

# Table of Contents

Chapter I.	TRIPS Agreement and Counterfeiting and Piracy Goods Problem .....	1
1.	Progressive perspective for the TRIPS Agreement .....	3
1.1	Preface .....	3
1.2	Prohibition of counterfeiting and piracy goods as one of the main roles of TRIPS Agreement .....	3
2.	Serious problems of counterfeiting and piracy goods .....	5
2.1	Definition of counterfeiting and piracy goods .....	5
2.2	Historical perspective and counterfeit goods .....	11
2.3	Various counterfeiting incidents .....	11
2.4	Why does not the counterfeit business decrease? .....	13
2.5	Harmful influence of the counterfeit goods .....	15
2.6	Setting up EC, EU Council Regulations .....	19
2.7	Counterfeiting developments .....	23
Chapter II.	Customs Procedures under the TRIPS Agreement .....	25
1.	The Customs Role expected under the TRIPS Agreement .....	27
2.	Brief outline of the 10 border control related articles of the TRIPS Agreement .....	29
3.	The Customs procedures for IPR protection in Thailand and in Japan .....	33
3.1	The Customs Procedures for IPR Protection at the Point of Entry and Exit in Thailand .....	33
1.	What is the law controlling import-export of infringing goods? .....	35
2.	How does the law controlling import-export goods relate to the Customs Act? .....	37
3.	Customs Act B.E. 2469 .....	39
4.	Patent Act B.E. 2522 .....	41
5.	Trademark Act B.E. 2534 .....	43
6.	Copyright Act BE 2537 .....	45
7.	Export and Import of Goods Act B.E. 2522 (1979) .....	47
8.	Customs' Practical Rule B.E. 2544 .....	51

3.2 The Border Control of Intellectual Property Rights in Japan .....	57
1. Introduction to National Customs' Jurisdiction .....	57
2. Suspension of Release of Goods by Customs Administration .....	59
3. Application Process (Documentary Requirements) .....	61
4. Lodgement of Security or Assurance .....	71
5. Suspension Process .....	71
6. Indemnification of the Importer and Owner .....	73
7. Right of Inspection and Information .....	73
8. Ex-Officio Action .....	73
9. Remedies .....	75
10. De Minimise Exclusion .....	79
11. Criminal Procedure .....	79
12. National Enforcement of Border Control .....	81
3.3 Overviews and Characteristics of the Customs' Procedures in Thailand, Japan, the United States, France and Germany .....	81
(1) Thailand .....	81
(2) Japan .....	85
(3) The United States .....	89
(4) France .....	91
(5) Germany .....	93
4. Importance of Public Awareness an Education .....	97

## ANNEX

1. ANNEX 1 EU Council Regulation No. 241199, EU Council Regulation No. 3295194 .....	103
2. ANNEX 2 TRIPS AGREEMENT § 51 - § 60 .....	149
3. Materials attached for 3-3(1) - Thailand -	
ANNEX 3-(1) Trademark Examination Form .....	159
ANNEX 3-(2) Retaining Copyright - Violating Goods Form .....	161
ANNEX 3-(3) Notification of Ministry of Commerce, on export and import goods in the Kingdom B.E. 2530 .....	163
ANNEX 3-(4) Notification of Ministry of Commerce, on export and import goods in the Kingdom (Volume 94) B.E. 2536 .....	167

ANNEX 3-(5)	Notification of Ministry of Commerce, on export and import goods in the Kingdom (Volume 95) B.E. 2536 .....	169
ANNEX 3-(6)	Notification of Ministry of Commerce, on export and import goods in the Kingdom (Volume 96) B.E. 2536 .....	173
4.	Materials attached for 3-3(2) - Japan -	
ANNEX 4-(1)	The Customs Tariff Law (Excerpted) .....	175
ANNEX 4-(2)	The Cabinet Order for Enforcement of the Customs Tariff Law (Excerpted) .....	185
ANNEX 4-(3)	The Customs Law (Excerpted) .....	187
ANNEX 4-(4)	The Guidelines Concerning the Control of Goods which <b>infringe</b> Intellectual Property Rights (Table of Contents) .....	191
ANNEX 4-(5)	Form of Import Suspension Application .....	195
ANNEX 4-(6)	Form of Submission of Import Suspension Information .....	205
ANNEX 4-(7)	Patent Law and other IP Laws (Excerpted) .....	217
ANNEX 4-(8)	The organization and main tasks of the Customs and Tariff Bureau .....	228
ANNEX 4-(9)	"Well-Known Brands of Foreign Enterprises" by The Japan Federation of Importer's Organizations (sample) .....	231
ANNEX 4-(10)	The Current Status of "the Submission of Import Suspension Application" relevant to Goods Infringing IPRs. by Customs Intellectual Property Information Center Journal (sample) .....	233
ANNEX 4-(11)	The Current Status of "the Submission of Import Suspension Information" relevant to. Goods Infringing IPRs. by Customs Intellectual Property Information Center Journal (sample) .....	235
5.	Flow Chart of Customs Procedures in various countries	
	5-1 Thailand	
ANNEX 5-1-(1)	Trademark Examination Process .....	237
ANNEX 5-1-(2)	Copyright Examination Process .....	239
	5-2 Japan	
ANNEX 5-2-(1)	Flow chart of Customs Procedure .....	241

**5-3 United States**

ANNEX 5-3-(1) Conventional Customs procedure for imported goods ..... 243

ANNEX 5-3-(2) Customs procedure for imported goods which are  
quite suspicious but not clear .....245

**5-4 France**

ANNEX 5-4-(1) Border Control Scheme and Regulation in EU countries .....247

ANNEX 5-4-(2) Border Control Scheme and Characteristics in France ..... 249

ANNEX 5-4-(3) Function of Control Organization and Characteristics of  
Judiciary in France .....251

**5-5 Germany**

ANNEX 5-5-(1) Border Control Scheme and Characteristics in Germany .....253