



**ASEAN INTELLECTUAL PROPERTY ASSOCIATION**

**Enhancing IP protection as means to  
promote investment and trade  
between China and ASEAN**

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# 1. Overview of China-ASEAN Economic Relations

## Trade between China and ASEAN

- **China:** ASEAN's largest trade partner since 2009.
- **ASEAN:** China's largest trade partner since 2020.

- **2004:** bilateral trade volume between China and ASEAN exceeded **US\$100 billion** for the 1st time.
- **2023:** achieved **US\$910 billion**.
- **The first 7 months of 2024:**
  - Bilateral trade volume reached **US\$546.6 billion**, up **10.5%** from the same period last year.
  - China's exports to ASEAN stood at **US\$330.4 billion**, up **13.7%** year-on-year.
  - China-ASEAN trade constituted **15.8%** of China's total foreign trade value, highlighting the growing importance of this economic partnership.
  - **Vietnam, Malaysia, and Indonesia** were China's top trade partners during this period, with turnover up **24.1%, 13.7%, and 4.1%** respectively.

*Source: The Chinese General Administration of Customs (GAC)*



# 1. Overview of China-ASEAN Economic Relations

## Chinese Investment in ASEAN:

- **2022:**

**Chinese FDI** in ASEAN amounted to **US\$18.65 billion**, constituting 11.4% of China's total FDI flow and 15% of its FDI flows to Asia, making **China the 3<sup>rd</sup> largest foreign investor in ASEAN**.

**Cumulative stock of Chinese FDI** in ASEAN reached **US\$154.66 billion**, accounting for 5.6% of China's global FDI stock and 8.4% of its FDI stock in Asia.

- **As of July 2023:** China has established **over 6,500 FDI enterprises in ASEAN**, employing **more than 660,000 foreign workers**.

## ASEAN Investment in China:

- **2022:**

**ASEAN FDI** in China reached **a total of US\$11.91 billion**, accounting for ~6.3% of China's actual use of foreign capital.

89% came from Singapore.

ASEAN established **a total of 1,833 new FIEs** in China, accounting for 4.8% of the year's total.



## 2. IP - an important force to promote trade and investment cooperation

### IP - an important force for promoting regional economic and trade cooperation

- *Safeguarding investment*
- *Encouraging innovation and R&D*
- *Attracting foreign investment*
- *Building trust in the market*

- As evidence, the increased trade and investment by Chinese companies in RCEP countries is reflected in the rising volume of patent applications.

***In 2022, the total number of patent applications by Chinese enterprises in RCEP member states had reached 7,736. (Source: <https://www.globaltimes.cn/page/202310/1300055.shtml>)***

- Trade and investment have been continuously liberalized and expedited among China and ASEAN → IP is playing an increasingly significant role. Robust IP frameworks become essential for sustaining mutual economic benefits and fostering a conducive business environment.
- That is why RCEP, the new generation FTA between ASEAN and China and some key trade partners, focuses on harmonizing and enhancing IP protection and enforcement, in order to promote trade and investment in the region.



## 2. IP - an important force to promote trade and investment cooperation

### IP filing activities from China to ASEAN in 2022

Country	Patent	Trademark	Design
<b>Brunei</b>	22 new filings ( <b>rank 2</b> , 14.2%)	700 new filings ( <b>rank 1</b> , 18.3%)	N/A
<b>Cambodia</b>	43 new filings ( <b>rank 1</b> , 26.5%)	1252 new filings ( <b>rank 1</b> , 21.2%)	28 new filings ( <b>rank 3</b> , 14%)
<b>Indonesia</b>	1396 new filings ( <b>rank 3</b> , 16.8%)	5718 new filings ( <b>rank 1</b> , 17.4%)	262 new filings ( <b>rank 2</b> , 19.8%)
<b>Laos</b>	21 new filings ( <b>rank 1</b> , 34.4 %)	N/A	N/A
<b>Malaysia</b>	999 new filings ( <b>rank 3</b> , 15.5%)	5436 new filings ( <b>rank 1</b> , 18.1%)	228 new filings ( <b>rank 1</b> , 18.4%)
<b>Myanmar</b>	N/A	N/A	N/A
<b>Philippines</b>	400 new filings ( <b>rank 3</b> , 9.5%)	5313 new filings ( <b>rank 2</b> , 17.8%)	211 new filings ( <b>rank 1</b> , 28.8%)
<b>Singapore</b>	1588 new filings ( <b>rank 3</b> , 12.4%)	5946 new filings ( <b>rank 2</b> , 13.7%)	317 new filings ( <b>rank 4</b> , 9.3%)
<b>Thailand</b>	911 new filings ( <b>rank 3</b> , 13.8%)	5913 new filings ( <b>rank 1</b> , 18.5%)	207 new filings ( <b>rank 2</b> , 15%)
<b>Vietnam</b>	1312 new filings ( <b>rank 3</b> , 17.5%)	5996 new filings ( <b>rank 1</b> , 18.2%)	265 new filings ( <b>rank 2</b> , 14.4%)



