ISSUES
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Issues under Consideration

Key Policy Considerations:-

• Subject Matter - WHAT
• Beneficiaries - WHO
• Objectives - WHY
• Scope of Rights – WHICH RIGHTS
• Exceptions/Limitations -

HOW DOES THIS APPLY TO TCEs IN ASEAN?
What?

• TCEs are Traditional Cultural Expressions, also known as expressions of folklore

• What should qualify as TCEs?
  • music, dance, art, designs, names, signs and symbols, performances, ceremonies, architectural forms, handicrafts and narratives
What?

- Examples:
  - Ngajat (culture dance of the Iban from Malaysia)
  - Khon (Thai classical dance)
  - Batik designs from Malaysia and Indonesia
Who?

• TCE’s are important to the cultural and social identities of indigenous and local communities

• For whose benefit should TCEs be protected?
  – The indigenous and local communities
  – In the long run, it will benefit the larger economy as well
Who?

A Malaysian example:

• Initiatives that have helped the economy and recognition of indigenous communities
  – Mah Meri Women’s Weave Initiative
  – Penan Women’s Project
    • http://penanwomenproject.org/products/
Who?
• Objectives
• Why should TCEs be protected? For what purpose?
  – Misappropriation of TCEs happen when it is not correctly identified and protected
Why?

- Examples of cultural assets claimed by other countries/brands:
  - Batik – Adidas
  - Rendang – Holland
  - Jepara Graving – France
  - Tempe – Thailand
  - Bali silver craft – America
Which Rights?

• Scope of Rights
• Which rights should attach to TCEs?
  – IP rights: Trademark, Geographical Indications
  – New laws or Acts
  – Government initiatives
Which Rights?

• Examples from Asia
  – OVOP (One Village One Product) initiative: requires people to take up a product or industry distinctive to their region and cultivate it into a nationally and globally accepted one, which reflects the pride of the local culture
    • Malaysia: Satu Kampung Satu Produk
    • Philippines: One Barangay, One Product
    • Indonesia: Back to Village
    • Thailand: One Tambon, One Product
  – India: uses GI as protection for their handicraft and art
    • Pochampalli Ikat, Kotpad Handloom fabric, Mysore silk, Kullu Shawls, Channapatna toys and dolls, Kasuti Embroidery, Orrisa Ikat, Mysore Traditional Paintings
Which Rights?

- Malaysia
- National Heritage Act (2005) which preserves cultural heritage.
  - Preservation
  - Beneficiaries? Enforcement?
- Among the TCEs designated as national heritage:
  - Adat mandi anak Iban (Bath rituals for the Iban baby)
  - Petudui culture (marriage culture of the Melanau)
  - Sogit (compensation culture of the Kadazandusuns)
  - Sumazau (cultural dance of the Kadazandusuns)
Exceptions/Limitations?

• Among difficulties faced is amalgamation of the cultures of SEA
  – Can we draw a line? What goes where?
    • Batik
    • Food Wars

• Origin of rights
  – History & culture
  – Eg: Rendang claims by Holland
Exceptions/Limitations?