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IMPLEMENTING PROVISIONS ON CUSTOMS CODE

(Decision of the Council of Ministers No.205 date 13 April 1999)

Title 9

Counterfeit goods and pirated goods

Chapter 1

Application for action by the customs authorities

118. This Chapter lays down provisions in the implementing of Article 82 (4) of the Code.

119.

119. 1. The holder of the right may lodge an application in writing at the General Directorate of Customs, for action by the customs authorities, where the counterfeit or pirated goods are placed in one the following situations :

- a) released for free circulation, export or re-export;
- b) placed under a transit procedure or a procedure with economic impact.

119. 2. The application referred to in paragraph 1 shall contain :

- a) a sufficiently detailed description of the goods to enable the customs authorities to recognize them;
- b) the length of the period during which the customs officers are requested to take action;
- c) any other useful information to identify the exporter or the importer

The application shall be accompanied by proof that the applicant is holder of the right for the said goods, as well as other helpful documents for the identification of the goods.

119. 3. After examining the application, the General Directorate of Customs issues a ruling that shall be notified to the applicant within 5 days according to Article 18 of the Code. The applicant may lodge an appeal against this decision , in conformity with the procedures provided for in Article 19 (4) and Article 20 (5) of the Code. When the application is accepted, the General Directorate establishes a period within which the customs authorities may intervene. This time limit may

be extended upon express request of the holder of the right. The ruling for the approval of the request of the holder of the right shall be notified promptly to all customs offices.

119. 4. The General Directorate of Customs may establish that, once the request is approved, the applicant shall forward a down payment, subject to repayment of any excess amount, to cover any administrative charges occurred by the customs administration for carrying out the service.

119. 5. The holder of the right shall be obliged to immediately inform the General Directorate of Customs should the right cease to be validly registered or it expire.

Chapter 2

Control procedures

120.

120. 1. Where the customs authorities is satisfied, after consulting the applicant where necessary, that goods or part of goods referred to in paragraph 1(a) and (b) of Point 119., correspond to the description of the counterfeit or pirated goods contained in the decision of the General Directorate of Customs, they suspend the release of the goods or seize the goods depending on the situation.

120. 2. The customs authorities shall immediately inform the applicant about the actions taken. In accordance with the legislation in force regarding the protection of professional, commercial and industrial secrecy, the customs authorities notifies the holder of the right, of the name and address of the declarant, and if known, the name of the consignee of the goods, with a view to allow the applicant to take the legal action provided by the legislation in force in the field. The customs authorities shall afford the applicant the opportunity to inspect the goods whose release has been suspended or which have been seized.

120. 3. If within 20 days from notification of the seizure of goods or from the decision to suspend the release of the goods, the customs authorities do not receive a copy of the appeal lodged with the competent authorities by the holder of the right, the customs authorities revoke the decision to suspend the release of the goods or the seizure of the goods and release the goods.

120. 4. The applicant is responsible for any eventual damage occurred to the importer or a third party. Besides this, he is obliged to forward payment of all eventual charges related to the warehousing of the goods.

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