

Regulations NO.7 of the year 2000 For Border Measures for the protection of Intellectual property rights

For the purposes of application of the provisions of Article (41) of the Customs Law NO. (20) for the year 1998 concerning border measures which the Customs department adopts for the protection of Intellectual property rights, I hereby have decided that the following regulations shall be applied:

Article (1); For the purposes of such regulations, the following words and terms shall have the meanings assigned thereto:

The Competent Section means Procedures Section –Tariff Directorate

The Customs House Official means the director or a senior official who is duly authorized to manage the Customs House.

Article (2); The following procedures shall be applied upon implementation of the provisions of the two paragraph (A, B) of Article (41);

- A. Upon receiving a decision from the Competent Court including suspension of clearance and release of goods, it is then referred to the Competent Section that shall be assigned its implementation and shall address the concerned customs house, if identified, to implement the court's decision or to issue a circular to all customs houses, if the customs house is not identified.
- B. The suspect goods, for which a decision issued from the Competent Court to suspend its clearance and release procedures, shall be seized in the customs yards and warehouses, but they are only released in the two following cases:
 1. If the applicant, who has submitted a request to the Competent Court, does not notify the department that he has filed a case before the competent court, within 8 days from the date of being notified (of the decision of suspension of clearance procedures), and upon presentation of such a proof.
 2. Issuance of a decision from the competent court including the cancellation of the decision to suspend the clearance procedures and release of goods.

In such these two cases, the customs department shall continue clearance procedures in accordance with the provisions of the Customs Law and the relevant legislations in force.

Article (3); For the purposes of application of the provisions of paragraph (D) of Article (41) of the Customs Law and, in some cases, if the Customs houses receive goods which involve clear signs and evidence of infringement either with respect to the shape of the product or its content, that would make the customs house official completely convinced that such goods involving an infringement of intellectual property right with respect to infringement of copyright and trademark counterfeiting, the following procedures shall be applied;

- A. The relevant employee organizes a record including all the details of the goods with regard to the product, the country of origin of the goods, the exporting country, the name of the exporter, importer and signs and evidence of infringement which he detects in such goods, and then such record shall be assigned to the Customs house official.
- B. The Customs house official shall consider the record referred to him and shall inspect the suspect goods himself, and if he is fully convinced that there is an infringement, he shall suspend the clearance and release procedures, within a period not exceeding 24 hr from the date of receiving that record.
- C. The Customs house official shall notify the importer or its legal representative in writing of suspension of clearance and release procedures.
- D. The Customs house official shall notify the Competent Section in the department of the infringement case in writing at the same day clearance and release procedures are suspended by clarifying all information pertaining to the goods and the reasons for being convinced that there is infringement.
- E. The Competent Section shall consider the suspension decision issued under paragraph (B) and shall coordinate with the relevant parties in this regard (Registrar of trademarks, National Library Department). In case of verification of the suspension decision, it shall also inform the relevant right holder or the legal representative in the kingdom of the suspension decision in writing, as soon as possible, within a period of time not exceeding 3 days,

if his address is known to the department. But, if the suspension decision fails to comply with the relevant legislation, the customs house shall be immediately notified to cancel the suspension decision and goods shall therefore be released.

F. The Competent Section may permit the intellectual property right holder who claims that there is an infringement of any of IPR, to fill in a specific form in which he describes all information about infringed goods so as to facilitate the task of the department in the exercise of its respective powers contained in paragraph (D) of Article (41) and case by case.

G. If the right holder does not notify the department that he has filed a lawsuit within 8 days from the date of being notified in accordance with the provisions of paragraph (E) of this Article , then the goods shall be released under the Customs Law and the relevant legislation,

H. The Provisions of this Article shall not be applied if the address of the right holder is not known to the department.

Article (4); The right holder is allowed to inspect the goods for which clearance and release procedures have been suspended, provided that this is performed in the customs yards and under the supervision of the relevant officer.

Article (5); The following Goods are excluded from the application of the Provisions of these regulations;

1. Small quantities of goods of a non-commercial nature.
2. Personal effects and gifts contained in travelers' personal luggage or in small parcels.
3. Transit Goods including goods which were stored in free zones and for which Transit Declarations had been prepared.
4. The goods which have been on the market of the exporting country by the right holder or with his consent.

Article (6); A- The Competent Section shall undertake the task of the following record Keeping;

1. A record for registration of notification addresses, in the kingdom, for the owners of intellectual property rights who would like to be registered with the department.
2. A record for registration of adopted measures with respect to the information

pertaining to the seized goods, the date of seizure and date of notifying the right holder of the court's decision or the department's decision and other procedures and periods.

B- To streamline the procedures, the Competent Section shall coordinate with trademarks registrar to keep the statements which include trademarks registered therein.

Article (7); these instructions are effective as of the date of publishing them in the Official Gazette.