2. Each Party shall further provide that in civil judicial procedures its judicial authorities have the authority to order that materials and implements, the predominant use of which has been in the creation of such infringing goods, be, without compensation of any sort, disposed[54] of outside the channels of commerce in such a manner as to minimise the risks of further infringements.

3. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit the release of goods into the channels of commerce.

Article 11.63: Confidential Information in Civil Judicial Proceedings

Each Party shall provide that in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities have the authority to impose penalties on parties to the proceeding, their counsel, experts, or other persons subject to the court's jurisdiction, for violation of judicial orders[55] regarding the protection of confidential information produced or exchanged in that proceeding.

Article 11.64: Provisional Measures

1. In civil judicial proceedings concerning trademark counterfeiting, each Party shall provide that its judicial authorities have the authority to adopt provisional measures to order the seizure, or other taking into custody, of suspected infringing goods and both of the following:

   (a) materials and implements predominantly used in the act of alleged infringement; and

   (b) documentary evidence relevant to the alleged infringement.

2. In civil judicial proceedings concerning the infringement of copyright or related rights, each Party shall provide that its judicial authorities have the authority to adopt provisional measures to order the seizure, or other taking into custody, of suspected infringing goods and at least one of the following:

   (a) materials and implements predominantly used in the act of alleged infringement; or

   (b) documentary evidence relevant to the alleged infringement.

3. Each Party shall provide that its judicial authorities have the authority to adopt provisional measures *inaudita altera parte* where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed.

4. Each Party shall provide that its judicial authorities have the authority to require an applicant, with respect to provisional measures, to provide any reasonably available evidence in order to satisfy the judicial authority with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse, and so as not to unreasonably deter recourse to procedures for such provisional measures.

5. For greater certainty, the Parties understand that provisional measures shall be implemented in accordance with paragraphs 4 through 8 of Article 50 of the TRIPS Agreement.

[54] For greater certainty, the Parties understand that while judicial authorities have the authority to order the disposal of the materials and implements, they may also have the authority to order, without compensation of any sort, the destruction of such materials and implements instead of disposal.

[55] For greater certainty, for the purposes of this Article, the Parties understand that a Party's law may use an alternative term to "judicial orders" such as "court orders".