

RECORD OF DISCUSSIONS

ON

**THE PROJECT ON INTELLECTUAL PROPERTY RIGHTS
PROTECTION AND LEGAL CONSISTENCY FOR IMPROVING
BUSINESS ENVIRONMENT**

IN

THE REPUBLIC OF INDONESIA

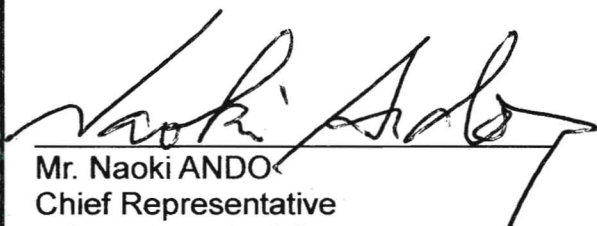
AGREED UPON BETWEEN

**AUTHORITIES CONCERNED OF THE GOVERNMENT OF THE
REPUBLIC OF INDONESIA**


AND

JAPAN INTERNATIONAL COOPERATION AGENCY

Jakarta, August 03, 2015



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Based on the minutes of meetings on the Detailed Planning Survey on the Project on Intellectual Property Rights Protection and Legal Consistency for Improving Business Environment (hereinafter referred to as "the Project") signed on March 20th, 2015 between Supreme Court (hereinafter referred to as "SC"), Secretary General, of Ministry of Law and Human Rights, Directorate General of Legislation of Ministry of Law and Human Rights (hereinafter referred to as "DGL"), Directorate General of Intellectual Property of Ministry of Law and Human Rights (hereinafter referred to as "DGIP"), and the Japan International Cooperation Agency (hereinafter referred to as "JICA"), JICA held a series of discussions with SC, DGL, DGIP and relevant organizations to develop a detailed plan of the Project.

Both parties agreed the details of the Project and main points discussed as described in the Appendix 1 and the Appendix 2, respectively, and to request their respective governments to proceed with the necessary procedures for implementation of the Project.

Both parties also agreed that SC, DGL and DGIP, the counterpart to JICA, will be responsible for the implementation of the Project in cooperation with JICA, coordinate with other relevant organizations and ensure that the self-reliant operation of the Project is sustained during and after the implementation period in order to contribute toward social and economic development of Indonesia.

The Project will be implemented within the framework of the Colombo Plan Technical Cooperation Scheme between the Government of Japan (hereinafter referred to as "GOJ") and the Government of the Republic of Indonesia (hereinafter referred to as "GOI").

Appendix 1: Project Description

Appendix 2: Main Points Discussed

Appendix 3: Minutes of Meetings on Detailed Planning Survey

PROJECT DESCRIPTION

I. BACKGROUND

Indonesia has enjoyed a steady economic growth stimulated by the expansion of foreign direct investment (FDI). On the other hand, it has been placed at the No. 114 out of 189 countries in the business environment comparison report of the World Bank, entitled "Doing Business 2015," meaning that Indonesia has the space to improve business environment. The well-established legal and institutional system of Intellectual Property Rights (hereinafter referred to as "IPR") and legal consistency are crucial to ensure private enterprises to do business smoothly. Regarding IPR system, trademark has important role on distribution of commercial products, and patent etc. is to encourage companies and individuals to innovate and create new ideas. These systems are to promote growth of private businesses. Since 2010, domestic business operators have filed over 40,000 applications on trademark. It shows that importance of trademark is widely recognized by domestic businesses and that protection of IPR including trademark is more and more required for doing business by private sector. Moreover, inconsistency among laws and regulations, and lack of detailed regulations are decreasing the predictability and reliability of enforcement and application of laws. It also increases the legal risk for private businesses. Those may cause negative impact to economic growth in Indonesia.

In addressing above mentioned issues, the Government of Indonesia (hereinafter referred to as "GOI") has recognized the lack of necessary human resources, knowledge and skills to cope with the situation. Thus GOI requested the Government of Japan to extend the technical cooperation project for strengthening IPR protection and utilization as well as improving legal consistency. In response to this request, JICA conducted the detailed planning survey in March 2015.

II. OUTLINE OF THE PROJECT

Details of the Project are described in the Logical Framework (Project Design Matrix: PDM) (Annex 1) and the tentative Plan of Operation (Annex 2).

