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Republic of Latvia

Cabinet  
Regulation No. 325  
24 July 2001

## **Procedures for the Performance of Customs Control Measures for the Protection of Intellectual Property**

Issued pursuant to Section 114,  
Paragraph three of the Customs Law

### **I. General Provisions**

1. These Regulations prescribe the procedures by which customs control measures are to be performed to protect intellectual property, by prohibiting the release for free circulation, exportation, re-exportation, customs warehousing, inward processing, processing under customs control, temporary importation, temporary exportation, re-importation, importation to a tax-free shop, exportation for processing, transit and abandonment for the benefit of the State, of counterfeit and pirated goods.
2. If there is cause for suspicion that the relevant goods are counterfeit and pirated goods, the release of such for free circulation, exportation, re-exportation, customs warehousing, inward processing, processing under customs control, temporary exportation, re-importation, importation to a tax-free shop, exportation for processing, transit and abandonment for the benefit of the State shall be discontinued until the measures referred to in Paragraphs 19, 20, 21, 22 and 24 of these Regulations have been implemented.
3. These Regulations do not apply to non-commercial goods that are in the personal luggage of natural persons and do not exceed the quantity specified with respect to tax relief.

### **II. Application to a Customs Authority and Examination thereof**

4. In order to enforce and protect his or her rights, the holder of copyright, neighbouring rights, trademarks or designs protected in Latvia, or his or her authorised person (hereinafter – holder of rights), shall submit to the Central Customs Board of the State Revenue Service (hereinafter – Central Customs Board) a written application regarding counterfeit and pirated goods (hereinafter – application).

5. Information indicated in the application shall be the following:

5.1. a detailed description of the original goods and the suspected counterfeit or pirated goods, so as to enable the customs authority to identify such;

5.2. the time period within which the holder of rights shall request the customs authority in which counterfeit and pirated goods are located or might be imported, to take relevant measures; and

5.3. the actual or suspected location of counterfeit and pirated goods (if it is known), or the territorial customs authority in the territory of which counterfeit and pirated goods are located or might be imported.

6. An application shall be accompanied by proof that the applicant is the holder of rights of the relevant goods:

6.1. if the holder of rights submits the application, the following shall be deemed to be proof:

6.1.1. with respect to registered rights or such rights regarding which a registration application has been submitted, – a proof of registration or submission of an application;

6.1.2. with respect to copyright, neighbouring rights, rights of a design work that is not registered or not submitted for registration, – any proof confirming the status of the holder of rights;

6.2. if the application is submitted by another person who has the right to the relevant intellectual property, in addition to the proof referred to in Sub-paragraph 6.1 of these Regulations, a document confirming the right of such person to the relevant intellectual property shall be submitted; and

6.3. if the application is submitted by a representative of the holder of rights or a representative of a person who has the right to utilise the relevant intellectual property, in addition to the proof referred to in Sub-paragraphs 6.1 and 6.2 of these Regulations, a document confirming the right of such person to dispose the relevant intellectual property shall be submitted.

7. The application may be a once-only or with a specified term of validity.

8. The holder of rights shall also submit to the Central Customs Board, in accordance with the procedures determined by the State Revenue Service, any other information known to him or her that is necessary for the taking of a decision.

9. After examination of the application, the Central Customs Board shall notify, in writing, the holder of rights or another person who has the right to utilise the relevant intellectual property, regarding the decision.

10. If the Central Customs Board finds the application unsubstantiated, it shall indicate the reasons for refusal to the applicant in writing. The holder of rights has the right to appeal the decision of the Central Customs Board in accordance with the procedures set out in regulatory enactments.

11. If the Central Customs Board finds an application to be substantiated, it shall specify a time period within which the necessary customs control measures shall be taken. The Customs Board may extend such time period on the basis of an application of the holder of rights.

12. If there is cause for suspicion that the goods are counterfeit or pirated goods, the Central Customs Board shall, without delay, forward the decision by which the application has been recognised as substantiated, to the customs authority responsible for the disposal of such goods, as well as notify it of the time period within which customs control measures shall be taken.

