

# The 5Ws and 1H of Asean<sup>i</sup> LIP<sup>ii</sup>

*Access to Law<sup>iii</sup>*

## **WHAT – The Mission**

Asean LIP is an online platform that facilitates free<sup>iv</sup>, easy<sup>v</sup> and meaningful<sup>vi</sup> access to the laws<sup>vii</sup> of Southeast Asian countries<sup>viii</sup>.

## **WHY – The Objectives**

By aggregating and publishing up-to-date legal information from authentic sources from across Southeast Asia, Asean LIP aims to:

- support effective doing of business<sup>ix</sup>, particularly cross-border trade and commerce, with and within the Region;
- encourage legal research and scholarship, comparative legal thought, and harmonization of laws<sup>x</sup>;
- assist Southeast Asian countries and their agencies to effectively publicize legal information, help them educate their people on rights and responsibilities<sup>xi</sup>, and thus contribute to the promotion of Rule of Law and Access to Justice throughout the Region;
- empower legal, tax and other professionals<sup>xii</sup> to keep their respective outputs current, relevant and value-effective.

## **HOW – The Strategy**

Asean LIP seeks to achieve its objectives by:

- ensuring continued *actionable awareness*<sup>xiii</sup> of authentic information from original sources by presenting them in a style and language comprehensible by prospective readers;

- championing *inclusive leadership* that brings together the relevant stakeholders in the Region<sup>xiv</sup>;
- mapping and facilitating *active convergence*<sup>xv</sup> of the Regional legal, tax and business communities;
- acknowledging and overcoming linguistic and other challenges<sup>xvi</sup>; and
- pursuing a self-financing model<sup>xvii</sup> without compromising the Editorial Policy<sup>xviii</sup>.

## WHO

Asean LIP is promoted<sup>xix</sup> by the University of Malaya<sup>xx</sup> and MKMS<sup>xxi</sup>, and is administered by the Governing Council set up by the Promoters.

The Promoters recognise the critical significance of collaboration and inclusive leadership, and therefore bring together the key stakeholders of the Asean legal, business and tax industries as Partners<sup>xxii</sup>, Supporting Organizations<sup>xxiii</sup>, Patrons<sup>xxiv</sup>, Board of Advisors<sup>xxv</sup> and Editorial Consultants to co-drive the cause.

## WHERE

Asean LIP is based out of the Faculty of Law, the University of Malaya<sup>xxvi</sup>, and has a production support office in India<sup>xxvii</sup>.

## WHEN

A beta/ limited-content version of the Asean LIP was rolled out in February 2017<sup>xxviii</sup>. A fuller release is scheduled for the first week of May 2017<sup>xxix</sup>, and a formal launch is being planned for July 2017.

## For Further Information:

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<sup>i</sup> The Association of Southeast Asian Nations has authorised the use of “Asean” in “Asean Legal Information Portal” and/or “Asean LIP”.

<sup>ii</sup> “Asean LIP” stands for “Asean Legal Information Portal”. Asean LIP uses “Asean” (pronounced /'æsi.æn/) as a geographical reference to Southeast Asia (also sometimes described as “the Region” in this note). “LIP” is an abbreviation for “Legal Information Portal”, but it is not used as an acronym – the alphabets therein are pronounced individually. *The terms “law”, “laws” and “legal information” are used interchangeably in this note.*

Asean LIP is of the view that States, as the sovereign law-makers and law-enforcers, have a fundamental duty to inform and educate their subjects of the laws they enact. In fact, it is a critical right of the subjects to be informed of the laws given that no person is allowed to escape liability for violating a law merely because he or she is unaware of it or its contents. However, Asean LIP is mindful of the increasingly complex world of administration, particularly in the developing world, where the States may not be able to do this in a meaningful way for a variety of reasons (some of which are mentioned in paragraph 2 of endnote xvi below). This state of affairs, which requires assistance from individuals and institutions that are capable of filling the void, is what prompted the Promoters of Asean LIP to take up the mantle of organizing and broadcasting legal information first in Malaysia (since 2010 through Malaysian Legal and Tax Information Centre or MLTIC) and later in Southeast Asia (through Asean LIP at aseanlip.com).

<sup>iii</sup> “Access to Law” replaces “Free Access to Law”, the original tagline of Asean LIP. “Free” is removed from the tagline to indicate that “access” is, and ought to be, fuller – it’s not just free, but easy and meaningful too.

