THE ROLE OF INDONESIAN PROSECUTORS IN THE ASSET RECOVERY COOPERATION

DR. JAN S. MARINGKA
CHAIRMAN OF INTERNATIONAL COOPERATION NATIONAL COMMITTEE OF THE INDONESIA PROSECUTORS ASSOCIATION
INDONESIA AG ROLE AND FUNCTION

• VAGUE POSITION IN INDONESIA CONSTITUTIONAL SYSTEM. CONSIDERED AS GOVERNMENT APPARATUS WHO HAVE FUNCTIONS RELATED TO JUDICIAL POWERS, BUT NOT AS PART OF THE JUDICIAL POWER ITSELF.

• STIPULATED IN LAW NO. 16 OF 2004 ON THE PROSECUTION SERVICE AND LAW NO. 8 OF 1981 ON CODE OF CRIMINAL PROCEDURE.

• POWER TO CONDUCT PROSECUTION AND OTHER AUTHORITIES UNDER THE LAW, NAMELY INVESTIGATOR FOR PARTICULAR CRIMES SUCH AS CORRUPTION, MONEY LAUNDERING AND GROSS VIOLATION AGAINST HUMAN RIGHTS, PUBLIC PROSECUTORS, EXECUTE COURT DECISIONS, STATE ATTORNEY, AND DUTIES RELATED TO PUBLIC ORDER.
STRUCTURE OF ORGANIZATION

ATTORNEY GENERAL

VICE ATTORNEY GENERAL

DEPUTY AG FOR ADVANCEMENT
DEPUTY AG FOR INTELLIGENT
DEPUTY AG FOR GENERAL CRIMES
DEPUTY AG FOR SPECIAL CRIMES
DEPUTY AG FOR CIVIL & ADM
DEPUTY AG FOR SUPERVISION
HEAD OF TRAINING CENTRE

- R & D CENTRE
- LAW INFORMATION CENTRE
- CRIMINAL STATISTIC AND IT CENTRE
- ASSET RECOVERY CENTRE

31 PROVINCIAL PROSECUTORS OFFICES
420 DISTRICT PROSECUTION OFFICES
40 SUB DISTRICT PROSECUTION OFFICES
ASSET RECOVERY CENTRE

• ESTABLISHED ON 2014

• INSPIRED FROM THE 16TH IAP ANNUAL CONFERENCE AND GENERAL MEETING IN SEOUL AT JUNE 2011

• HAVE THE SIMILARITY WITH BOOM, THE ASSET RECOVERY BUREAU UNDER THE ATTORNEY GENERALS OFFICE OF THE NETHERLANDS

• NETWORK WITH CARIN (CAMDEN ASSET RECOVERY INTER AGENCIES NETWORKING), ARIN-AP (ASSET RECOVERY INTER-ASIA PACIFIC NETWORKING AGENCIES), BALI PROCESS, ETC.
INTERNATIONAL COOPERATION

FORMAL CHANNEL

- MLA
  - LAW NO. 1/2006
  - 9 BILATERAL TREATIES
  - GOOD RELATIONSHIPS

- EXTRADITION
  - LAW NO. 1/1979
  - 11 BILATERAL TREATIES
  - APPROVAL FROM PRESIDENT ON THE BASIS OF GOOD RELATIONSHIPS

DIRECT COOPERATION

- BILATERAL AND GOOD RELATIONSHIPS

- INTERNATIONAL FORUMS AND ORGANIZATIONS
  - IAP
  - IAACA
  - CHINA-ASEAN AG FORUM
  - ARIN-AP
  - CARIN
  - BALI PROCESS
MLA MECHANISM IN INDONESIA