### 3. IP system in ASEAN - Background and developments

#### - **BRUNEI** - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Hague Agreement, Berne Convention, WCT, WPPT, **initiating the procedure for acceding to UPOV**

Type	Protection criteria	Protection term	Maintenance/ Renewal
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year, from the 5 <sup>th</sup> year
Second-tier patent	N/A		
Trademark	Sign capable of distinguishing goods/services ( → <i>including classic sign, and non-traditional signs such as sound, <b>smell</b></i> )	Unlimited	Every 10 years
Design	New	5+5+5 (=15) years from filing	Every 5 years
Copyright	Automatically protected upon creation <b>No registration available</b>	<b>Generally, life of author plus 50 years</b>	N/A
Plant Variety Right	New, distinct, uniform, stable	<b>25 years from grant</b>	Every year, from the end of the 1 <sup>st</sup> year of grant



### 3. IP system in ASEAN - Background and developments - CAMBODIA - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Hague Agreement, Berne Convention, planning to join WCT and WPPT, contacting UPOV for assistance in law development

Type	Protection criteria	Protection term	Maintenance/ Renewal	Special notes
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year	<ul style="list-style-type: none"> <li>• Re-registration from CN and SG</li> <li>• Validation from EU</li> </ul>
Utility model	New, industrially applicable	7 years from filing	Every year	
Trademark	Visible sign capable of distinguishing goods/services	Unlimited	Every 10 years	
Design	New, non-functional	5+5+5 (=15) years from filing	Every 5 years	
Copyright	Automatically protected upon creation Voluntary registration available	Generally, life of author plus 50 years	NA	
Plant Variety Right	New, distinct, uniform, stable	25 years for trees and vines, 20 years for others, from grant	Every year	





### 3. IP system in ASEAN - Background and developments - **INDONESIA** - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Berne Convention, WCT, WPPT, contacting UPOV for assistance in law development

Type	Protection criteria	Protection term	Maintenance/ Renewal
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year
Simple patent	New, industrially applicable	10 years from filing	Every year
Trademark	Sign capable of being represented graphically and capable of distinguishing goods/services	Unlimited	Every 10 years
Design	New, original	10 years from filing	N/A
Copyright	Automatically protected upon creation Voluntary registration available	Generally, life of author plus 70 years	N/A
Plant Variety Right	New, distinct, uniform, stable	25 years for perennial plants, 20 years for seasonal plants, from grant	Every year



# 3. IP system in ASEAN - Background and developments

## - LAOS - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Berne Convention, contacting UPOV for assistance in law development

Type	Protection criteria	Protection term	Maintenance/ Renewal	Special notes
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year	Re-registration from SG
Petty patent	New, industrially applicable	10 years from filing	Every year	
Trademark	Visible sign capable of distinguishing goods/services	Unlimited	Every 10 years	
Design	New, industrially applicable	5+5+5 (=15) years from filing	Every 5 years	
Copyright	Automatically protected upon creation Voluntary registration available	Generally, life of author plus 50 years	N/A	
Plant Variety Right	New, distinct, uniform, stable	25 years for trees and vines, 20 years for others, from grant	Every year	



# 3. IP system in ASEAN - Background and developments

## - MALAYSIA - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Berne Convention, WCT, WPPT, initiating the procedure for acceding to UPOV