<sup>iv</sup> Asean LIP takes the view that access to legal information shall always be free for reasons, amongst others, stated in paragraph 2 of endnote ii above. On this, Asean LIP is inspired by the Montreal Declaration on Free Access to Law (<http://www.fatlm.org/declaration>), and principles and

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declarations of Law.Gov (<https://law.resource.org/index.law.gov.html>) and Public.Resources.Org (<https://law.resource.org/pub/12tables.html>).

While the concept of “Free Access to Law” as promoted by the Legal Information Institutes across the globe may well be wide enough to encompass a broader view of “Access to Law”, Asean LIP considers it appropriate to spell out its fuller approach to “Access to Law” in its mission statement, and hence the attributes “free”, “easy” and “meaningful”.

Asean LIP, being primarily an aggregator of legal information with limited permissions from original sources to reproduce often-copyrighted materials, is however not in a position to provide “open access” (i.e. access without any copyright and/or licence restrictions on the use of its contents) or to act as a “repository” (i.e. an online warehouse of legal information from which other publishers are freely allowed to source the contents).

<sup>v</sup> Asean LIP, a dynamic website in “responsive” format, strives to provide easy access to legal information. Asean LIP thus organises contents under (a) 11 Southeast Asian countries, (b) 10 common areas of legal practice, (c) 6+ categories of legal information, and (d) various permutations thereof (for ease of reference). Asean LIP also introduces highly-customisable daily e-mail alerts, which allow registered visitors to receive information on countries and/or practice areas of their choice, and unique search/ sort tools, which are aimed at making content browsing easier. Asean LIP also provides for seamless access between inter-related legal information through its “Contextual Streaming” and “Related Stories” features.

<sup>vi</sup> Asean LIP firmly believes that, for access to law to be meaningful, at least in the particular context of Southeast Asia, legal information should be made available in a style and language that is comprehensible by all prospective readers including the general public across the Region, as opposed to providing access to unabridged legalese (be it a legislation, judgment or treaty) dumped onto a database. Asean LIP realises that it is unreasonable to expect an untrained person to decipher the collective wisdom of the judges, legislators and/or other professionals involved in the making and/or interpretation of laws. Asean LIP therefore plans, amongst others, to restate legal information in English and other regional languages wherever possible.

Given the enormity of the task, Asean LIP proposes the portal development in five phases: in the first phase, the title and the full text of a legal development will be published in its original language, with additional titles in English, if English is not its original language. In the second phase, summaries/ commentaries in English will be added, and in the third phase, summaries/ commentaries of legal developments will be made available in all regional languages. In the fourth phase, the title, the full text and the summary/ commentary of a legal development will be published in its original language, English (if it is not the original language), and all other regional languages. Asean LIP will start off as an update service (updating its readers of the latest legal developments in the Region), but it aims to become a one-stop online legal research centre (a comprehensive database of legal information) for Southeast Asia in the fifth and final phase of its development.

<sup>vii</sup> Asean LIP adopts a comprehensive approach to aggregation of legal information. It incorporates all types of legal information: it not only covers Primary Legal Information (statements of laws issued by competent authorities) and Secondary Legal Information (materials that discuss, explain, interpret and/or analyse Primary Legal Information), but also a third type of legal information (which Asean LIP describes as Tertiary Legal Information) – information about related industries, organizations and professionals including their news, profiles, campaigns, events, jobs, publications, products and services. Tertiary Legal Information, while not directly relevant to Primary Legal Information as

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Secondary Legal Information, is nevertheless useful because it complements access to Primary Legal Information.

For the purposes of Asean LIP, Primary Legal Information consists of (a) Legislation (statutes – Acts and Amendment Acts, Bills and selected subsidiary legislation), (b) Judgments & Rulings (from appellate courts and selected tribunals), (c) Notices & Directives (guidelines, regulations, directives, circulars, notices, etc issued by regulatory bodies, statutory bodies and government departments), and (d) Treaties & Agreements (bilateral and multilateral treaties and agreements including Free Trade Agreements that involve Southeast Asian countries).

Secondary Legal Information consists of (a) News (news stories from news agencies and leading newspapers, professional bodies, regulatory bodies, government departments, and selected industry newsletters), (b) Reports & Articles (on law and tax, sourced from journals, other publications and directly from authors), and (c) Know Your Law (articles and/or notes on law and explanations on legal developments for laypeople, prepared by Asean LIP editors or registered contributors, or sourced from selected publications).

