

Octopus Interface Conference – Cooperation against Cybercrime
Council of Europe, Strasbourg, 23-25 March 2010

CYBERCRIME LEGISLATION OF INDONESIA

**THE DIRECTOR GENERAL OF ICT APPLICATION
MINISTRY OF COMMUNICATION AND INFORMATION TECHNOLOGY
REPUBLIC OF INDONESIA**

**23 - 25 MARCH, 2010
STRASBOURG, FRANCE**

GOOD MORNING, LADIES AND GENTLEMEN,

FIRST OF ALL, I WOULD LIKE TO BEGIN WITH EXPRESS OUR DEEPEST THANKS TO GOD ALMIGHTY FOR HIS BLESSINGS AND PROTECTION TO US TO BE ABLE TO GET TOGETHER IN THIS PLACE TO JOINT THIS IMPORTANT CONFERENCE ON CYBERCRIME.

ALSO I WOULD LIKE TO THANK THE ORGANIZING COMMITTEE FOR INVITING THE INDONESIAN DELEGATES TO ATTEND THE OCTOPUS INTERFACE CONFERENCE ON COOPERATION AGAINST CYBERCRIME.

AS WE ALL KNOW, THE ISSUES ON CYBERCRIME HAS BECOME GLOBAL ISSUE THAT NEED TO PAY ATTENTION BY EVERY COUNTRY. INTERACTIVE ICT'S ARE SEEN AS A MEANS FOR FACILITATING ANTI-SOCIAL CRIMINAL ACTIVITIES WHICH UNDERMINE NATIONAL SECURITY AND LAW ENFORCEMENT AND THEREBY THREATEN THE SOCIETY. NOWDAYS THE CHALLENGE FACING LEGAL SYSTEMS, CRITICAL NATIONAL INFRASTRUCTURES AND SECURITY AGENCIES AS A CONSEQUENCE OF

THE USE OF THE NEW ICTs BY CRIMINAL ACTIVIST ARE CERTAINLY NOTHING SHORT OF MOMENTOUS.

THE USE OF ICTs BY NON-GOVERNMENT ORGANIZATIONS AND INTERNATIONAL CRIMINAL ORGANIZATIONS WILL THEREFORE CLEARLY HAVE AN INCREASINGLY IMPORTANT IMPACT UPON THE FUNCTION OF LAW ENFORCEMENT AND SECURITY AGENCIES IN THE INFORMATION AGE. IN THIS CONNECTION ONLY THROUGH INTERNATIONAL COOPERATION, COUNTRIES CAN WORK TOGETHER TO ANTICIPATE AND ELIMINATE THE PONTENTIAL OF CYBERCRIME AND TO TACKLE THE ATTACK OF CYBERCRIME.

LADIES AND GENTLEMEN,

INDONESIA's CYBERLAW, THE LAW NUMBER 11 YEAR 2008 CONCERNING ELECTRONIC TRANSACTION AND INFORMATION HAS PROVIDE A LEGAL INSTRUMENT THAT REGULATE IMPORTANT ISSUES RELATED TO THE USE OF IT FOR ELECTRONIC TRANSACTION, MANAGING ELECTRONIC DATA, AND TRANSFER OF ELECTRONIC DATA.

LAW NUMBER 11 OF 2008 CONCERNING ELECTRONIC INFORMATION AND TRANSACTION, REGULATES:

- a. DEFINITIONS EXPRESSED IN THE CONVENTION : ELECTRONIC INFORMATION, ELECTRONIC DOCUMENT, ELECTRONIC TRANSACTION, ELECTRONIC SYSTEM, AND COMPUTER.
- b. SUBSTANTIVE LAW EXPRESSED IN THE CONVENTION : ILLEGAL ACCESS, ILLEGAL INTERCEPTION, DATA INTERFERENCE, SYSTEM

INTERFERENCE, MISUSE OF DEVICES, COMPUTER-RELATED FORGERY, AND COMPUTER-RELATED FRAUD.

c. SOME PROCEDURAL LAW EXPRESSED IN THE CONVENTION : AUTHORITY FOR LAW ENFORCER TO INTERCEPT ELECTRONIC SYSTEM; THE OBLIGATION FOR LAW ENFORCERS TO HAVE PERMIT FROM DISTRICT COURT BEFORE THEY ARREST OR SEIZE SUSPECTS; AND THE ADMISSION OF ELECTRONIC EVIDENCES.

ALSO SEVERAL LAWS RELATED TO CYBERCRIME PREVAILS AMONG OTHERS THE LAW NUMBER 44 YEAR 2008 CONCERNING PORNOGRAPHY, PROVIDES PROVISIONS RELATED TO CHILD PORNOGRAPHY. THE PROVISIONS EXPRESSLY AMONG OTHERS PROHIBITE EVERY PERSON TO PRODUCE, MAKE, REPRODUCE, DUPLICATE, DISTRIBUTE, BROADCAST, IMPORT, EXPORT, OFFER, TRADE, RENT, HEAR, WATCH, OWN, KEEP, OR PROVIDE CHILD PORNOGRAPHY. LAW NUMBER 19 YEAR 2002 CONCERNING COPY RIGHT PROVIDES PROVISIONS CONCERNING INFRINGEMENT OF COPY RIGHT, AND THE PENAL CODE THAT REGULATED GENERAL CRIMINAL ACTIVITIES.

