



The ECAP III Project

Promoting the development of Geographical Indications in the ASEAN

October 2010



1. ECAP III Objective

To further integrate ASEAN countries into the global economy and world trading system in order to promote economic growth and reduce poverty in the region, to facilitate ASEAN regional integration through the establishment of regional institutional capacity and regional harmonisation of legal and administrative IPR frameworks, and to directly address the objectives defined in the ASEAN IPR Action Plan, in particular enhancing enforcement of IPRs and increasing capacities and regional cooperation networks.

2. History of ECAP projects

- **ECAP I**, from 1993 to 1997, with a focus on industrial property rights and emphasis on strengthening national ASEAN IPR systems
- **ECAP II**, from 2000 to 2007, related to the whole range of IPRs, with a particular emphasis on enforcement
- **ECAP III**, from 2010 to 2013, related to the whole range of IPRs, linked directly to the implementation of the ASEAN IPR Action Plan, with particular focus on human and institutional IP capacity building and enforcement on a regional basis
- ECAP III project started on 1 January 2010

3. Summary - ECAP III project

- **Basis:** Financing Agreement signed between the EC and ASEC, and Contribution Agreement signed between the EC and the EPO
- **Implementing agency:** EPO
- **Duration:** 4 years from 2010 to 2013, including a 4-month inception phase
- **Total cost:** €5.10 million, of which
 - EC contribution: €4.50 million, and
 - EPO contribution: €0.60 million
- **Beneficiaries:** regional bodies, such as ASEC; government bodies, such as IPOs and ministries of justice, industry and trade; enforcement agencies, such as customs, police, courts and prosecutors; private sector and rights holders, such as consumer and industry organisations and IPR owners associations; civil society organisations, such as universities and IP professionals; the population of the ASEAN region as the ultimate beneficiary

4. Project Components

Five Project Components of the ECAP III project:

- I. Capacity building and regional cooperation for IP enforcement and regulation in ASEAN
- II. Improving the legal context and administration of IPRs
- III. Using IP as a tool for economic development and integration
- IV. ASEAN-wide regional network of IP education, training and research
- V. Enhancing capacity of ASEC to support, monitor and coordinate ASEAN regional IP policies and work streams

4.1 Project Component I

Capacity building and regional cooperation for IP enforcement and regulations in ASEAN

- **Purpose:** to enhance technical capacity and skills of all the human resources involved in handling IPR enforcement and regulations
- **How:** training, technical assistance, on-the-job training, workshops and seminars involving enforcement officials and authorities, in particular IPO staff, civil and criminal judges, prosecutors, police and customs officers
- **Result:** IP enforcement frameworks and procedures in ASEAN are strengthened and harmonised across the region in line with best practices

4.2 Project Component II

Improving the legal context and administration of IPRs in ASEAN countries harmonised with international and regional commitments to IP standards

- **Purpose:** to further develop regional harmonisation of legal and administrative frameworks for protecting IPRs and to upgrade the quality of IPR administration services for IPRs
- **How:** analyses and feasibility studies on simplification and harmonisation of IP procedures such as GI registrations; training and technical assistance on modernisation/automation of IPOs; assistance related to IP legislation and regulations
- **Result:** IPR legal, regulatory and administrative frameworks are transparent, complete and efficient

4.3 Project Component III

Increased awareness and use of IP as a tool for economic development and integration in ASEAN

- **Purpose:** to accelerate the pace and scope of IP asset creation and commercialisation inside ASEAN and to promote greater public awareness of the role of IP in this context
- **How:** studies of government policies and incentives to firms and universities promoting R&D leading to IPRs; studies on the enhancement of GIs as a marketing tool in ASEAN; awareness raising activities (eg. IP days, GI internet pages and advertisements)
- **Result:** the capacities of IPOs and other institutions are developed to provide business development services to entrepreneurs and firms, and increased IP awareness inside ASEAN

4.4 Project Component IV

Structured expansion of IP education, training and research institutions and programmes within a common ASEAN-wide regional network

- **Purpose:** to create an effective regional university IP network as a resource for IP education, to establish IP teaching at both graduate and under-graduate level for students in ASEAN, and to introduce IP education in schools
- **How:** assistance for the creation of national IP teachers networks; building on the IP Curriculum Handbook developed under ECAP II; development of IP curricula and teaching materials; assistance to universities and R&D institutions to develop IP policies and services
- **Result:** improved range and quality of IP education on an ASEAN regional basis

4.5 Project Component V

Enhanced capacity of ASEC to support, monitor and coordinate regional policies and work streams on IP including support to ASEAN institution building

- **Purpose:** to support ASEC to assume a key role in supporting and coordinating the implementation of regional IP policies and programmes, such as the ASEAN IPR Action Plan
- **How:** technical studies, consultations and seminars on IP as a tool for development; provision of ASEAN-wide databases on key IP statistics and data; development of knowledge-based resources, installation of an ASEAN IP help-desk or IP Portal
- **Result:** human and institutional IP capacities of ASEC are enhanced to enable ASEC to assume a key role in IP in the region

GI in ASEAN

- **Indonesia**:Indonesia has a *sui generis* GI system, regulated under Chapter VII of the *Law No 15 on Trademark*. With the support of France (INAO-INPI-CIRAD) and EU (ECAP II), in 2007 Indonesia drafted a dedicated regulation on GI (No.51) that regulates the GI system in Indonesia.
- **8 National GI applications have been filed as well as 2 foreign applications** (Champagne from France and Pisco from Peru). In May 2010, the first European GI (Champagne) was registered in Indonesia.