Tertiary Legal Information consists of (a) Industry Updates (information on legal and tax industries and professionals), (b) Student News (information relevant to law students – law school profiles, admission requirements, scholarship availability, internship opportunities, etc, and updates on events and campaigns organised by law students), (c) Professional Directory (a directory of regional legal and tax professionals including legal practitioners, tax agents, corporate counsels, academicians, judges and judicial officers) optimised for quick browsing and easy searching, and (d) Listing of Jobs (available to legal and tax practitioners and other professionals), Events (information on legal and tax events produced by participating event producers), Books & Journals (information on books and journals on law and tax published by participating publishers), and Products & Services (information on products and services of participating vendors and service providers, which are generally useful to legal and tax professionals).

The contents are however organised slightly differently on the web.

<sup>viii</sup> Asean LIP aims to cover all eleven Southeast Asian countries: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, The Philippines, Singapore, Thailand, Timor-Leste and Vietnam.

<sup>ix</sup> Asean LIP updates will notify businesses of opportunities, restrictions and prohibitions arising out of new legal developments in the Southeast Asian countries that may be relevant to their respective businesses. They will also serve as prompt reminders on matters of compliance.

Asean LIP is likely to serve micro, small and medium businesses and entrepreneurs, who have lesser resources than larger business houses when it comes to getting legal support, particularly well.

<sup>x</sup> The harmonisation of laws in the Region is an ambitious target. Ideally, it should evolve over a long period of time through meticulously planned phases. This is where Asean LIP becomes relevant: it can be the first step towards harmonisation by providing a common legal platform (that aggregates the laws of Southeast Asian countries) – a platform that will keep all in the Region abreast of each other's developments; a platform that will help everyone understand and appreciate each other's laws better.

<sup>xi</sup> By providing a better understanding of the law (in their native language in an easy-to-understand style), and consequently informed access to justice.

<sup>xii</sup> The benefits of having a free update/ database service such as Asean LIP are obvious.

Many professionals, from legal practitioners, tax agents, corporate counsels and paralegals to accountants, auditors and company secretaries benefit from the latest legal updates from across the

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Region which are provided free of charge. Asean LIP also provides them an opportunity to profile themselves and network in the regional market. The judges and judicial officers will be able to know the judicial trends from the Region, and get an opportunity to publicise their standpoints to a larger audience (by publishing their judgments and rulings). The academic world (including teachers, researchers and students) benefits from the unprecedented assistance Asean LIP can provide them with when it comes to legal research in the Region. They also get an opportunity to profile and network, free of charge. The regulatory, statutory and professional bodies get an opportunity to publicise their regulations and notices, news, events and campaigns to a bigger audience across the Region. They also get to know the views and standpoints of their counterparts in the Region with ease. The enforcement officers, social workers and activists will be able to take advantage of Asean LIP to keep abreast of the laws and regulations that may apply to their work. Asean LIP also provides opportunities for law/tax-related publishers, employers, event managers, vendors and service providers to showcase their products and/or services to a targeted audience across the Region.

<sup>xiii</sup> Asean LIP believes that there should be a diligent attempt to ensure *actionable awareness*, i.e. a level of awareness that empowers a person to fully understand and act upon (where necessary) a given piece of legal information. Legal information, particularly primary legal information, published in their original language, style and/or format is unlikely to create this level of awareness because, as noted elsewhere in this note, they are innately complex and generally require professional skills to appreciate. Asean LIP undertakes to ensure that (a) the information it publishes is authentic, is sourced from the original source, and the integrity of its contents is maintained at all times, and even more importantly, (b) the information is published in a style and language that can be understood by most prospective readers including common men and women speaking one or more of the regional languages.

As such, Asean LIP will, in its later stages of development mentioned paragraph 2 of endnote vi above, make available summaries of legal developments that require abridgement, in English and in most regional languages. Asean LIP will also employ a dedicated section titled “Know Your Law” to explain key legal information in plain language with minimal legalese, in English and in one or more regional languages.

<sup>xiv</sup> Asean LIP believes that this has to be a collaborative effort, and therefore brings together the key stakeholders of the regional legal, tax and business industries as (a) Partners (leading law schools in the Region), (b) Supporting Organizations (judiciaries, ministries of law/ justice, offices of attorney generals, national news agencies, etc from all Southeast Asian countries), (c) Board of Advisors (senior professionals/ thought leaders) and (d) Editorial Consultants (academics from partnering law schools).

<sup>xv</sup> The members of the regional legal, tax and business communities get to (a) publish their news, events and campaigns through “Industry Updates” section, (b) promote their profiles through the “Asean LIP Directory”, and (c) express their perspectives on primary and secondary legal information through contributions to “Articles”, “Annotations” and “Know Your Law” sections and through comments on integrated social media pages. The active participation of the above-mentioned communities helps Asean LIP to (a) reach out to a larger audience, (b) ensure continued interaction with its readers, and (c) obtain more contents and varied perspectives.

