

# CHALLENGES AND EXPERIENCES IN THE ENVIRONMENTALLY SAFE DISPOSAL OF IP INFRINGING GOODS

**Regional Workshop on the Disposal of IP Infringing Goods  
Bangkok, 21 November 2013**



# INDONESIAN DELEGATES

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5. **GOSEN BUTAR BUTAR** – The Judge of Central Jakarta District Court



# NATIONAL LEGAL FRAME WORK

1. IPR - related law (trademarks, copyrights , patents , industrial designs , DTLST , trade secret and plant varieties).
2. Code of Criminal Procedure Article 39 related to foreclosures; objects that may be imposed foreclosure are :
  - A. Objects or bills suspects or defendants allegedly obtained as a whole or of a criminal offense or a portion of the proceeds of crime;
  - B. Objects that have been used directly for a criminal offense or to prepare;
  - C. Things that used to obstruct the investigation of crime;
  - D. The fittings were specially made or intended crime;
  - E. Other objects that have a direct connection with the crime committed.
3. Article 44 of the Criminal Procedure Code the storage of confiscated goods.  
" Confiscated Objects stored in the storage of confiscated objects state "  
Confiscated Objects Storage home country is hereinafter referred RUPBASAN objects confiscated by the State for the purposes of judicial proceedings.  
RUPBASAN under the responsibility of the Directorate of the Ministry of Justice and Human Rights of Corrections



# NATIONAL LEGAL FRAME WORK

4. Article 46 of the Criminal Procedure Code destruction of confiscated goods;  
" If the case is decided , then the item is returned to the person subject to seizure or to those who called in the decision by the judge's decision unless the object was taken to the state , to be destroyed or damaged until it can no longer be used or if the object is still needed as other evidence in the case “
- Procedures destruction of confiscated goods ;
- A. Letter of the decision / court order ;
  - B. A warrant investigator / prosecutor , and
  - C. A request from the agency legally responsible .



# NATIONAL LEGAL FRAME WORK

5. Act No. 17 of 2006 on Amendment of Act No. 10 of 1995 on Customs Article 54 till 64 about **Control of import and Export of Goods as the Result of Intellectual Property Rights Infringement**
6. Act No. 18 of 2008 on Municipal Solid Waste Management
7. Act No. 19/2009 regarding Ratification of Stockholm Convention on Persistent Organic Pollutants
8. Act No. 32 of 2009 on Environmental Protection and Management
9. Act No. 10/2013 regarding Ratification of Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
10. President Decree No. 61/1993 on Ratification of Basel Convention on the Control of Transboundary Movement of Hazardous wastes and their Disposal
11. President Decree No. 46/2005 regarding Ratification of Montreal Protocol on Substances that Deplete the Ozone Layer
12. Regulation of Supreme Court Number 4 of 2012 on Temporary Suspension Order



# OBSTACLES IN STORAGE AND DISPOSAL IP INFRINGING GOODS

State custody of confiscated goods warehouse (Rupbasan) capacity is very limited

The time span of the investigation until the court takes a long time, can cause damage to the evidence.

there is no rule governing the procedure destruction of confiscated goods with eco-friendly way.



# RELEVANT INFORMATION

- ✓ Until now, there is no official rules governing the procedure destruction of confiscated goods in Indonesia, including the confiscated goods infringing IPRs.
- ✓ destruction of goods confiscated by the Criminal Investigation Department are still based on the initiative of the investigator.
- ✓ in the permit or determination letter destruction of evidence the court is not mentioned in detail about the extermination of governance.
- ✓ If the processing and disposal of seized goods is managed by the

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