



ASEAN INTELLECTUAL PROPERTY ASSOCIATION

Intellectual Property Cooperation Mechanisms under the RCEP framework

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- President -

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1. Introduction to RCEP and its IP Chapter

Overview of RCEP

- Signed in Nov 2020 between **10 ASEAN countries** and **5 key trade partners (China, Japan, South Korea, Australia, and New Zealand)**, effective from 1 January 2022.
- The world's largest FTA to date, accounting for **~31.6% of Global GDP** and covering **~2.3 billion people** in 2023 (*Source: World Economics*).
- Aiming at **deepening economic ties, reducing tariffs, and promoting trade and investment** across the region.
- The first FTA between ASEAN and its partners that dedicates **a separate chapter to IP (Chapter 11)**, which will elevate standards of IP protection and enforcement across all RCEP countries.



1. Introduction to RCEP and its IP Chapter

IP Provisions in RCEP – Chapter 11

- **The longest and the most informative chapter** in RCEP.
- **Objective:** to promote deeper economic integration and cooperation through effective, adequate creation, utilization, protection and enforcement of IP rights.
- **Respecting the different development levels** of RCEP members + **Providing a balanced and inclusive plan for the protection and promotion of IP** in the region.
- **Built on the WTO TRIPS Agreement**, but also including **additional provisions that are considered appropriate to the region.** (*e.g., joining multilateral agreements, protecting sound marks, protecting electronic rights management information (RMI) and effective technological measures (TPM) with freedom to adopt specific limitations and exceptions, etc.*)

In case of inconsistency between the provisions contained in RCEP and TRIPS, TRIPS shall prevail. (Art. 11.3, RCEP)



1. Introduction to RCEP and its IP Chapter

IP Provisions in RCEP – Chapter 11

- Including **83 commitment articles** + **2 annexes** on arrangements for transition period and technical assistance
- Focusing on **4 main groups of commitments**:

| General commitments (Arts. 11.1 - 11.9) | Commitments on IPR protection standards (Arts. 11.10 - 11.57) | Commitments on mechanisms to enforce IPRs (Arts. 11.57 - 11.75) | Commitments on Intra-bloc cooperation in IP matters (Arts. 11.76 - 11.83) |
|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>General provisions and basic principles on IP</p> <p>International treaties on IP that need to be ratified</p> | <p>Detailed regulations on protection standards for each type of IP rights,</p> <p><i>not only covering the traditional topics, but also reflecting the new trend of IP protection and development</i></p> | <p>Specific requirements for measures to enforce IP rights,</p> <p><i>especially border measures, penalties for certain acts of infringement</i></p> | <p>Towards cooperation and support (especially technical assistance) in implementing IP commitments,</p> <p><i>aiming to bridge the differences in development levels and capabilities and help members fulfill their obligations under RCEP</i></p> |



1. Introduction to RCEP and its IP Chapter

RCEP Provisions regarding IP Cooperation

Obligated to cooperate

- (Art. 11.76.5) cooperating on border measures to eliminate international trade in goods that infringe IPRs

Endeavored to cooperate

- (Art. 11.76.4) promoting education and awareness regarding the utilization, protection and enforcement of IPRs
- (Art. 11.76.6) sharing search & examination works, and exchanging information on quality assurance systems between patent offices
- (Art. 11.76.7) sharing information on steps to prevent online copyright infringement
- (Art. 11.76.9) cooperating on issues relating to “patent grace periods” in order to support innovation

Encouraged to cooperate

- (Art. 11.76.8) administrating the new plant variety protection systems
- (Art. 11.76.10) cooperating on issues relating to patent procedures and processes to reduce costs
- (Art. 11.76.11) exchanging information on geographical indication protection
- (Art. 11.76.12) training patent examiners in the examination of patent applications related to traditional knowledge associated with genetic resources



1. Introduction to RCEP and its IP Chapter

RCEP Provisions regarding Technical Assistance

(Art. 11.81) *RCEP members agree to provide the necessary technical assistance (subject to regulations and availability resources of the countries) to Cambodia, Laos, Myanmar, and Vietnam in implementing specific RCEP's IP commitments (listed in Appendix 11B).*