<sup>xvi</sup> As a community, Southeast Asia is as heterogeneous as it can get: (a) it is significantly diverse when it comes to political thinking and forms of government – even the takes on governance and human rights vary considerably; (b) both common law and civil law systems, which differ fundamentally in a number of aspects in their quest for justice, have almost equal dominance over legal thought in the

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Region; (c) it has more than 10 distinct official languages: English, Filipino, Indonesian, Khmer, Lao, Malay, Myanmar, Portuguese, Thai and Vietnamese, many with indigenous scripts. The number of other languages and dialects are mind-boggling; Indonesia alone has over 700 languages. (This diversity of languages is a particularly serious challenge when it comes to aggregating and publishing legal information in the Region. This stretches the editorial resources required to monitor, gather, process and publish legal information, and causes a longer lag between the release of legal information by the original source and the publication of it on Asean LIP); (d) there are tens of ethnicities, from Javanese to Burmese, and several religions including Buddhism, Christianity and Islam; and (f) there is a gaping income inequality: the per capita GDP of Singapore and Brunei are way ahead of others, with most of them having a per capita GDP well below USD5,000.

It must be noted that almost all the countries in the Region agree in-principle that access to legal information should be free and easy (some of them have this principle incorporated into their policy statements and strategic plans). However, a significant gap appears to exist when it comes to practice. This can be attributed to a number of reasons including (a) bigger priorities (real or perceived) of the government and its relevant agencies, (b) shortage of funds and other resources, and (c) cumulative effect of inept governance, insecure workforce and systemic corruption.

<sup>xvii</sup> On the financial front, Asean LIP proposes a self-funding model for the preliminary phases of development (see endnote vi, paragraph 2 for the proposed phases) in the medium to long-term. It expects to raise sufficient revenue to fund its preliminary phases through sponsorships, advertisements and listing, and as such, Asean LIP will allow, subject to its Editorial Policy, exclusive exposure to sponsors and advertisers in return for a fee. In the short-term, Asean LIP relies on the seed money contributed by the University of Malaya and certain agencies (not confirmed).

Asean LIP is however aware that this revenue model may not be adequate to fund its subsequent phases of development, and therefore seeks grants from government agencies and funding bodies who share its *Access to Law* vision.

Asean LIP accounts are managed by the University of Malaya.

<sup>xviii</sup> The Promoters have resolved that (a) all editorial activities of Asean LIP shall be geared towards promoting free, easy and meaningful access to Southeast Asian legal information; (b) Asean LIP shall at all times maintain editorial integrity, independence and impartiality, and remain accountable and responsible to its readers for the contents published therein; (c) Asean LIP shall comply with all applicable laws in the countries it operates, particularly the copyright, privacy and data protection laws. As such, Asean LIP shall not publish materials that are illegal, immoral, indecent, undesirable, violent or pornographic in nature, or that promote commonly acknowledged vices such as sexual services, tobacco products, liquor or narcotics. Asean LIP shall also exercise caution in publishing or reproducing sensitive or potentially controversial materials; (d) Asean LIP shall not promote or pursue any political, racial or religious agenda; (e) Asean LIP shall only publish materials gathered from original, official and/or authentic sources. Asean LIP shall acknowledge the sources of its contents, and attribute appropriate credits to organizations and/or individuals contributing to Asean LIP; (f) Asean LIP may accord mutually agreed privileges to its sponsors, advertisers and/or contributors as long as such privileges do not give an impression that Asean LIP is endorsing or favouring any individual, organization, publication, event, service or product; (g) Asean LIP may allow advertisements or advertorials, but shall ensure that they are clearly distinguished from the editorial contents; and (h) Asean LIP may allow the listing of professionals, jobs, events, books, products and services, but Asean LIP shall not give an impression of taking responsibility for the contents of those listings, particularly on any claims of quality and/or functionality of the listed persons/ items.

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<sup>xix</sup> It is a Contractual Joint Venture between the Promoters.

<sup>xx</sup> The University of Malaya is the oldest university in Malaysia. Asean LIP initiative is led by its Faculty of Law.

<sup>xxi</sup> MKMS (Muttath Knowledge Management Services Sdn Bhd) pioneered Free Access to Law in Malaysia through MLTIC (Malaysian Legal and Tax Information Centre), a web portal that aggregated latest Malaysian legal and tax developments. Asean LIP is based on the MLTIC-model of Free Access to Law.

<sup>xxii</sup> Asean LIP partners with the leading law schools in the Region. The Partners generally assist Asean LIP to reach out to key organisations and individuals in their respective countries.

