

Border Procedures for Protection of Intellectual Property Rights Regarding Trademarks and Copyrights

Article 1: Scope of Procedures

Provisions of these Procedures shall apply to intellectual property rights with regard to trademarks and copyrights.

Chapter One Border Procedures Undertaken by the Customs

Article 2: Suspending Clearance Procedures by the Customs' Self-Initiative

- (a) The Customs Authorities may suspend the clearance of goods suspected of bearing imitated trademarks upon having *prima facie* evidence to this effect, and shall notify the importer and the trademark owner, if his address is known, of the suspension.
- (b) The Customs Authorities shall refer samples of the imported works to the competent officials at the Ministry of Culture and Information. The Ministry may suspend the clearance of said works upon having proofs of infringement upon others' intellectual rights, and shall notify the Customs Authorities, the importer and the right holder, if his address is known, of the suspension.

Article 3: Inspection of Suspended Goods

Without prejudice to the protection of confidential information, the right holder and importer may inspect samples of goods or works the clearance of which has been suspended in order to confirm the claim of the competent authorities.

Article 4: Requesting the Assistance of Trademark Owner

Upon suspending the clearance of goods of their own accord, the Customs Authorities may ask the trademark owner to provide, free of charge, any information or assistance, including technical know-how and facilities, in order to determine if the goods are counterfeits.

Chapter Two
Border Procedures Pursuant to an Order by the Board of Grievances
or a Decision by the Ministry of Culture and Information

Article 5: Seeking the Issuance of a Preventive Seizure Decision against a Work in Violation of Copyright Law

Upon having legitimate reasons for suspending the clearance of infringing works, the copyright owner may, at any time even prior to the filing of a civil or criminal lawsuit, submit a request in writing to the Ministry of Culture and Information for the issuance of a decision to suspend the clearance of said works, in accordance with the procedures specified by the Implementing Regulations of Copyright Law.

Article 6: Seeking the Issuance of a Preventive Seizure Order against Goods Bearing a Counterfeited Trademark

The trademark owner may, at anytime even prior to filing a civil or criminal lawsuit, and on the basis of a petition enclosed therewith an official trademark registration certificate, seek the issuance of a judicial order by the Board of Grievances to seize the goods bearing a counterfeit of his trademark and suspend their clearance by the Customs, in accordance with the procedures and conditions stipulated in Article Forty Nine of Trademarks Law.

Article 7: The Customs' Suspension of Clearance of Infringing Goods or Works Pursuant to an Order by the Board of Grievances or a Decision by the Ministry of Culture and Information

The Customs shall, pursuant to an order by the Board of Grievances or a decision by the Ministry of Culture and Information, suspend the clearance of infringing goods or works.

Article 8: Request for Review by the Party against Whom the Preventive Seizure Has Been Issued

Without prejudice to the execution of the seizure, the party against whom the preventive seizure has been issued may, within ten days from the date of notification of the seizure, file a request either with the circuit handling the case at the Board of

Grievances or the competent department at the Ministry of Culture and Information to review it by revoking the same or staying its execution.

Article 9: Annulment of Seizure if not Followed by Filing a Lawsuit

The seizure order issued by the Board of Grievances or the preventive seizure decision issued by the Ministry of Culture and Information shall be deemed null and void unless the right holder follows it by filing a civil or criminal lawsuit against whom such an order has been issued, within ten days from the date of its issuance.

Article 10: Grace Period for Clearance of Goods

If the right holder does not submit to the Customs Authorities, within ten days from his notification of the preventive seizure order or decision, proof of his filing a civil or criminal lawsuit with the Board of Grievances or with the competent committee at the Ministry of Culture and Information, the Customs Authorities shall clear the goods and works subject of seizure, upon satisfying that other conditions of import and export have been complied with.

Chapter Three

Disposal of Goods and Works Infringing Intellectual Property Rights

Article 11: Disposal of Infringing Goods and Works

The Customs Authorities shall be entrusted with the execution of judgments and decisions issued by the competent bodies for the confiscation or destruction of infringing goods and works, and shall have the power to dispose of the same through non-commercial outlets unless instructed otherwise by judicial or administrative authorities.

Article 12: Re-Exportation

The Customs Authorities shall undertake not to allow the re-exportation of counterfeited trademark goods in an altered state or subject them to a different customs procedure, other than in exceptional circumstances.

Chapter Four

General Provisions

Article 13: Contesting Decisions of the Customs Authority

The parties concerned may contest the decisions issued by the Customs Authority, regarding the application of these Procedures, before the Board of Grievances within sixty days of notification in writing or through publication if notification is not possible.

Article 14: Publication of these Procedures and their Coming into Effect

These Procedures shall be published in the Official Gazette and shall come into effect after ninety days from the date of publication.