Cambodia

- ❖ Setting up an electronic system for processing, registering and maintaining trademarks
- ❖ Building human capacity on:
 - *protection of sound marks,*
 - *maintenance and development of the electronic application system for trademarks, patents and plant varieties, and*
 - *rights management information, technological measures, and enforcement.*

Laos

- ❖ Supporting the operational needs of Laos + setting up an electronic system for processing, registering and maintaining trademarks



1. Introduction to RCEP and its IP Chapter

RCEP Provisions regarding Technical Assistance

(Art. 11.81) *RCEP members agree to provide the necessary technical assistance (subject to regulations and availability resources of the countries) to Cambodia, Laos, Myanmar, and Vietnam in implementing specific RCEP's IP commitments (listed in Appendix 11B).*

Myanmar

- ❖ Supporting the operation of collective management organizations
- ❖ Training trademark examiners to have competency for all types of trademarks
- ❖ Supporting the operational needs of Myanmar + setting up an electronic application system and a publicly accessible online database for trademarks
- ❖ Developing a system for geographical indication protection
- ❖ Developing capacity of customs authorities
- ❖ Supporting the operational needs of Myanmar to take action against infringement in the digital environment

Vietnam

- ❖ Building human capacity on:
 - *protection of sound marks, and*
 - *maintenance and development of electronic systems*



1. Introduction to RCEP and its IP Chapter

Main IP updates in ASEAN under RCEP

| ASEAN Country | Joining multilateral agreements (Art. 11.9, RCEP) - <i>Mandatory:</i> Paris Convention, Berne Convention, PCT, Madrid Protocol, WCT, WPPT, Marrakesh Treaty - <i>Encouraging:</i> Budapest Treaty |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brunei | Marrakesh Treaty: not yet a member. Remaining agreements: member prior to joining RCEP. |
| Cambodia | WCT and WPPT: 10-year transition period + 5-year extension. Marrakesh Treaty: expected to be ratified by 2025. Budapest Treaty: considering. Berne Convention: 9 Dec 2021. Remaining agreements: member prior to joining RCEP. |
| Indonesia | Budapest Treaty: 13 Jul 2022. Remaining agreements: member prior to joining RCEP. |
| Laos | WCT and WPPT: 10-year transition period. Marrakesh Treaty: 15-year transition period. Remaining mandatory treaties: member prior to joining RCEP. |
| Malaysia | Marrakesh Treaty, Budapest Treaty: 31 March 2022. Remaining agreements: member prior to joining RCEP. |
| Myanmar | All mandatory agreements: 10-year transition period |
| Philippines | Member of all agreements prior to joining RCEP |
| Singapore | Member of all agreements prior to joining RCEP |
| Thailand | WPPT: 5-year transition period. WCT: 13 Jul 2022. Remaining mandatory treaties: member prior to joining RCEP. |
| Vietnam | WCT: 17 Nov 2021. WPPT: 1 Apr 2022. Marrakesh Treaty: 6 Dec 2022. Budapest Treaty: 1 Mar 2021. Remaining agreements: member prior to joining RCEP. |



1. Introduction to RCEP and its IP Chapter

Main IP updates in ASEAN under RCEP

| ASEAN Country | Trademark protection Protection of sound marks (Art. 11.19, RCEP) |
|---------------|--------------------------------------------------------------------------------------------|
| Brunei | Complying prior to joining RCEP. |
| Cambodia | 10-year transition period + 5-year extension (<i>in the process of amending IP laws</i>) |
| Indonesia | Complying prior to joining RCEP. |
| Laos | 15-year transition period |
| Malaysia | Complying prior to joining RCEP. |
| Myanmar | 10-year transition period |
| Philippines | 5-year transition period (an extension may be available upon a justified request) |
| Singapore | Complying prior to joining RCEP. |
| Thailand | Complying prior to joining RCEP. |
| Vietnam | Began protecting sound marks from 14 January 2022. |



