
- f. Foster a collaborative research environment that leverages international expertise.

Engage in consultations to evolve AMSs IP regimes, aiming to establish ASEAN standards and practices aligned with international norms.



## Monitor Emerging Issues

Keep discussions open and ongoing amidst the opportunities and challenges that arise from emerging topics such as AI<sup>38</sup>. This includes the need to stay abreast of developments while remaining cognizant of their implications for IP issues. For instance, AI holds vast promise across diverse industries, suggesting a surge in patent applications and avenues for commercialization. However, this also gives rise to a plethora of new legal complexities. These include re-evaluating IP legislation to address questions of inventorship/authorship in the context of AI systems and the ramifications of AI-generated creations and machine learning innovations on traditional IP categories, navigating the shifting terrain of IP infringements in the AI era, and delving into the ethical and policy dimensions surrounding issues of fairness, transparency, and accountability.



## High Level IP Forum

Organize high level IP forum once or every 2 years back-to-back with the ASEAN Economic Ministers meetings or related meetings where relevant international organizations like WIPO, WTO or World Customs Organization could be invited to discuss emerging IP issues and trends that may have a profound impact on the socio-economic and technological landscape of a country.

<sup>38</sup> WIPO publication "Getting the innovation ecosystem ready for AI: An IP policy toolkit" can be helpful in this regard. It can be consulted at the following link - <https://www.wipo.int/publications/en/details.jsp?id=4711>



## Elevating the IP authority and leadership to the highest level of government



Form a high-level inter-ministerial committee chaired by the Prime Minister or President, comprising all Cabinet Ministers, and relevant IP experts from the private sector to provide focused leadership on IP issues.<sup>39</sup> This cross-ministerial committee could be responsible for:

- a. Setting IP policy, overseeing its implementation, and coordinating with other relevant ministries and agencies.
- b. Incorporating IP into national development plans and strategies, ensuring that IP is considered in a wide range of policy areas, from education and research to trade and investment.
- c. Ensuring coherent and consistent IP-related policies and programs to facilitate better economic integration within the ASEAN region.

<sup>39</sup> [https://www.wipo.int/wipo\\_magazine/en/2007/03/article\\_0007.htm](https://www.wipo.int/wipo_magazine/en/2007/03/article_0007.htm). The Basic Law on IP in Japan was enacted in November 2002. It established the IP Strategy HG, a permanent body based on the work of the IP Strategy Council comprising the Prime Minister (PM) as chair, all the Cabinet ministers as members, 10 IP experts from the private sector and the then Commissioner of the Japan Patent Office as the Secretary-General reporting to the PM.

<https://ipkorea.go.kr/english/about/Background.do>. The Framework Act on Intellectual Property in South Korea was enacted and took effect on July 20, 2011. The Act stipulates the creation of the Presidential Council on IP co-chaired by the PM and private expert and the formulation of a master plan for national IP, among other things. The current Council comprises of the PM as the co-chair, the Minister of Economy and Finance, the Minister of Science and ICT, the Minister of Education, the Minister of Foreign Affairs, the Minister of Culture, Sports and Tourism, the Minister of Agriculture, Food and Rural Affairs, the Minister of Trade, Industry and Energy, the Minister of Health and Welfare, the Minister of SMEs and Start-ups. There are 13 people, including the PM, the Chairman of the Fair Trade Commission, the Director of the National Intelligence Service, and the Commissioner of the Korean IP Office.

## If is not feasible or desirable to have IP leadership and authority at the Prime Minister level, several alternative approaches could be considered:



Consider appointing a dedicated minister for IP and innovation. With the growing importance of knowledge-based industries, the rapid advancement of technological development, the complexities of online infringement and the strong linkages of IP in almost all sectors of the economy, a dedicated minister can offer several key benefits such as:

- a. Bring focused leadership and direction on IP issues, ensuring they receive the requisite attention and resources.
- b. Steer the development of comprehensive IP policies that align with national economic and innovation goals.
- c. Strengthen coordination between various government departments, such as commerce, industry, and education, which are involved in IP issues.
- d. Prioritize IP enforcement, working with law enforcement agencies to combat infringement in all its forms.
- e. Strengthen the role and capabilities of existing IP offices to encompass all aspects of IP protection and enforcement.
- f. Establish interdepartmental committees to facilitate coordinated development and enforcement of IP policies.
- g. Create advisory councils comprised of experts from various sectors to offer strategic guidance on IP matters.<sup>40</sup>
- h. Foster public-private partnerships to leverage industry expertise and resources for enhanced IP protection and innovation.