Type	Protection criteria	Protection term	Maintenance/ Renewal
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year, from the 2nd anniversary of grant
Utility innovation	new, industrially applicable	10+5+5 years (=20) from filing. The first 10 years is as of right. The extended 10 years is subject to commercial use.	Every year, from the 3rd anniversary of grant
Trademark	Sign capable of being represented graphically and capable of distinguishing goods/services	Unlimited	Every 10 years
Design	New	5+5+5+5+5 (=25) years from filing	Every 5 years
Copyright	Automatically protected upon creation Voluntary registration available	Generally, life of author plus 50 years	N/A
Plant Variety Right	(i) New, distinct, uniform, stable (for normal cases) (ii) New, distinct, identifiable for varieties bred, or discovered and developed by farmer, local community or indigenous people	- Generally, 20 years for (i) (maybe up to 25 years for trees and vines). - 15 years for (ii). - May be extended if desirable on the ground of national needs and interests.	Every year upon notification by the PVPO office



### 3. IP system in ASEAN - Background and developments - MYANMAR - Basic information on IP system

Type	Protection criteria	Protection term	Maintenance / Renewal	Special notes
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year	<p><b>Member of WTO (TRIPS)</b></p> <p>Not a member of the Paris Convention, PCT, Madrid Protocol, Hague Agreement, or Berne Convention, but has recently updated their laws to better align with international standards.</p>
Utility model	New, industrially applicable	10 years from filing	N/A	
Trademark	Visual sign capable of distinguishing goods/services.	Unlimited	Every 10 years	
Design	New, free from imitation	5+5+5 (=15) years from filing	Every 5 years	
Copyright	Automatically protected upon creation ( <i>but not equal between Myanmar and non-Myanmar citizens</i> ) Voluntary registration available	Generally, life of author plus 50 years.	N/A	
Plant Variety Right	New, distinct, uniform, stable	25 years for trees and vines, 20 years for others, from grant	Every year	



### 3. IP system in ASEAN - Background and developments - PHILIPPINES - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Berne Convention, WCT, WPPT, initiating the procedure for acceding to UPOV

Type	Protection criteria	Protection term	Maintenance/ Renewal
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year, from the 5 <sup>th</sup> year
Utility Model	New, industrially applicable	7 years from filing	N/A
Trademark	Visible sign capable of distinguishing goods/services	Unlimited	Every 10 years
Design	New and original	5+5+5 (=15) years from filing	Every 5 years
Copyright	Automatically protected upon creation Voluntary registration available	Generally, life of author plus 50 years	N/A
Plant Variety Right	New, distinct, uniform, stable	25 years for trees and vines, 20 years for others, from grant	Every year, from the 4 <sup>th</sup> anniversary of grant



### 3. IP system in ASEAN - Background and developments - SINGAPORE - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Hague Agreement, Berne Convention, WCT, WPPT, UPOV

Type	Protection criteria	Protection term	Maintenance/ Renewal
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year, from 4 <sup>th</sup> anniversary of grant
Second-tier patent	N/A		
Trademark	Sign capable of being represented graphically and capable of distinguishing goods/services	Unlimited	Every 10 years
Design	New	5+5+5 (=15) years from filing	Every 5 years
Copyright	Automatically protected upon creation No registration available	Generally, life of author plus 70 years	N/A
Plant Variety Right	New, distinct, uniform, stable	25 years from grant	Every year, from grant



# 3. IP system in ASEAN - Background and developments

## - THAILAND - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Berne Convention, WCT, planning to join WPPT, considering becoming Hague member, contacting UPOV for assistance in law development

Type	Protection criteria	Protection term	Maintenance/ Renewal
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year, from the 5 <sup>th</sup> year
Petty patent	New, industrially applicable	6+2+2 (=10) years from filing	Every year, from the 5 <sup>th</sup> year
Trademark	Visible sign + sound capable of distinguishing goods/services	Unlimited	Every 10 years
Design	New, industrially applicable	10 years from filing	Every year, from the 5 <sup>th</sup> year
Copyright	Automatically protected upon creation Voluntary registration available	Generally, life of author plus 50 years	N/A
Plant Variety Right	New, distinct, uniform, stable	12-27 year from grant, depending on varieties	Every year, from grant



# 3. IP system in ASEAN - Background and developments

## - VIETNAM - Basic information on IP system

Member of WTO (TRIPS), Paris Convention, PCT, Madrid Protocol, Hague Agreement, Berne Convention, WCT, WPPT, UPOV