1. Input

(1) Input by JICA

(a) Dispatch of Experts

[Long-term Experts]

- Chief Advisor on Training of Judges and Enhancement of IPR Enforcement
- Chief Advisor on Legal Consistency

- Chief Advisor on Enhancement of IPR Protection and Enforcement
- Coordinator

[Short-term Experts]

- Short-term Expert(s) will be dispatched when needed and mutually agreed, within the framework of the Project.

(b) Training

Counterpart training in Japan will be organized within the framework of the Project. Specific contents, timing and target participants of the training will be determined in the course of the project implementation.

(c) Machinery and Equipment

-Equipment necessary for the implementation of the Project will be provided upon mutual agreement.

Input other than indicated above will be determined through mutual consultations between JICA, SC, DGL and DGIP during the implementation of the Project, as necessary.

(2) Input by SC, DGL and DGIP

SC, DGL and DGIP will take necessary measures to provide at its own expense:

- (a) Services of SC, DGL and DGIP's counterpart personnel and administrative personnel as referred to in II-2;
- (b) Suitable office space with necessary equipment;
- (c) Supply or replacement of machinery, equipment, instruments, vehicles, tools, spare parts and any other materials necessary for the implementation of the Project other than the equipment provided by JICA;
- (d) Credentials or identification cards;
- (e) Available data (including maps and photographs) and information related to the Project;
- (f) Running expenses necessary for the implementation of the Project; and
- (g) Expenses necessary for transportation within Indonesia of the equipment referred to in II-1 (1) as well as for the installation, operation and maintenance

2. Implementation Structure

The Project organization chart is given in the Annex 3. Project Directors of SC, DGL and DGIP will jointly have the responsibility for the overall administration and implementation of the Project. The roles and assignments of relevant organizations are as follows:

(1) SC

(a) Project Director

Deputy Chief Justice on Resource Development of SC will be responsible for overall administration and implementation of the Project for Output 2.

(b) Project Manager

Director of Judicial Training Center on Technical Matters of SC will be responsible for managerial and technical matters related to the Project for Output 2.

(c) Other staff:

- Head of Planning and Personnel Division, Secretariat of Judicial Training Center on Technical Matters
- Head of Program and Evaluation Division of Judicial Training Center on Technical Matters
- Financial Treasury Bureau, SC
- Planning Bureau, SC
- Project Members
- Assistant

(2) DGL

(a) Project Director

Director General of DGL will be responsible for overall administration and implementation of the Project for Output 4.

(b) Project Manager

Director of Promulgation, Publication and Cooperation of DGL will be responsible for managerial and technical matters related to the Project for Output 4.

(c) Other staff:

- Executive Secretary of DGL
- Director of Law Drafting
- Director of Legislation Harmonization
- Director of Facilitation for Regional Drafting
- Director of Litigation
- Project Members
- Assistant

(3) DGIP

(a) Project Director

Director General of DGIP will be responsible for overall administration and implementation of the Project for Output 1 and Output 3.

(b) Project Manager

Director of Cooperation and Promotion of DGIP will be responsible for managerial and technical matters related to the Project for Output 1 and Output 3.

(c) Other staff:

- Executive Secretary of DGIP
- Director of Patent
- Director of Trademark
- Director of Copyright, Industrial Design, Layout Design of Integrated Circuit and Trade Secret

- Director of Investigation
- Director of Information Technology
- Project Members
- Assistant

(4) JICA Experts

The JICA experts will give necessary technical guidance, advice and recommendations to SC, DGL, DGIP and other related organizations on any matters pertaining to the implementation of the Project.

(5) Joint Coordinating Committee

Joint Coordinating Committee (hereinafter referred to as "JCC") will be established in order to facilitate inter-organizational coordination. JCC will be held at least once a year and whenever deemed necessary. JCC will approve an annual work plan, review overall progress, conduct evaluation of the Project, and exchange opinions on major issues that arise during the implementation of the Project. A list of proposed members of JCC is shown in the Annex 4.

3. Project Sites and Beneficiaries

(1) Project Sites

Project sites will be in Indonesia.