<sup>40</sup> *ibid*



ANNEX



**IP FINANCE: THE WAY FORWARD & ENFORCEMENT: BUILDING CONFIDENCE**



## IP FINANCE: THE WAY FORWARD

With the push to foster a dynamic, knowledge-based, innovative, and entrepreneurial region, it is crucial to support SMEs and start-ups, which are rich in intellectual assets but lack tangible resources, in securing appropriate funding to advance their endeavours and monetize their outputs.

IP financing provides an alternative to traditional funding methods, such as bank loans or equity investments. This approach is especially advantageous for companies with limited physical assets but robust IP portfolios, allowing them to leverage their intangible assets for financial support.

IP financing involves raising funds by using IP assets as collateral to secure loans or investments from financial institutions. For small businesses and start-ups that may lack sufficient resources or physical assets, leveraging their IP can provide essential capital for research and development, enabling innovation and the creation of new products and services. IP assets, including patents, trademarks, industrial designs, copyrights, and trade secrets, possess inherent economic value. IP financing offers a unique and innovative way for these companies to access the value of their IP, facilitating growth and development that might not be achievable through traditional financing methods.

For tech start-ups, IP financing is particularly appealing because they often hold numerous intangible assets, such as R&D outputs, data, and other digital innovations. These assets can be collateralized to secure much-needed funds, enabling further innovation and creating a virtuous cycle of investment and development. Although commercializing these technologies can yield monetary benefits and lead to the creation of new IP, many start-ups face difficulties in securing financing during the early stages.

Specifically, many small and mid-sized start-ups encounter the so-called '*death valley*,' where they struggle to raise sufficient funds at the commercialization stage, resulting in interrupted growth. IP financing plays a crucial role in supporting these innovative start-ups<sup>1</sup>.

An important component of IP financing is valuation. For businesses to use their IP assets, which may be both tangible and intangible, they must effectively determine the value of these assets. This often involves commissioning experts to conduct a valuation assessment, taking into consideration factors such as market potential, existing revenue streams, and the competitive landscape. The valuation must then be discussed and agreed upon with the financial institution or investor. These discussions will consider additional factors such as risk and potential returns based on the IP's value and the business's overall financial health.

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<sup>1</sup> [https://www.apec.org/docs/default-source/publications/2023/7/223\\_ipeg\\_a-study-on-the-harmonization-the-ip-financial-system.pdf?sfvrsn=eaab9a1\\_4](https://www.apec.org/docs/default-source/publications/2023/7/223_ipeg_a-study-on-the-harmonization-the-ip-financial-system.pdf?sfvrsn=eaab9a1_4)

There are various models of raising funds<sup>2</sup>:



### Loan Guaranteed by IP

A guarantee institution issues a guarantee for a corporate loan to a financial institution, using the IP as collateral based on its valuation. When a company defaults on its debt the guarantee institution repays the loan to the lender and collects the funds by disposing of the collateralized IP. This model mitigates risk for the lender while leveraging the value of the debtor's IP assets<sup>3</sup>.



### Loan Collateralized by IP

Funds are borrowed directly from a financial institution, with an IP as collateral based on a valuation of the IP which is held by a debtor. The financial institutions may dispose of the secured IP to recover the amount when a debtor fails to fulfill its obligation. This model allows the business to secure a loan by directly leveraging its IP assets.



### IP-Based Investments

Investors, often venture capitalists, invest in start-ups at an early stage using the anticipated future profits and capital gains through stocks and interest on bonds. This model focuses on the potential long-term value and returns of the start-up's IP assets.



### IP Securitization

This is a financial technique where an entity issues and funds securities based on cash flows generated from IP rights. This process involves transferring IP rights to special purpose vehicles (SPVs) and issuing asset-backed securities based on future cash flows of these IP rights. Securities issued in this process are called asset-backed securities.



### License or Sale

IP Right holders can monetize their IP assets by licensing them to other firms or selling them outright. This generates income that can be used to finance other operations or growth.

These models provide flexible and innovative financing options, enabling SMEs and tech start-ups to capitalize on their intangible assets and drive continued growth and innovation.