Type	Protection criteria	Protection term	Maintenance/ Renewal
Standard patent	New, inventive, industrially applicable	20 years from filing	Every year, from grant
Utility solution	New, industrially applicable, something other than common knowledge	10 years from filing	Every year, from grant
Trademark	Visible sign + sound capable of distinguishing goods/services	Unlimited	Every 10 years
Design	New, creative, industrially applicable	5+5+5 (=15) years from filing	Every 5 years
Copyright	Automatically protected upon creation Voluntary registration available	Generally, life of author plus 50 years	N/A
Plant Variety Right	New, distinct, uniform, stable.	25 years for trees and vines, 20 years for others, from grant	Every year, from grant





## 3. IP system in ASEAN - Background and developments

### Recent IP developments in ASEAN countries

#### **Cambodia:**

- ❖ On 29 April 2024, Cambodia IP Office (DIP) made the official databases for patents and industrial designs available to the public.
- ❖ Commercial court with IP jurisdiction is expected to start operating in 2024.
- ❖ Signed bilateral agreements with China to enhance cooperation on technology transfer and capacity building.
  - China-Cambodia Free Trade Agreement, effective on 1 January 2022
  - Agreement on Strengthening Cooperation in Building a Cambodia-China Community of Shared Future in the New Era
  - Memorandum of Understanding on Cambodia-China Development Cooperation Plan 2023-2025



## 3. IP system in ASEAN - Background and developments

### Recent IP developments in ASEAN countries

#### Laos:

- ❖ **Guidelines on Customs Officers' Measures to Protect IPRs, dated 13 January 2022.**
  - In addition to trademarks and copyrights, it is possible to record industrial designs with Laos customs authorities.
  - Term of customs recordal has been lengthened to 2 years, instead of 1-2 months previously.
  - The Guidelines reaffirm that customs officers can act *Ex-officio*.
- ❖ **On 1 March 2024, the Laos official gazette published the 2023 newly amended IP Law,** bringing Laos' IP legislation closer to international standards.
  - Simplifying the recognition of well-known trademark, allowing businesses to utilize global evidence to demonstrate their trademark is well-known.
  - Requiring the registration of trade name to receive protection against third-party infringement.
  - Introducing the concept of “exhaustion of rights”, which might influence the stance on parallel imports.
- ❖ **Signed Validation Agreement with the European Patent Office (EPO) on 13 May 2024.** The effective date has not been announced yet, but the Agreement is expected to be in force by the end of 2024, depending on the readiness of Laos IP Office (DIP).



## 3. IP system in ASEAN - Background and developments

### Recent IP developments in ASEAN countries

#### Myanmar:

- ❖ In 2019, Myanmar passed 04 new IP laws to align the rules with TRIPS: (i) Copyright and Related Rights Act, (ii) Trademark Act, (iii) Patent Act, and (iv) Industrial Design Act (scheduled for implementation from 2020, but the COVID-19 pandemic and the political crisis of 2021 slowed the progress down).
  - *On 1 Apr 2023, the new Trademark Act has come into effect.*
  - *On 31 Oct 2023, the new Design Act and Copyright Act have come into effect. The protection term of copyrights extends to the author's life plus 50 years after his death, instead of 30 years.*
  - *On 31 May 2024, Patent Law officially took effect. This is the first legislation specifically addressing the protection of patents in the history of Myanmar.*
  - *These new laws represent a significant step toward modernizing the Myanmar's IP system.*
- ❖ Myanmar's Sustainable Development Plan for 2018–2030 involves supporting research and improving the IP protection, in order to boost the creativity and innovation to transform the economy.



## 3. IP system in ASEAN - Background and developments

### Recent IP developments in ASEAN countries

#### Singapore:

- In 2024, published **Emerging IP-DLT Revolution**, a joint study between Singapore and Switzerland on the link between IP and Distributed Ledger Technology (e.g., block-chain). It identified use-cases and challenges for DLT in the IP field, including IP management systems, IP registers, protecting IP of real assets in the metaverse, NFTs, digital identities, etc., and proposes various high-level recommendations.
- **DABUS PCT national phase application in SG** has since been treated as abandoned, presumably for failing to identify a natural person as inventor.
- There were a series of **decisions on bad faith registration at IPOS and the Courts** which reinforce the understanding that bad faith is a highly fact-based enquiry and that each case may turn on its own particular facts (e.g., Google v Green Radar; Baidu Online v Baidu Europe; HVM v Yongfeng Trade).
- The Ministry of Law and IPOS conducted a public consultation on **exceptions allowing users to circumvent technological measures** that control access to copyright works or protected performances. The consultation ended in June 2024 and a report on the feedback will hopefully issue in the next 6 months.
- Singapore has concluded **Digital Economy Agreements** (bilateral/multilateral) with AU, CL, GB, KR, NZ on AI, cross-border privacy, trustmark certification, e-invoicing, etc.