LADIES AND GENTLEMEN,

INDONESIA CONSIDERS THE NECESSARY TO RATIFY THE EU CONVENTION ON CYBERCRIME, BUDAPEST 2001. THE MAIN PURPOSES FOR INDONESIA TO RATIFY THE CONVENTION ARE: (I) TO COMPLETE THE LAW ON ELECTRONIC INFORMATION AND TRANSACTION BOTH SUBSTANTIVE AND PROCEDURAL LAW, AND (II) TO ENHANCE INTERNATIONAL COOPERATION IN DEALING WITH CYBERCRIMES ACTIVITIES. THOSE ARE ESSENTIALS IN PROTECTING OUR CITIZENS,

COUNTRY'S SECURITY AND INTERESTS, AS WELL AS ENHANCING OUR RELATIONSHIP AND COOPERATION WITH INTERNATIONAL ORGANIZATIONS AND INTERNATIONAL COMMUNITY.

IN THIS REGARD, WE ARE PREPARING DRAFT LAW OF CYBERCRIME AND DRAFT LAW OF RATIFICATION OF EU CONVENTION ON CYBERCRIME. THE DRAFT LAW OF CYBERCRIME CONCERNS MAINLY ON PROCEDURAL LAW AND SUBSTANTIVE LAW WHICH IS NOT REGULATED ON LAW NO 11/2008

SOME PROVISIONS IN THE EU CONVENTION ON CYBERCRIME HAS NOT BEEN COVERED IN LAW NO. 11/2008 AND WILL BE ADOPTED INTO THE DRAFT LAW OF CYBERCRIME, SUCH AS :

- a. SUBSTANTIVE LAW : COPRORATE LIABILITY, SANCTIONS AND MEASURE.
- b. SCOPE OF PROCEDURAL LAW/PROVISIONS: CONDITIONS AND SAFEGUARDS, EXPEDITED PRESERVATION OF STORED COMPUTER DATA, EXPEDITED PRESERVATION AND PARTIAL DISCLOSURE OF TRAFFIC DATA, PRODUCTION ORDER, SEARCH AND SEIZURE OF STORED COMPUTER DATA, REAL-TIME COLLECTION OF TRAFFIC DATA.
- c. GENERAL PRINCIPLES RELATING TO INTERNATIONAL CO-OPERATION, EXTRADITION.
- d. GENERAL PRINCIPLES RELATING TO MUTUAL ASSISTANCE : MUTUAL ASSISTANCE REGARDING ACCESSING OF STORED COMPUTER DATA, TRANS-BORDER ACCESS TO STORED COMPUTER DATA WITH CONSENT OR WHERE PUBLICLY AVAILABLE, MUTUAL ASSISTANCE REGARDING THE REAL-TIME COLLECTION OF TRAFFIC DATA, MUTUAL ASSISTANCE REGARDING THE INTERCEPTION OF CONTENT DATA,

AND SETTING UP OF A 24/7 NETWORK FOR ENSURING SPEEDY ASSISTANCE AMONG THE SIGNATORY PARTIES.

THE DRAFT LAW ON CYBERCRIME AND DRAFT LAW OF RATIFICATION OF EU CONVENTION ON CYBERCRIME (AS I HAVE MENTIONED) HAVE BEEN LISTED IN THE NATIONAL LEGISLATION PROGRAM AS PRIORITY TO BE DISCUSSED AND FINALIZED BETWEEN THE GOVERNMENT AND THE PARLIAMENT WITHIN THIS YEAR.

LADIES AND GENTLEMEN,

THERE ARE STILL MANY THINGS TO BE DONE. THE RAPID DEVELOPMENT OF ICT HAS CREATED MORE CHALLENGES AND INCREASE THREATS FOR INDIVIDUAL PRIVACY, SOCIETY, AND NATIONAL SECURITY. WE NEED TO KEEP OUR EYES OPEN TO OBSERVE THE CHANGES AND THREAT; WE HAVE TO ENSURE THAT OUR REGULATIONS ARE RIGHT BEHIND THE TECHNOLOGY DEVELOPMENTS; AND WE NEED TO ENCOURAGE THE COOPERATION BETWEEN US TO MAKE SURE THAT OUR EFFORTS TO COMBAT THE CYBERCRIME BE EFFECTIVE. ON THIS MOMENT, WE WOULD LIKE TO KINDLY REQUEST YOUR SUPPORT OUR PLAN TO RATIFY THE CONVENTION.

I THANK YOU FOR YOUR KIND ATTENTION.

**DIRECTOR GENERAL OF ICT APPLICATION,
MINISTRY OF COMMUNICATION AND INFORMATION TECHNOLOGY**

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