(2) Beneficiaries

(a) Direct: personnel of SC, DGL, DGIP, Directorate General of Customs, Indonesia National Police

(b) Indirect: private business operators and investors

4. Duration

The duration of the Project will be five (5) years from the date when the first expert is dispatched.

5. Reports

SC, DGL, DGIP and JICA experts will jointly prepare the following reports in English.

(1) Monitoring Sheet on semi-annual basis until the project completion

(2) Project Completion Report at the time of project completion

6. Environmental and Social Considerations

SC, DGL and DGIP agreed to abide by 'JICA Guidelines for Environmental and Social Considerations' in order to ensure that appropriate considerations will be made for the environmental and social impacts of the Project.

III. UNDERTAKINGS OF SC, DGL and DGIP

1. SC, DGL and DGIP will take necessary measures to:

- (1) ensure that the technologies and knowledge acquired by the Indonesian nationals as a result of Japanese technical cooperation contributes to the economic and social development of Indonesia, and that the knowledge

and experience acquired by the personnel of Indonesia from technical training as well as the equipment provided by JICA will be utilized effectively in the implementation of the Project; and

- (2) grant privileges, exemptions and benefits to JICA experts referred to in II-3 (4) above and their families, which are no less favorable than those granted to experts and members of the missions and their families of third countries or international organizations performing similar missions in Indonesia.
2. SC, DGL and DGIP will take necessary measures to:
 - (1) provide security-related information as well as measures to ensure the safety of the JICA experts;
 - (2) permit the JICA experts to enter, leave and sojourn in Indonesia for the duration of their assignments therein and exempt them from foreign registration requirements and consular fees.
 - (3) exempt the JICA experts from taxes and any other charges on the equipment, machinery and other material necessary for the implementation of the Project;
 - (4) exempt the JICA experts from income tax and charges of any kind imposed on or in connection with any emoluments or allowances paid to them and/or remitted to them from abroad for their services in connection with the implementation of the Project; and
 - (5) meet taxes and any other charges on the equipment, machinery and other material, referred to in II-1 above, necessary for the implementation of the Project.
 3. SC, DGL and DGIP will bear claims, if any arises, against the JICA experts resulting from, occurring in the course of, or otherwise connected with, the discharge of their duties in the implementation of the Project, except when such claims arise from gross negligence or willful misconduct on the part of the JICA experts.

IV. MONITORING AND EVALUATION

JICA, SC, DGL and DGIP will jointly and regularly monitor the progress of the Project through the Monitoring Sheets based on the Project Design Matrix (PDM) and Plan of Operation (PO). The Monitoring Sheets shall be reviewed every six (6) months.

Also, Project Completion Report shall be drawn up one (1) month before the termination of the Project.

JICA will conduct the following evaluations and surveys to mainly verify sustainability and impact of the Project and draw lessons. The SC, DGL and DGIP are required to provide necessary support for them.

1. Ex-post evaluation three (3) years after the project completion, in principle
2. Follow-up surveys on necessity basis

V. PROMOTION OF PUBLIC SUPPORT

For the purpose of promoting support for the Project, SC, DGL and DGIP will take appropriate measures to make the Project widely known to the people of Indonesia.

VI. MISCONDUCT

If JICA receives information related to suspected corrupt or fraudulent practices in the implementation of the Project, SC, DGL and DGIP and relevant organizations shall provide JICA with such information as JICA may reasonably request, including information related to any concerned official of the government and/or public organizations of the Indonesia.

SC, DGL, DGIP and relevant organizations shall not, unfairly or unfavorably treat the person and/or company which provided the information related to suspected corrupt or fraudulent practices in the implementation of the Project.

VII. MUTUAL CONSULTATION

JICA, SC, DGL and DGIP will consult each other whenever any major issues arise in the course of Project implementation.

VIII. AMENDMENTS

The record of discussions may be amended by the minutes of meetings between JICA, SC, DGL and DGIP.

The minutes of meetings will be signed by authorized persons of each side who may be different from the signers of the record of discussions.

- Annex 1 Logical Framework (Project Design Matrix:PDM)
- Annex 2 Tentative Plan of Operation
- Annex 3 Project Organization Chart
- Annex 4 A List of Proposed Members of Joint Coordinating Committee