<sup>2</sup> [https://www.apec.org/docs/default-source/publications/2023/7/223\\_ipeg\\_a-study-on-the-harmonization-the-ip-financial-system.pdf?sfvrsn=eaab9a1\\_4](https://www.apec.org/docs/default-source/publications/2023/7/223_ipeg_a-study-on-the-harmonization-the-ip-financial-system.pdf?sfvrsn=eaab9a1_4)

<sup>3</sup> *Ibid*

However, there are some challenges that may make it difficult for IP holders to access funding and hinder the overall effectiveness of IP financing as a tool for fostering innovation<sup>4</sup>:



### Valuation

Determining the accurate value of IP assets can be costly and complex and requires specialized knowledge.



### Legal Risks

IP rights can be contested which can significantly diminish their value, and the legal landscape surrounding IP can be challenging to navigate.



### Market Volatility

The value of IP can fluctuate based on market conditions, technological advancements, and competitive actions.



### Secondary Markets

There is a lack of secondary markets for intellectual assets or IP liquidation. Clear processes and channels for disposal of the intellectual assets or IP are necessary in the event of a default by the borrower.<sup>5</sup>



### Recovery of Value

In the event of default, lenders may face difficulties in recovering the full value of the IP assets, especially if they lack expertise in managing and monetizing these assets. There are concerns whether security interests over IP rights would have sufficient value if they were to be liquidated.



### IP Rights' Territorial Nature

IP rights are typically territorial in nature, meaning they are enforceable only within the jurisdiction where they are granted. This territoriality can pose challenges for IP finance, especially in cross-border transactions, where the ownership and value of IP assets may be uncertain or disputed.

<sup>4</sup> [https://www.apec.org/docs/default-source/publications/2023/7/223\\_ipeg\\_a-study-on-the-harmonization-the-ip-financial-system.pdf?sfvrsn=eaab9a1\\_4 page 81](https://www.apec.org/docs/default-source/publications/2023/7/223_ipeg_a-study-on-the-harmonization-the-ip-financial-system.pdf?sfvrsn=eaab9a1_4_page 81)

<sup>5</sup> WIPO (2021), *Unlocking IP-backed Financing: Country Perspectives. Singapore's Journey*. Geneva: WIPO.

AMS should consider how to make IP financing more acceptable and readily available by developing the necessary legal and regulatory frameworks to support IP financing. These include the recognition of IP as a legitimate form of collateral and ensuring the legal transferability of IP rights with clear ownership. Specific steps include:



### Recognizing IP as Collateral

Establishing the necessary laws and regulations that formally recognize IP as a viable form of collateral for loans and investments. This includes defining the types of IP that can be used and setting standards for their valuation.



### Ensuring Legal Transferability

Developing clear legal guidelines for the transfer and assignment of IP rights. This involves ensuring that IP ownership is well-documented and easily transferable, which is crucial for securing loans and investments.



### Creating IP Valuation Standards

Implementing standardized methods and guidelines for valuing IP assets. This will provide consistency, predictability and reliability in assessing the worth of IP, making it easier for financial institutions and investors to accept IP as collateral.



### Lower costs of preliminary IP valuation

By implementing automated systems that generate estimates of IP portfolio value (similar to credit reference scores), the process becomes more efficient. These systems can be supervised by qualified IP valuation experts who can then make informed decisions regarding complex IP assets.



### Establishing a Network of Certified IP Valuation Professionals

Facilitating in building capacity, collaboration and exchange of best practices in determining the value of IP assets for MSMEs and start-ups including ensuring they have technology skills to manage the automated valuation estimates.



### Educating Stakeholders

Conducting outreach and education programs to inform businesses, financial institutions, and investors about the benefits and processes of IP financing. Increased awareness and understanding can drive acceptance and utilization of IP financing.





### Facilitating Access to IP Financing

Developing platforms or programs that connect businesses with potential lenders and investors who are interested in IP-backed financing. This could involve partnerships with financial institutions and creation of specialized IP financing funds.



### Adopt best practices of other countries

Study the IP financing models of other nations, learn from their experiences, adopt best practices from countries with effective IP financing frameworks, tailoring them to fit local contexts, including simplification of the procedures for using IP as collateral, including registration and enforcement processes.



### Government Support

Implement IP finance by establishing a collaborative system involving the government, financial institutions, and evaluation institutions. This could involve: (i) development of risk mitigation strategies, such as insurance products or government-backed guarantees, to instill confidence and encourage lenders to accept IP as collateral; (ii) implement government programs that support SMEs in using their IP for financing, including subsidies for valuation and registration costs; and (iii) foster public-private partnerships and collaborative initiatives among government, financial institutions, and IP offices to create a supportive ecosystem for IP-backed financing.

