

# ASIAN LEGAL BUSINESS



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# IP RANKINGS 2015

ASIA'S BEST  
LAW FIRMS FOR  
INTELLECTUAL  
PROPERTY

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Singapore GCs on their evolving roles

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# ARE YOU READY?

THE LAUNCH OF THE ASEAN ECONOMIC COMMUNITY IS JUST OVER SIX MONTHS AWAY, AND IT WILL BRING BOTH OPPORTUNITIES AND CHALLENGES

The official launch of the ASEAN Economic Community (AEC) at the end of 2015 will not set off any fireworks. No light switch will go on. Nevertheless, the official launch date on December 31, 2015, will mark the continuation of a multi-year process leading to the emergence of a new globally competitive economic zone that could be worth \$4.7 trillion by 2020.

Companies from around the world are not oblivious to the opportunities that greater integration among the 10 nations that make up the Association of Southeast Asian Nations (ASEAN) will generate. They are certainly to benefit from closer trade ties, easier movement of products and services and links to global trade within a region that is home to 600 million people. The eventual harmonization of trade rules, standards and enforcement will open up even more opportunities.

Two-thirds of companies surveyed by the American Chamber of Commerce (AmCham) in Singapore say ASEAN markets will become increasingly important over the next two years in terms of revenues. Nine out of every 10 companies expect trade or investment into ASEAN countries to rise over the next five years.

But these things will not happen easily. As they enter, solidify or expand their presence in ASEAN, companies will have to address a series of key risks often linked to changing regulations, particularly in these areas of trade, taxation and IP. These were some of the issues discussed at **ALB's ASEAN Integration Summit held on Mar. 26 in Singapore.**

## CHANGING ENVIRONMENT

Even after the official launch, work towards full implementation of the AEC agreements will continue. Various initiatives that have been evolving since 1993 should start having a more significant impact by reducing barriers, enhancing competitiveness and lowering transaction costs, says Aladdin Rillo, a senior economist at the Asian Development Bank Institute.

Greater integration will remain a work in progress even after the launch date but to reach all its targets the AEC will have to over-



**(Top)** Experts on ASEAN Governance discuss AEC's potential (L-R) Yeo Lay Hwee, European Union Centre; Aladdin Rillo, Asian Development Bank Institute; Chris Humphrey, EU-ASEAN Business Council; Michael Ewing-Chow, National University of Singapore **(Above)** Ho May Kim of Duane Morris & Selvam delivers a session on ASEAN's dispute resolution mechanism followed by an in-depth discussion by (L-R) Sarbjit Singh, Duane Morris & Selvam; Dato' M Rajasekaran, Raja, Darryl & Loh; Barry Rolandi, Kandar & Partners; Nguyen Hong Hai, Duane Morris Vietnam **(Left)** Thomas McNutt of the American Chamber of Commerce - Singapore on the ASEAN Economic Outlook for 2015





Delegates listening attentively to Mr. Simon Tay of the Singapore Institute of International Affairs as he talks about harmonizing ASEAN amidst the patchwork of legal systems dividing the region

come some significant challenges. Firstly, there are enormous differences in levels of development across the 10 ASEAN countries. Secondly, there is competition for resources, exports and investments among ASEAN members. And finally, weak institutions at both national and supranational levels make it difficult to implement agreements, including agreements countries have signed up for.

These challenges have very real impact on companies. Trade in services, for example, is still far from seamless even though liberalizing service sectors is a stated priority in the AEC blueprint. Moving people from one country to another also remains difficult. At the same time, product standards are far from harmonised while agreements on investment are in place but compliance is spotty.

"The (problem) is more at the national level. They all agree at the regional level," says Rillo. "In the area of investments, countries are still constrained in terms of raising foreign equity participation."

### IP CONCERNS

Issues linked to intellectual property (IP) will remain a concern even after the launch of the AEC. Standards and regulations are far from uniform and protections vary widely. The best IP environment in the region may be in Singapore, which is looking to become an IP hub to attract innovation. Malaysia and Thailand are chasing Singapore in their efforts to become innovation hubs, but they have some way to go. Well behind them, at

least in terms of the production of research papers, are Vietnam, Indonesia and the Philippines.

With the quality of IP protection in the region varying from country to country, many hope that the AEC will be able to remedy this over the next few years.

"They are not there yet, but they are moving in that direction," says Thomas McNutt, Head of Government and Public Affairs at AmCham Singapore.

Across ASEAN, an Intellectual Property Portal is part of an effort to raise standards of protection across the region. The ultimate idea is to allow for IP such as patents to be recognized across all countries in the region.

The various trade agreements the AEC is involved with rarely include complicated protections for issues such as IP, protections that are included in newer agreements like the Trans-Pacific Partnership, currently being negotiated.

"We hear about all these next generation higher standards such as IP protections, cross border data flows and that kind of thing. None of the ASEAN+1 FTAs have these sort of protections. They are very basic, lowering-the-tariff type of agreements," says McNutt.

### MOVING TOWARDS THE AEC

The closer trade ties and regulatory alignment brought about by the AEC later this year are key to addressing challenges of trade, taxation and IP.

One way to get around various hurdles

and challenges is to pre-empt them. For example, companies may agree to avoid local courts and settle conflicts in specific dispute resolutions centres. Singapore has emerged as the regional hub for dispute resolution and is the third largest dispute resolution centre in the world behind London and Geneva. The launch of the Singapore International Commercial Court could further cement the state's position in this regard, says Ho May Kim, an associate director at Duane Morris & Selvam, a law firm. "In terms of dispute resolution, it is difficult to integrate laws as such," says Ho.

The region is unlikely to follow the European model of integration in this regard but it might be able to follow the European lead in terms of the quality of laws and transparency. "If we can achieve that, then there would be far more investment into the ASEAN region," adds Ho. **ALB**

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