

2009 MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF THE MEMBER STATES OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON COOPERATION IN THE FIELD OF INTELLECTUAL PROPERTY

Signed in Cha-am Hua Hin, Thailand on 21 December 2009

The Governments of the Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN") and the Government of the People's Republic of China (hereinafter referred to as "China") (hereinafter referred to as "All Participants");

DESIRING to strengthen further the strategic partnership among All Participants;

IN ORDER TO strengthen the cooperation in the field of intellectual property; and

RECOGNISING the importance of promoting cooperation in the field of intellectual property to enhance the economic and trade relations among All Participants,

HAVE REACHED the following understandings:

ARTICLE 1

All Participants reaffirm, in relation to intellectual property, their commitment under treaties to which they acceded and under their respective national laws and regulations.

ARTICLE 2

The cooperation of All Participants in the field of intellectual property will cover:

1. Establishment of a periodic Heads of Intellectual Property Offices Meeting mechanism for competent Intellectual Property Offices from All Participants to brief each other on the latest developments and exchange views on important international issues in the field of intellectual property.
2. Coordination of the issues related to intellectual property rights protection during the process of exchanges of information and cooperation in the fields of science and technology, economic and trade, and culture.
3. Exchange of information and experiences in the field of intellectual property including best practices relating to examinations, quality control, examiners' training and other issues.
4. Exchange of views and cooperation in the development of intellectual property automation and database.
5. Exchange of views on major issues related to the international intellectual property systems that are under deliberation at the World Intellectual Property Organisation and other international fora.
6. Other matters mutually decided upon by All Participants.

ARTICLE 3

Subject to their respective national laws and regulations, All Participants will recognise the contribution made by genetic resources, traditional knowledge and folklore for the scientific, cultural and economic development of their respective countries and agree to strengthen cooperation and exchange information and experiences of the establishment and improvement of the legal system for the protection of genetic resources, traditional knowledge and folklore.

ARTICLE 4

Activities under this Memorandum of Understanding shall be subject to the availability of resources of All Participants.

ARTICLE 5

The competent authorities responsible for the implementation of this Memorandum of Understanding are:

From ASEAN - the competent Intellectual Property Offices of the ASEAN Member States; and

From China – the State Intellectual Property Office of China.

ARTICLE 6

This Memorandum of Understanding is an expression of intent by All Participants to cooperate in their mutual interests. The aim under Articles 2 and 3 therefore are not binding but rather All Participants are encouraged to use their best endeavors to promote and achieve the objectives of this Memorandum of Understanding.

ARTICLE 7

1. All Participants will notify each other Participant in writing upon completion of their internal requirements necessary for the entry into force of this Memorandum of Understanding. This Memorandum of Understanding shall enter into force thirty (30) days after the date of the last notification of the completion of the internal requirements by all ASEAN Member States and China.
2. This Memorandum of Understanding will remain in force for a period of five (5) years, and will be automatically extended for a successive period of five (5) years unless one of the Participants notifies all the other Participants of its intention to terminate this Memorandum of Understanding by a notice in writing at least six (6) months before the date of expiration.
3. The termination of this Memorandum of Understanding will not affect the implementation of on-going activities and programme which have been agreed upon by All Participants prior to the date of termination of this Memorandum of Understanding.

ARTICLE 8

Any difference or dispute among All Participants arising out of the interpretation or implementation or application of any of the provisions of this Memorandum of Understanding will be settled amicably

through mutual consultation or negotiation among All Participants through diplomatic channels, without reference to any third party or international tribunal.

IN WITNESS WHEREOF, the undersigned, being duly authorised by the respective Governments of the Member States of ASEAN and the Government of the People's Republic of China, have signed this Memorandum of Understanding.

SIGNED in duplicate in Cha-am Hua Hin, Thailand on 21st day of December 2009, in the English and Chinese languages, both texts are equally authentic. In the event of any divergence of interpretation between the two texts, the English text will prevail.

For Brunei Darussalam:

LIM JOCK SENG

Second Minister of Foreign Affairs and Trade

For the People's Republic of China:

TIAN LIPU

Commissioner of the State Intellectual Property Office

For the Kingdom of Cambodia:

CHAM PRASIDH

Senior Minister and Minister of Commerce

For the Republic of Indonesia:

MARI ELKA PANGESTU

Minister of Trade

For the Lao People's Democratic Republic:

NAM VIYAKETH

Minister of Industry and Commerce

For Malaysia:

MUSTAPA MOHAMED

Minister of International Trade and Industry

For the Union of Myanmar:

U SOE THA

Minister of National Planning and Economic Development

For the Republic of the Philippines:

PETER B. FAVILA

Secretary of Trade and Industry

For the Republic of Singapore:

LIM HNG KIANG

Minister of Trade and Industry

For the Kingdom of Thailand:

PORNTIVA NAKASAI

Minister of Commerce

For the Socialist Republic of Viet Nam:

VU HUY HOANG

Minister of Industry and Trade