National applications filed so far: Jepara carving furniture (Central Java); Jerapa sea roasted peanut; Ngemplak dried fish from Jerapa; Jerapa king fish cracker; Kali Gesing goat milk from Purworejo; Muntok white pepper; Fores Bajawa arabica coffee from Flores Island and Gayo arabica coffee from Aceh.

GI in ASEAN

- **Malaysia**:the Geographical Indications Act 2000 provides *sui generis* protection upon registration to goods bearing a GI
- **9 GIs are currently registered in Malaysia** (Sarawak Pepper; Sabah Tea; Borneo Virgin Coconut Oil; Tenom Coffee; Sabah Seaweed; Bario Rice; Buah Limau Bali Sungai Gedung), in addition to two foreign GIs (Pisco and Scotch Whisky).

GI in ASEAN

- **Vietnam** : GIs were initially protected under the Civil Code 1995. The IP Law defines GIs Currently, in addition to the IP Law, the additional regulations cover GIs:
- Decrees 103/2006/ND-CP , 105/2006/ND-CP, Decree 106/2006/ND-CP of 22 September 2006
- Circular No. 01/2007/TT-BKHCHN of 14 February 2007 (Minister of Science and Technology) guiding the implementation of the Government's Decree No. 103/2006/ND-CP

Provisions similar to a *sui generis* system apply to GIs in Vietnam. The IP Law states that

“ultimately the owner of Vietnam’s GIs is the State” :the State shall directly exercise the right to manage GIs or grant that right to organisations representing the interests of all organisations or individuals granted with the right to use GIs. The right to register a Vietnamese GI belongs to the State (Article 88), which allows organisations and individuals to produce products bearing GIs. It also allows collective organisations – representing organisations, individuals or administrative management agencies of localities to which GIs pertain – to exercise the right to register GIs.

GI in ASEAN

Currently, 18 GIs are registered in Vietnam, including 2 foreign GIs:

- National GIs: “Phu Quoc” fish sauce, “Moc Chau” shan tuyet tea; “Buon Ma Thuot” coffee bean; “Doan Hung” grapefruit; “Binh Thuan” dragon fruit; “Lang Son” star aniseed; “Thanh Ha” litchi; “Phan Thiet” fish sauce; “Hai Hau” Tam Xoan rice; “Vinh” orange; “Tan Cuong” tea; “Hong Dan” Mot Bui Do rice; “Luc Ngan” litchi; “Hao Loc” mango; “Dai Hoang” *Ngu* banana; “Van Yen” cinnamon bark
- Foreign GIs: Cognac (France); Pisco (Peru)
- “Phu Quoc” fish sauce was filed in August 2009 as the country’s first application at the EU GI system.

GI in ASEAN

Thailand: The Thai *Protection of Geographical Indications Act B.E. 2546* (2003) provides protection to GIs with a *sui generis* system. The law is complemented by a regulation of the Ministry of Commerce which grants additional protection to 4 categories of products, namely wines and spirits (as mentioned in the TRIPs) but also rice and silk.

- The first application was filed in August 2004. Since then, the system consolidated with the strong cooperation Thai authorities, supported by the EU (including through ECAP II, ProGi Project) and France.

GI in ASEAN

Currently 35 GIs are registered in Thailand including:

- 29 national GIs: Nakonchaisri Pomelo; Phetchabun Sweet Tamarind; Trang Roast Pork; Doi Tung Coffee; Phurua Plateau Wine; Chainat Khaotangkwa Pomelo; Sriracha Pineapple; Surat thani Oyster; Sangyod Maung Phatthalung Rice; Chiangrai Phulae Pineapple; NangLae Pineapple; Sakon Dhavapi Haang Golden Aromatic Rice; Mae Jaem Teen Jok Fabric; Doi Chaang Coffee; Chaiya Salted Eggs; Lamphun Brocade Thai Silk; Praewa Kalasin Thai Silk; Thung Kula Rong-Hai Thai Hom Mali Rice; Surin Hom Mali Rice; Khao Jek Chuey Sao Hai; Khao Leuang Patew Chumphon; Kaowong Kalasin Sticky rice; Bor Sang Umbrella; Ban Chiang Pottery; Chiang mai Celadon; Phuket Pineapple; Chonnabot Mudmee Thai Silk; Phet Rose Apple; Panus Nikom Basketry.
- 6 foreign GIs: Pisco (Peru); Champagne (France); Brunello di Montalcino (Italy); Cognac (France); Prosciutto di Parma (Italy); Scotch Whisky (United Kingdom)
- Thailand is the first ASEAN country to apply for GI registration in the EU (in 2008, application were filed for Thung Kula Rong-Hai Thai Hom Mali Rice). ECAP II, ProGI project and now ECAP III have work closely for the preparation of GI control and Thai

GI in ASEAN

- Cambodia and Lao PDR are finalising legislations
- Singapore: provide protection without registration
- Philippines, Brunei Darussalam and Myanmar don't have dedicated legislation

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