13. The holder of rights whose application has been accepted shall notify the Central Customs Board without delay if his or her rights have ceased with respect to the relevant intellectual property.

14. If, on the basis of an application, customs control measures have been taken, and it is determined that the relevant goods are not counterfeit or pirated goods, the holder of rights whose provided information has been used to identify the goods, shall cover the following expenses:

14.1. expenses of the persons who have incurred losses as a result of the measures taken by the customs authority; and

14.2. expenses incurred while storing such goods under customs control.

15. If a holder of rights has not submitted an application or it has been acknowledged as unsubstantiated, but the customs authority, when subjecting the goods to the customs procedures referred to in Paragraph 1 of these Regulations, has cause for suspicion that the goods are counterfeit or pirated goods, the customs authority shall notify without delay the Central Customs Board of the alleged infringement of rights. The Central Customs Board shall notify without delay the holder of rights (if such is known) or another person (if such is known) who has the right of utilisation of the relevant intellectual property.

16. In the case referred to in Paragraph 15 of these Regulations, the customs authority is entitled to terminate the release of goods for free circulation and, after notifying the Central Customs Board, keep the goods for temporary storage under customs control for a time period not exceeding 10 working days, so that the holder of rights may submit an application.

17. If the holder of rights has not submitted an application within the time period set out in Paragraph 16 of these Regulations, the State Revenue Service shall act in conformity with the requirements prescribed by regulatory enactments and take a decision with respect to the goods regarding which there is cause for suspicion that they may be counterfeit or pirated goods.

18. In accordance with the powers vested in them by regulatory enactments with respect to actions with counterfeit and pirated goods, customs authorities or other competent institutions shall not be liable for the losses or damage caused due to such activities.

### **III. Customs Control Measures**

19. The customs authority to which the decision of the Central Customs Board has been forwarded in accordance with Paragraph 12 of these Regulations, shall determine, together with the holder of rights, whether the goods conform to the description of the counterfeit or pirated goods referred to in the decision. If the goods conform to the description, the customs authority shall draw up a statement, in accordance with the procedures determined by the State Revenue Service, regarding conformity of the goods to the description of counterfeit or pirated goods. The statement shall be signed by the holder of rights and the responsible official of the customs authority. The customs authority shall terminate release of such goods and shall act in accordance with the procedures set out in regulatory enactments.

20. The customs authority shall inform, without delay, but not later than within two working days, the Central Customs Board, the declarant of the goods and the holder of rights regarding its actions.

21. At the request of the holder of rights, the customs authority or the Central Customs Board shall provide him or her, in compliance with the requirements set out in regulatory enactments, with information regarding the given name, surname, personal identification number and address of the place of residence of the declarant of the goods and the recipient of the goods, or the name, registration number and legal address of the undertaking (company). At the request of the holder of rights, the Central Customs Board shall also provide him or her with information regarding the given name, surname, personal identification number and address of the place of residence of the manufacturer of the counterfeit and pirated goods and the consignor of the goods, or the name, registration number, legal address of the undertaking (company) and the quantity of the goods (if such information is known).

22. The customs authority shall give the holder of rights and the persons who have applied for customs procedures for the goods, an opportunity to inspect the goods the release of which is terminated.

23. During the inspection of goods the customs authority shall be entitled to take samples. If necessary, the samples shall be sent to the holder of rights for the provision of an opinion.

24. The holder of rights shall provide the opinion, within 10 days from receipt of the samples of goods, to the customs authority referred to in Paragraph 19 of these Regulations. If the holder of rights cannot, due to substantiated reasons, provide an opinion within the time period referred to, he or she may request extension of the time period by 10 working days. After the end of such time period, the goods shall be released on condition that all customs formalities have been completed.

### **IV. Closing Provision**

25. Cabinet Regulation No. 43 of 9 February 1999, Regulations on the Customs Control Measures for the Protection of Intellectual Property, is repealed (*Latvijas Vēstnesis*, 1999, No. 41/42).

These Regulations shall come into force on 28 July 2001.

Prime Minister

A.Bērziņš

Minister for Finance

G.Bērziņš