(ii) materials and implements that have been predominantly used in the creation of counterfeit trademark goods or pirated copyright goods; and

(iii) any other labels or packaging to which a counterfeit trademark has been applied and that have been used in the commission of the offence.

In cases in which counterfeit trademark goods and pirated copyright goods are not destroyed, the judicial or other competent authorities shall ensure that, except in exceptional circumstances, those goods are disposed of outside the channels of commerce in such a manner as to avoid causing any harm to the right holder. Each Party shall further provide that forfeiture or destruction under this subparagraph shall occur without compensation of any kind to the defendant.

(d) Its judicial or other competent authorities have the authority to release, or alternatively, provide access to, goods, material, implements and other evidence held by the relevant authority to a right holder for civil[1] infringement proceedings.

7. With respect to the offences described in paragraphs 1 to 5, a Party may provide that its judicial authorities have the authority to order the seizure or forfeiture of assets, or alternatively, a fine, the value of which corresponds to the assets derived from, or obtained directly or indirectly through, the infringing activity.

8. Each Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability, which may be criminal, of legal persons for the offences specified in this Article for which the Party provides criminal procedures and penalties. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the criminal offences.

[1] A Party may also provide this authority in connection with administrative infringement proceedings.

SUB-SECTION 6

Enforcement in the digital environment

ARTICLE 14.59

Enforcement in the digital environment

1. The Parties shall ensure that enforcement procedures, to the extent set forth in Sub-Sections 2 and 5, are available under its law so as to permit effective action against an act of infringement of intellectual property rights which takes place in the digital environment, including expeditious remedies to prevent infringement and remedies which constitute a deterrent to further infringements.

2. Each Party shall take appropriate measures to limit the liability of, or remedies available against, online service providers for intellectual property rights infringement by the users of their online services or facilities, where the online service providers take action to prevent access to the materials infringing intellectual property rights in accordance with the laws and regulations of the Party.

3. Further to paragraph 1, each Party's enforcement procedures shall apply to the infringement of copyright or related rights over digital networks, which may include the unlawful use of means of widespread distribution for infringing purposes, and to the infringement of trademarks, including through electronic commerce platforms and social media. These procedures shall be implemented in a manner that avoids the creation of barriers to legitimate activity, including electronic commerce, and, consistent with that Party's law, preserves fundamental principles such as freedom of expression, fair process and privacy.

4. Each Party shall endeavour to promote cooperative efforts within the business community to effectively address trademark and copyright or related rights infringement while preserving legitimate competition and, consistent with that Party's law, preserving fundamental principles such as freedom of expression, fair process and privacy.