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Republic of Latvia

Cabinet

Regulation No. 420

Adopted 10 September 2002

## **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

1. These Regulations prescribe the procedures by which customs control measures are to be performed to protect intellectual property, by prohibiting temporary storage, release for free circulation, exportation, re-exportation, customs warehousing, inward processing, inward processing under customs control, temporary importation, re-importation, importation to a tax-free shop, outward processing, transit, importation into a free zone or a free warehouse 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 or pirated goods, temporary storage, release of such for free circulation, exportation, re-exportation, customs warehousing, inward processing, inward processing under customs control, temporary importation, re-importation, importation to a tax-free shop, outward processing, transit, importation into a free zone or a free warehouse and abandonment of the goods for the benefit of the State shall be discontinued until the measures referred to in Paragraphs 18, 19, 20 and 21 of these Regulations have been taken.
3. These Regulations shall not apply to non-commercial goods, which are in the personal luggage of natural persons and do not exceed the quantity for which tax relief is specified.
4. In order to enforce and protect his or her rights, the holder of copyright, neighbouring rights, trademarks, designs and a patent protected in the Republic of Latvia, or his or her representative (hereinafter – holder of the right), shall submit to the Central Customs Board of the State Revenue Service (hereinafter – Central Customs Board) an application for the application of customs control measures in respect of counterfeit and pirated goods (hereinafter – application). The application shall be drawn up in writing or by utilising electronic means of data processing and transmission.
5. The following information shall be indicated in the application:

5.1. detailed description of the original goods and the alleged counterfeit or pirated goods to enable the customs authority to identify such;

5.2. the time period within which the holder of the right requests the performance of customs control measures; and

5.3. any other information known to the holder of the right which is required in order to take a decision regarding the protection of copyright, neighbouring rights, trademark, design and patent rights.

6. The application shall be accompanied by proof that the submitter is the holder of the right of the relevant goods:

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

6.1.1. for registered rights — registration confirmation;

6.1.2. for copyright and neighbouring rights — any proof which certifies the authorship or the status of the holder of the right;

6.2. if the application is submitted by any other 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 shall be submitted which certifies the right of such person to the relevant intellectual property; and

6.3. if the application is submitted by a representative of the holder of the right 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 which certifies the right of such representative to dispose the relevant intellectual property shall be submitted.

7. The application may be once only or with a specified term of validity. A once-only application shall apply to a specific alleged consignment of counterfeit or pirated goods or to the goods referred to in Paragraph 13 of these Regulations, or to a specific customs authority. An application with a specified term of validity shall apply to all alleged consignments of counterfeit or pirated goods or all customs authorities within a specific time period.

8. After examination of the application, the Central Customs Board shall notify, in writing or by utilising electronic means of data processing and transmission, the holder of the right or any other person who has the right to utilise the relevant intellectual property regarding their decision.

9. If the Central Customs Board finds the application unsubstantiated, it shall indicate the reasons for refusal to the submitter in writing. The holder of the right has the right to appeal the decision of the Central Customs Board in accordance with Section 22 of the Law on State Revenue Service.

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

11. The Central Customs Board shall forward without delay, but not later than within two working days, the decision by which the application has been recognised as substantiated, to customs authorities, as well as notify them of the time period within which customs control measures shall be performed. If the application is once only, the Central Customs Board shall forward the referred to decision to the responsible customs authority.

12. The holder of the right whose application has been accepted shall notify the Central Customs Board if his or her rights have ceased with respect to the relevant intellectual property.

13. If a holder of the right has not submitted an application or it has been recognised as unsubstantiated, but the customs authority, when subjecting the goods to the activities 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, but not later than within 24 hours the Central Customs Board of the alleged infringement of rights. The Central Customs Board shall notify without delay, but not later than within 24 hours the holder of the right (if such is known) or any other person (if such is known) who has the right to utilise the relevant intellectual property.

14. In the case referred to in Paragraph 13 of these Regulations, the customs authority shall terminate the release of goods and, after information has been provided to the Central Customs Board, shall keep the goods under customs control for a time period of up to 10 working days, so that the holder of the right may submit an application.

15. If the holder of the right has not submitted an application within the time period set out in Paragraph 14 of these Regulations, the State Revenue Service shall act in conformity with the requirements prescribed by regulatory enactments.

16. 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 the right whose provided information has been used to identify the goods, shall cover the following expenses:

16.1. losses incurred by persons as a result of the measures taken by the customs authority; and

16.2. expenses incurred while storing the referred to goods under customs control.

17. After arrest of the goods the holder of the right shall be allowed to ascertain whether the goods are counterfeit or pirated within a period of ten working days. The customs authority may extend such time period by ten working days on the basis of a submission from the holder of the right. The holder of the right need not cover the expenses referred to in Paragraph 16 of these Regulations, which have been incurred during the relevant time period.

18. The customs authority to which the decision of the Central Customs Board has been forwarded in accordance with Paragraph 11 of these Regulations, shall ascertain, together with the holder of the right, 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 report regarding conformity of the goods to the description of counterfeit or

pirated goods (Annex). The holder of the right and the responsible official of the customs authority shall sign the report. The customs authority shall terminate the release of the goods referred to and shall act in accordance with the procedures set out in regulatory enactments.

19. The customs authority shall inform without delay, but not later than within two working days, the Central Customs Board and the declarant of the goods regarding its actions in writing or using electronic means of data processing and transmission.

20. At the request of the holder of the right, the customs authority or the Central Customs Board shall notify him or her, in conformity with the requirements set out in regulatory enactments, of the given name, surname, personal identification number and address of the place of residence of the declarant of the goods and the consignee of the goods, or the name, registration number and legal address of the merchant, as well as of the quantity of the goods. At the request of the holder of the right, the Central Customs Board shall also notify him or her of 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 and legal address of the merchant, as well as of the quantity of the goods if such information is known.

21. The customs authority shall give the holder of the right and the persons who have applied for a customs regime for the goods or temporary storage of the goods, an opportunity to inspect the goods the release of which is terminated.

22. During inspection of the goods the customs authority is entitled to take samples which, if necessary, shall be sent to the holder of the right for the provision of an opinion.

23. In accordance with the powers conferred upon them by regulatory enactments with respect to legal actions with counterfeit and pirated goods, the Central Customs Board and customs authorities shall not be liable for the losses or damage caused due to such activities.

Prime Minister

A. Bērziņš

Minister for Finance

G. Bērziņš

**Report No. \_\_\_\_\_**  
**regarding conformity of goods to the description of counterfeit or pirated goods**

The report has been drawn up on the basis of the procedures for the performance of customs control measures for the protection of intellectual property determined by the Cabinet.

\_\_\_\_\_  
(date of drawing up the report)

\_\_\_\_\_  
(place of drawing up the report)

Official of the customs authority

(position, given name, surname)

holder of the intellectual property right or representative  
(given name, surname, authorisation number and date)

Protected intellectual property

Customs control

Customs regime

Goods transportation type

Vehicle registration number

Goods accompanying documents

Declarant of the goods

Number of the customs inspection report \_\_\_\_\_ Date \_\_\_\_\_

During the customs control it has been determined that the goods conform/do not conform (cross the inappropriate) to the description of counterfeit or pirated goods.

Goods	CN Code	Quantity	Net weight	Value (LVL)
1	2	3	4	5

Drawing up of the report has been notified to the declarant of the goods.

Official of the customs authority

(signature and personal seal imprint)

Holder of the intellectual property right or representative

(signature)

Minister for Finance

G. Bērziņš