1. Introduction to RCEP and its IP Chapter

Main IP updates in ASEAN under RCEP

| ASEAN Country | Copyrights/ related rights - protection and remedies against the circumvention of effective technological measures (Art. 11.14, RCEP) - protection for electronic rights management information (RMI) (Art. 11.15, RCEP) |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brunei | Complying prior to joining RCEP. |
| Cambodia | <i>10-year transition period + 5-year extension (in the process of amending IP laws)</i> |
| Indonesia | Complying prior to joining RCEP. |
| Laos | N/A |
| Malaysia | Complying prior to joining RCEP. |
| Myanmar | N/A |
| Philippines | Complying prior to joining RCEP. |
| Singapore | Complying prior to joining RCEP. |
| Thailand | Complying prior to joining RCEP. |
| Vietnam | Generally having similar provisions prior to joining RCEP. However, to align more closely , Vietnam IP Law was amended in 2022 to update these provisions. |



1. Introduction to RCEP and its IP Chapter

Main IP updates in ASEAN under RCEP

| ASEAN Country | Border measures Suspension of the release of suspected pirated copyright goods or counterfeit trademark goods by <i>Ex Officio</i> action (Art. 11.69, RCEP) |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brunei | Already complying with this requirement. |
| Cambodia | Already complying with this requirement. |
| Indonesia | Already complying with this requirement. |
| Laos | Already complying with this requirement. |
| Malaysia | Already complying with this requirement. |
| Myanmar | Already complying with this requirement. |
| Philippines | Already complying with this requirement. |
| Singapore | Already complying with this requirement. |
| Thailand | Already complying with this requirement. |
| Vietnam | Vietnam IP Law was amended in 2022 to incorporate this commitment. |



1. Introduction to RCEP and its IP Chapter

Main IP updates in ASEAN under RCEP

| ASEAN Country | Criminal remedies Availability of criminal procedures and penalties at least in cases of willful copyrights/related rights piracy or trademark counterfeiting on a commercial scale (Art. 11.74, RCEP) |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brunei | Already complying with this requirement. |
| Cambodia | Already complying with this requirement. |
| Indonesia | Already complying with this requirement. |
| Laos | Already complying with this requirement. |
| Malaysia | Already complying with this requirement. |
| Myanmar | Already complying with this requirement. |
| Philippines | Already complying with this requirement. |
| Singapore | Already complying with this requirement. |
| Thailand | Already complying with this requirement. |
| Vietnam | Already complying with this requirement. |



1. Introduction to RCEP and its IP Chapter

Main IP updates in ASEAN under RCEP

| ASEAN Country | Enforcement in the digital environment Availability of enforcement procedures under both civil and criminal remedies to the same extent with respect to acts of infringement of copyrights/related rights and trademarks in the digital environment (Art. 11.75, RCEP) |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brunei | Already complying with this requirement. |
| Cambodia | 10-year transition period + 5-year extension (currently enhancing enforcement mechanisms to address digital infringement). |
| Indonesia | Already complying with this requirement. |
| Laos | N/A |
| Malaysia | Already complying with this requirement. |
| Myanmar | 10-year transition period |
| Philippines | Already complying with this requirement. |
| Singapore | Already complying with this requirement. |
| Thailand | Already complying with this requirement. |
| Vietnam | Already complying with this requirement. |



1. Introduction to RCEP and its IP Chapter

Key Notes

- **7 of the RCEP members (Australia, New Zealand, Japan, Singapore, Brunei, Malaysia, and Vietnam)** are also parties of the CPTTP Agreement (*effective from 14 January 2019*), which generally sets higher standards with more detailed and comprehensive IP provisions for its members.
- **RCEP members** are very different in the development of their IP infrastructure → ***Technical assistance and development financing from the developed economies to the least developed countries will play a key role in upgrading their IP legislation and enforcement mechanisms.***
- **RCEP members are making efforts to implement their IP commitments. Cooperation in IP is increasingly being developed.**
A good example: Collaboration in IP between ASEAN IPA and CIPSA.



2. ASEAN IPA - CIPSA Cooperation in IP under RCEP

Who is ASEAN IPA?

