

**WIPO-UN ESCAP-UNEP Regional Workshop on the  
Environmentally Safe Disposal of Intellectual Property-Infringing  
Goods (Country Report- Myanmar) 14.11.2013**

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Republic of the Union of Myanmar is the largest country in main land Southeast Asia, Stretching 2,000 km from north to south with a total land area 676,577 sq.km(261,228 sq.miles). The Union is delineated and constituted by seven Regions, seven States and the Union territories. It is an agricultural country.

In Myanmar, environmental management has been traditionally undertaken by line agencies within their respective mandates.

In “The Ward or Village Tract Administration Law ( Chapter VII ) Functions and Duties of the Ward or Village Tract Administrator” Section 13,

**Sub-section(e)** - Informing and assisting the relevant Government departments and organizations in respect of revealing, informing and complaining, arresting and taking action of crimes and vices;

**Sub-section(n)** - Examining the places needed to examine for prevalence of law and order and upholding the discipline from time to time;

**Sub-section(dd)** – Coordinating and assisting the functions and duties of departmental organization at the level of ward or village tract;

**Sub-section(ff)** – Carrying out functions and duties assigned by any existing law.

In “(Chapter IX) Duties of the Person residing in the Ward or Village Tract Section 19” **Sub-section (a)** – Inform the relevant relating to crimes and vices;

**Section 22** – The person residing in the ward or village tract shall refrain from making to injure and suffer the interests of the local people directly or indirectly.

In “Chapter XI , Offences and Penalties,

**Section 27** – Whoever fails to carry out duty contained in sections 17, 18 and 19

shall be punished with fine not exceeding fifty thousand kyats. If default to pay the fine, he shall be punished with imprisonment not exceeding seven days by the relevant court.

In Myanmar the Trademark Law, the Patent Law, the Industrial Design Law, the Copyright Law is under drafting and it is not yet promulgated. So the cases under the Law are not yet administered by the Myanmar Judicial Courts. So at present time there is not dispute regarding with the disposal of exhibit of the intellectual Property Infringing Goods.

In Myanmar the system of Market- Economy is being operated and the foreign investments are invited. So to protect the foreign business firm and to guarantee their legal rights the necessary laws are being drafted in Myanmar. The Patent Law and the Copyright Law are under drafting and they will be promulgated in some future time. The intentions of those two Laws are to encourage the invention of Intellectual Property and to be legal and proper in distributing the intellectual property.

In the two Laws (under drafting) the provisions regarding with legal action and penalty are provided. In chapter 19 Section 88, 89 and 90 of the Patent Law (under drafting) penalties for offence is provided. In punishing the offenders both imprisonment and fine may be imposed. So also in the Copyright Law (under drafting) in chapter 19 Section 78, 79, 80, 81 and 82 the penalty for offence is provided. In punishing the offenders both imprisonment and fine may be imposed.

The Judicial Courts for the trial of offences incurred from such Laws will be established and fair Justice may be administered by such Courts. At the same time disposal of Intellectual Property Infringing Goods may be also administered by such Judicial Courts according to Law and Procedure.

In Myanmar, no specific procedures exist for search, seizure and disposal of Intellectual Property. However, the general provision of the Criminal Procedure Code relating to search, seizure and disposal of property can be applied. Section 101 to section 103 prescribes that search shall be done in the presence of at least two witnesses, who are respectable inhabitants of the locality, and that the occupier of the place searched may attend during the search, and they are required to sign the list prepared in token of the correctness thereof.

The property found in the course of search shall become an exhibit of the proceeding and the Court has authority to dispose of the property in accordance with sections 516-A and 517 of the Criminal Procedure Code. Section 516-A provides that the Court may make an order, as it think fit, for the custody or disposal of property during the pending of a trial in certain cases. Section 517 states that when an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before it or in its custody, or regarding which any offence to have been committed, or which has been used for the commission of any offence.

For the practical purpose so those Laws are not yet promulgated there does not take action and prosecution in such Myanmar Judicial Courts. The Environmentally Safe Disposal of Intellectual Property Infringing Goods workshop is a timely opportunity to exchange experience and views among the representatives of the countries and to discuss possible co-operation among country.

In Myanmar, the Pyidaungsu Hluttaw hereby enacted environmental conservation law in 2012. The following expressions contained in this law at Chapter VII.

“The ministry shall, under the guidance of the Committee, maintain a comprehensive monitoring system and implement by itself or in co-ordination with relevant Government departments and organizations in the following matters:

- (a) The use of agro-chemicals which cause to impact on the environment significantly;
- (b) Transport, storage, use, treatment and disposal of pollutants and hazardous substances in industry;
- (c) Disposal of wastes come out from exploration, production and treatment of materials, industrial mineral raw materials and gems;
- (d) Carrying out waste disposal and sanitation works;
- (e) Carrying out development and construction;
- (f) Carrying out other necessary matters relating to environmental pollution.”

The Republic of the Union of Myanmar is the original member of the General Agreement on Tariffs and Trade(GATT). Now the Republic of the Union of Myanmar is one of the member countries of World Trade Organization (WTO), Association of Southeast Asian Nations (ASEAN) and World Intellectual Property Organization. In Myanmar, Judicial and legal system on Intellectual Property Rights(IPRs) had timely developed at the early of 19th century. At the present, the existing laws have not a proper IP system and undated IP legislation with the dynamism of global economic trends. The existing IP and related laws are;

- The Code of Civil Procedure, 1808
- The Penal Code, 1860
- The Specific Relief Act, 1877
- The Sea Customs Act, 1878
- The Myanmar Merchandise Marks Act, 1889

- The Code of Criminal Procedure, 1898
- The Registration Act, 1908
- The Myanmar Copyright Act, 1914
- The Land Customs Act; 1924
- The Myanmar Patents and Designs (Emergency Provisions) Act, 1946

The existing laws relating to IP do not cope with the current economic trend and developments in the field of IP. Therefore, we need to be reviewed and redrafted the existing law in order to ensure compliance with international and inter-governmental obligations of Myanmar. Ministry of Science and Technology (Focal Ministry for IP matters) and Office of the Attorney General have to work together to emerge the comprehensive, transparent and also effective protection of IPRs to be in line with the International conventions and agreements including TRIPS agreement.

Since 18 August 2004, Ministry of Science and Technology has drafted new IP Laws in cooperation with Union Attorney General's Office based on TRIPS, IPO Model Laws, IP Laws of the ASEAN countries, WIPO Conventions and Treaties. Ministry of Science and Technology held the many discussion meetings with Government Ministries, the Union Attorney General Office, the Supreme Court of the Union, Law Firms and NGOs (The Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry, Computer Federation, Associations, Experts in IP laws, etc..... ). The new IP laws are Patent law, Industrial Design Law, Trademark and GI Law and Copyright Law. Drafting of the new IP laws reach the finalization step.

Ministry of Home Affairs take responsible for administration security and

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