By taking positive steps and addressing the hurdles, AMS can create a supportive environment for IP financing, making it a more viable and attractive option for businesses to secure the capital needed for growth and innovation.

## ENFORCEMENT - BUILDING CONFIDENCE

Effective enforcement of IP rights is essential to fostering a thriving environment for innovation and creativity. This, in turn, fuels economic prosperity, protects consumers, supports cultural development, ensures fair competition, and facilitates global trade. Ineffective enforcement would undermine the exercise of ASEAN in integrating IP into the new growth drivers and other pertinent sectors. When creators and inventors face counterfeiting and piracy, they are deprived of the recognition and financial rewards they deserve for their time, efforts, and resources invested in developing new ideas, products, and creative

works. This ultimately hinders the development of these very technologies and works.

Enforcement remains uneven among AMSs. Reports from the Office of the United States Trade Representative (USTR)<sup>6</sup> European Commission (EU),<sup>7</sup> and other third parties highlight various specific issues. While these enforcement issues are often cited as concerns for foreign investors, particularly US and EU IP owners, local businesses also face similar difficulties.

There are several barriers to the effective enforcement in the region as shown below:



The inconsistent enforcement frameworks (most of all criminal) for IP rights across AMSs pose a challenging landscape for IP holders to navigate effectively.<sup>8</sup>



In some AMSs, IP laws are ineffective to deter infringement due to factors like inadequate penalties and loopholes that can be easily exploited.<sup>9</sup>



Weak border controls within ASEAN can creating opportunities for the illicit trade in counterfeit and pirated goods.<sup>10</sup>



The proliferation of e-commerce has ushered in a new era of online piracy and counterfeiting, presenting daunting challenges. Some AMSs are still in the process of reforming their legal frameworks and enforcement measures to effectively combat these emerging threats.<sup>11</sup>

<sup>6</sup> <https://ustr.gov/sites/default/files/2024%20Special%20301%20Report.pdf>

<sup>7</sup> [https://policy.trade.ec.europa.eu/news/commission-releases-its-report-intellectual-property-rights-third-countries-2023-05-17\\_en](https://policy.trade.ec.europa.eu/news/commission-releases-its-report-intellectual-property-rights-third-countries-2023-05-17_en)

<sup>8</sup> <https://www.insme.org/most-common-ip-problems-when-operating-internationally-focus-on-south-east-asia/>

<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/482650/China-ASEAN\\_Anti-Counterfeiting\\_Project\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/482650/China-ASEAN_Anti-Counterfeiting_Project_Report.pdf)

<sup>10</sup> *Ibid*

<sup>11</sup> [https://www.eu-asean.eu/wp-content/uploads/2022/02/E-Commerce-Paper\\_22-Feb.pdf](https://www.eu-asean.eu/wp-content/uploads/2022/02/E-Commerce-Paper_22-Feb.pdf)



Though efforts are underway to unify IP laws across ASEAN, significant discrepancies persist in enforcement and implementation.



Many AMSs have limited resources allocated to IP enforcement agencies, leading to inadequate enforcement capabilities and a low number of deterrent criminal prosecutions.



A shortage of judges, law enforcement officers and legal practitioners with specialized knowledge in IP in some AMSs resulting in inconsistent decisions on IP cases.<sup>12</sup>



General public misunderstanding and lack of awareness regarding IP rights contributing significantly to IP violations.

To overcome these obstacles, a comprehensive strategy is needed. This multi-faceted strategy should encompass legal reforms, capacity building initiatives, public awareness campaigns, and strong regional cooperation.

A robust IP enforcement system across ASEAN is essential. It will not only stimulate innovation and attract foreign investment but also safeguard the rights of creators and businesses.

Some actions have been taken by AMSs such as adoption of action plans to enhance cooperation and enforcement among member states, capacity development of IP enforcement authorities and the judiciary and collaborative initiatives on IP enforcement and awareness campaigns between the government and private sector but more substantial support and targeted programs are needed as proposed under the Recommendations section of Chapter 2.

<sup>12</sup> <https://www.insme.org/most-common-ip-problems-when-operating-internationally-focus-on-south-east-asia/>

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