FLOW OF REQUEST

SCREENING OF DOCUMENTS

RESULTS

INCOMING REQUEST

DIPLOMATIC CHANNEL
MINISTRY OF FOREIGN AFFAIRS

CENTRAL AUTHORITY
MINISTRY OF LAAW AND HUMAN RIGHTS

DOCUMENTS SCREENING PROCESS

COMPETENT AUTHORITY
• POLICE FOR INVESTIGATION
• AGO FOR PROSECUTION, TRIAL AND IMPLEMENTATION OF COURT DECISION

EXECUTED BY THEM SELF

CONTACT RELEVANT AUTHORITY
IMIIGRATION
CENTRAL BANK
CUSTOMS AND EXCISE ETC
SUCCES STORIES:

• **HONG KONG**: REPATRIATING HENDRA RAHARDHA’S ASSETS

• **RUMANIA**: GATHERING STATEMENTS FROM WITNESSES IN INDONESIA

• **THAILAND**: DOCUMENTS REQUEST RELATES TO EXCISE OFFENCE

• **TURKI**: CONTRACTS AND TAX DOCUMENTS IN CORRUPTION CASES

• **USA**: LANDING EVIDENCE TO A MURDER CASE
LEGAL REFORM RELATED TO ASSET RECOVERY

AMENDMENT OF EXTRADITION AND MUTUAL LEGAL ASSISTANCE LAW

NEED FOR A FASTER PROCESS

TO SIMPLIFY BIROCRATION

EFFECTIVENESS OF CENTRAL AUTHORITY

DRAFT ON ASSETS CONFISCATION ACT

LEGAL BASIS FOR NON-CONVICTION BASED FORFEITURE

ASSET MANAGEMENT
WHY CENTRAL AUTHORITY SHOULD BE HELD BY ATTORNEY GENERAL’S OFFICE

• CENTRAL OF CRIMINAL JUSTICE PROCESS
  In most countries, prosecutor’s responsibilities cover from the beginning to the end of case process.

• ACCESS TO ALL STAKEHOLDERS AND EXCLUSIVE ACCESS TO THE COURT
  With Single Prosecution System, Prosecutors have access to all investigation bodies, and as a magistraat, it has an exclusive access to appear before the courts.

• WORLDWIDE NETWORKING THROUGH INTERNATIONAL ASSOCIATION OF PROSECUTORS.
EFFECTIVENESS OF AGO AS CENTRAL AUTHORITY

REQUESTING AGENCIES

DIRECT COOPERATION, AS LONG AS ADMISIBLE IN THE REQUESTING STATE’S COURT, AND CAN BE CARRIED OUT ACCORDING TO REQUESTED STATE

FORMAL COOPERATION

INCOMING REQUEST

DIPLOMATIC CHANNEL

MINISTRY OF FOREIGN AFFAIRS

CENTRAL AUTHORITY

ATTORNEY GENERAL OFFICES

EXECUTED UNDER ITS OWN AUTHORITY

CONTACT RELEVANT AUTHORITY

POLICE IMIGRATION CENTRAL BANK CUSTOMS AND EXCISE ETC
CONTACT PERSON:

• Dr. JAN S. MARINGKA, Chairman of International Cooperation, National Committee of Indonesia Association of Prosecutors.
  E-mail: Jans_Maringka@yahoo.com

• Dr. CHAERUL AMIR, Head of Legal and International Relations Bureau, Attorney General’s Office of Indonesia
  E-mail: kahlukejagung@gmail.com
CONCLUSION:

• INTERNATIONAL COOPERATION IS THE KEY TO SUCCESSFULLY COMBATING TRANSNATIONAL CRIMES. WHEREVER THE CRIME OCCURRED AND ANYONE WHO BECOMES THE VICTIMS, WE HAVE TO SEES CRIMES IS A SERIOUS THREAT TO SOVEREIGNTY OF ALL COUNTRIES AND SHOULD BE ADDRESSED TOGETHER.

• THE COMMITMENT TO FIGHTS CRIMES AND RECOVERING ASSET SHOUD BE OUR PRIORITY IN SAFEGUARDING THE SUSTAINABLE DEVELOPMENT IN ASIA PASIFIC, AND GIVE THE STRONG MESSAGE THAT THERE IS NO SAFE HAVEN FOR CRIMINALS AND PROCEED OF CRIMES.

• I THANK YOU