## 3. IP system in ASEAN - Background and developments

### Recent IP developments in ASEAN countries

#### Thailand:

- **Fast-track option for trademark examination** and **fast-track renewals** were introduced in 2021. **Fast-track system for patent registration** was made available to the public on 1 June 2022.
- **Trademark Examination Guidelines** came into effect on 17 January 2022. Main changes include:
  - *Indicate level of distinctiveness (fanciful, arbitrary, suggestive, descriptive, generic) and provide examples of marks that lack distinctiveness.*
  - *Set standard of proof of distinctiveness through use (minimum duration: 2 years/evidence of use: including advertisement and social media).*
- **Amendment of Copyright Act** came into effect on 23 August 2022, in order to comply with WCT and update practices in combating online infringement.
- **Draft Customs Notification** was introduced with the aim to expedite the seizure procedure by reducing the participation of the rights owners in cases where the importer admits that the seized goods are counterfeit.
- **Customs Recordation** becomes mandatory as the Customs Office requires information relating to verification of the authenticity of goods before the seizure will be made. Customs Recordation has to be renewed every year.



## 3. IP system in ASEAN - Background and developments

### Recent IP developments in ASEAN countries

#### Vietnam:

**Jun 2019: IP Law was amended** to timely internalize several CPTPP commitments that must be immediately implemented in VN (from 14 Jan 2019), *e.g.*,

- *Extending novelty grace period (from 6 to 12 months),*
- *Adding right to self-protection of defendants (receiving compensation for the abuse of IPR holders),*
- *Allowing IPR holders to calculate damages caused by infringement in other appropriate ways,*
- *Regulating the e-filing of applications, etc.*

**2022: The IP Law was amended comprehensively (effective from 1 Jan 2023)** to internalize the remaining IP commitments under CPTPP (effective from Jan 2019), under EVFTA (effective from Aug 2020) and RCEP (effective from Jan 2022), and to overcome the existing shortcomings of the current IP regulations after 16 years, *e.g.*,

- *Protection of sound marks*
- *“Bad faith” officially available as ground to refuse trademark registrations*
- *Limiting the security control (foreign filing requirements) over inventions*
- *Considering “secret prior art” during the novelty examination of inventions*
- *Differentiating the 3rd party’s opposition and observation to speed up the application examination*
- *Proactive involvement of Customs authority in case of IP counterfeits found*



# 3. ASEAN efforts towards regional cooperation and harmonization

## 1. ASEAN Framework Agreement on IP Cooperation

Establishing the framework for cooperation on IP matters among ASEAN countries.

## 2. ASEAN IPRs Action Plan

Harmonizing IP systems across ASEAN, facilitating smoother trade and investment.

## 3. ASEAN Patent Examination Cooperation (ASPEC)

Expediting patent prosecution by allowing ASEAN IP offices to share search and examination results → reducing the time and cost of obtaining patents, promoting innovation and investment across the region.

## 4. Pan-ASEAN Trademark Application (PATMA) (on-going project)

Establishing a unified trademark application system that would allow businesses to file a single trademark application covering all ASEAN countries

## 5. Multilateral Free Trade Agreements with partners

Signing RCEP with five trade partners (CN, JP, KR, AU, NZ) to deepen economic ties, reduce tariffs, and promote trade and investment across the regions



## 4. Summary of Key Points

- **Economic relations between China and ASEAN is growing stronger and stronger**, requiring harmonization and strengthening of IP systems in these economies to serve the purpose of promoting trade and investment.
- **ASEAN countries are actively working to improve and harmonize their IP systems** to facilitate IP protection and enforcement, with the broader goal of promoting economic relations within the region and with external partners.
- **ASEAN countries are also deepening IP cooperation with RCEP partners** to enhance their overall IP infrastructure.

*Good example: CIPSA-ASEAN IPA collaboration in IP matters*





**ASEAN INTELLECTUAL PROPERTY ASSOCIATION**

**Thank you for your  
attention!**