Foundation

- ❖ Initially established on 1 December 1996
- ❖ Officially granted a status as an NGO in 1998

Member

- ❖ Individual members
- ❖ Organization members

Objectives

- ❖ To foster ties of mutual friendship, cooperation and understanding among those in the private sector concerned with IP.
- ❖ To promote the protection of IP in the ASEAN region, contributing to the development of a robust IP ecosystem that fosters innovation and creativity.



2. ASEAN IPA - CIPSA Cooperation in IP under RCEP

Activities of ASEAN IPA

- ❖ To hold meetings and organize other activities as necessary to achieve the objectives
(e.g., ASEAN IPA annual conferences, discussing hot topics in IP in the region and worldwide)
- ❖ To exchange, monitor, and collate information concerning IP
- ❖ To establish and maintain close contact with various governmental, inter-governmental organizations in relation to IP, and participate in meetings held by such organizations
(e.g., cooperating with ASEAN IP Offices in the PATMA (Pan-ASEAN Trademark Application) project, a unified trademark application system that would allow businesses to file a single trademark application covering all ASEAN countries)
- ❖ To make investigations, studies, plans and proposals aimed at assisting in the improvement and coordination of international and domestic laws and regulations concerning IP
(e.g., providing recommendations to AWGIPC on the developments of IP issues in the ASEAN countries)



2. ASEAN IPA - CIPSA Cooperation in IP under RCEP

IP Cooperation between ASEAN IPA and CIPSA

Background

As a significant component of RCEP, the protection and management of IP in business interactions between China and ASEAN have become increasingly important

→ *ASEAN IPA – CIPSA cooperation in IP to benefit businesses in the region.*

MOU between ASEAN IPA and CIPSA: signed on 22 April 2024

1. *Cooperation in the organization of events, meetings, study sessions, and seminars on IP*
2. *Set-up of a Science & Technology Innovation Service Workstation (ASEAN) in Beijing, to foster bilateral exchange and collaboration in the realm of scientific & technological innovation*
3. *Development of training & IP services for industry*
4. *Development of services for the public*
5. *Invitations to events and meetings*



2. ASEAN IPA - CIPSA Cooperation in IP under RCEP

Recommended contacts for IP information in ASEAN

- For general inquiries regarding IP-related matters in the ASEAN region, please contact the President and the Honorable Secretary of ASEAN IPA for information and assistance.

Note:

- Please visit the ASEAN IPA website at <https://www.aseanipa.org/index.php/organisation> for information on the contact points.
- Please always cc the ASEAN IPA's general email address of aseanipa@outlook.com.



2. ASEAN IPA - CIPSA Cooperation in IP under RCEP

Recommended contacts for IP information in ASEAN

- For inquiries regarding IP-related matters in a specific ASEAN country, please directly contact the Country Head of the respective country for information and assistance.

| ASEAN Country | Contacts |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Brunei | Ms. Aisha Alkaff, Country Head of Brunei Group, Email: aisha@aip.com.bn |
| Cambodia | Mr. Phin Sovath, Country Head of Cambodia Group, Email: phin@sds-partners.com |
| Indonesia | Ms. Dwi Anita Daruherdani, Country Head of Indonesia Group, Email: dwi@daruherdani.com |
| Laos | N/A |
| Malaysia | Mr. Chew Phye Keat, Country Head of Malaysia Group, Email: chewphyekeat@rdl.com.my |
| Myanmar | Ms. Khine Khine U, Country Head of Myanmar Group, Email: khineu52@gmail.com |
| Philippines | Mr. Valeriano Del Rosario, Country Head of Philippines Group, Email: vrdelrosario@veralaw.com.ph |
| Singapore | Mr. Soh Kar Liang, Country Head of Singapore Group, Email: karliang.soh@ellacheong.asia |
| Thailand | Ms. Darani Vachanavuttivong, Country Head of Thailand Group, Email: darani.v@tilleke.com |
| Vietnam | Mr. Pham Nghiem Xuan Bac, Country Head of Vietnam Group, Email: pnx.bac@vision-associates.com |



ASEAN INTELLECTUAL PROPERTY ASSOCIATION

**Thank you for your
attention!**