Asean LIP Law School Partners, as of 14 April 2017, are Universitas Indonesia, Thammasat University (Thailand), The University of Philippines, Universiti Islam Sultan Sharif Ali (Brunei) and Royal University of Law and Economics (Cambodia). Asean LIP is in conversation with Singapore Management University, Vietnam State University at Ho Chi Minn City, University of Yangon (Myanmar) and National University of Laos about prospective partnerships.

<sup>xxiii</sup> Supporting Organisations endorse the cause of Access to Law as promoted by Asean LIP, and include judiciaries, ministries of law/ justice, offices of Attorney Generals, and regulatory and professional bodies from across the Region. The following bodies have extended their support to Asean LIP: MALAYSIA - Judiciary, Attorney General's Chambers, Bar Council, Law Deans' Council, Inland Revenue Board, Bernama; INDONESIA – Supreme Court, Ministry of Justice and Human Rights, Peradi (Bar Council); THAILAND – Supreme Court, Office of the Judiciary, Thai Bar, Office of the Council of State, Inland Revenue Department; THE PHILIPPINES – Supreme Court, Philippine News Agency; MYANMAR – Supreme Court of the Union, Attorney General's Chambers, Myanmar Times.

<sup>xxiv</sup> Chief Justice Muhammad Hatta Ali of Indonesia and Chief Justice Veerapol Tungsuwan of Thailand along with Tun Arifin Zakaria (Former Chief Justice of Malaysia) sit as Patrons.

<sup>xxv</sup> *Board of Advisors* MALAYSIA: Abdull Hamid EMBONG, Tan Sri (Former Judge, Federal Court), Cecil ABRAHAM, Tan Sri Dato' (Senior Partner, Cecil Abraham & Partners), Azman UJANG, Datuk Seri (Executive Chairman, Bernama), Hafsa HASHIM, Datuk Dr (CEO, SME Corp, Malaysia), Izhar ISMAIL (General Counsel, Tenaga Nasional Berhad), Johari RAZAK, Dato' (Partner, Shearn Delamore & Co), MAH Weng Kwai, Dato' (Former Judge, Court of Appeal), Mahadev SHANKAR, Dato' (Former Judge, Court of Appeal), Mathew THOMAS PHILIP (Managing Partner, Thomas Philip), Shad Saleem FARUQI, Datuk Dr (Professor Emeritus), Sundra RAJOO, Prof Datuk Dr (Director, KLRCA), Veerinderjeet SINGH, Dr (Group Executive Chairman, Axcelasia Inc), and Zuhairah ARIFF ABD GHADAS, Prof Dr (Dean, Faculty of Law and International Relations, University Sultan Zainal Abidin, Kuala Terengganu).

*Board of Advisors* THAILAND: Sarawut BENJAKUL (Deputy Secretary-General, The Office of the Judiciary), Prasobsook BOONDECH, Prof (Advisor to the Chairman of National Broadcasting & Telecommunication Commission), Udom RATHAMARIT, Prof Dr (Dean, The Faculty of Law, Thammasat University), Kittipong KITTAYARAK, Dr (Executive Director, Thailand Institute of Justice), Distat HOTRAKITYA (Secretary-General, The Office of the Council of State), Prasong POONTANEAT (Director-General, Revenue Department), Somchai PONGPATTANASIN (Assistant Secretary-General, The Office of the Securities and Exchange Commission), Kietkajorn VACHANASVASTI (Member, Board of Thai Bar Association), Thawal RUYAPORN, Dr (President, Lawyers' Council of Thailand), Prasit PATHUMARAK (Senior Public Prosecutor, Department of

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Policy, Strategy and Budget Planning, The Office of the Attorney General), Narong JAIHARN, Prof Dr (Professor of Law, The Faculty of Law, Thammasat University), Punnaphat MAHALEETRAKUL (Judge, Research Justice Division, The Supreme Court), Prapas KONG-IED (Deputy Permanent Secretary, Ministry of Finance), Suthatip Jullamon TASANACHAIKUL (Judge of the Office of the President of the Supreme Court), and Prasong LERTRATTANAVISUTH (Executive Director, ISRA Institute, Thai Press Development Foundation).

Asean LIP is currently working with its Partners to constitute the national Boards of Advisors in Indonesia, The Philippines and Myanmar.

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<sup>xxviii</sup> The beta version was released in February 2017, and with effect from 22 February 2017, the Asean LIP carries Malaysian and Philippine legal updates.

<sup>xxix</sup> The fuller version will substantially cover Indonesia, Thailand and Singapore in addition to Malaysia and The Philippines. It will also carry news updates from the other Asean jurisdictions.