

Pursuant to the Article 67, Paragraph 3 of the Customs Law ("Official Gazette of the Republic of Montenegro" 7/02, 38/02, 72/02, 21/03, 31/03, 29/05 and 66/06 and "Official Gazette of Montenegro 21/08), the Government of Montenegro at its session of 23 June 2011, has adopted the following

## **REGULATION ON PROCEDURE OF CUSTOMS AUTHORITY WITH THE GOODS UNDER SUSPICION OF INFRINGING THE INTELLECTUAL PROPERTY RIGHTS**

("Official Gazette of Montenegro" No.33/11)

### **I GENERAL PROVISIONS**

#### **Subject**

#### **Article 1**

(1) This Regulation stipulates the conditions for undertaking actions with goods suspicious of infringing an intellectual property right and procedure for undertaking such actions, in cases when the goods are:

- 1) Declared for release for free circulation, export or re-export,
- 2) Found during the control of goods entering or exiting the customs territory of Montenegro,
- 3) placed under a suspensive customs procedure, or
- 4) placed in free zone or free warehouse.

(2) This Regulation stipulates actions for protection of an intellectual property right undertaken by the customs authority when the goods referred in Paragraph 1 are found to infringe intellectual property rights.

### **Goods infringing an intellectual property right**

#### **Article 2**

(1) Goods infringing an intellectual property right means:

- 1) Counterfeit goods, namely:
  - goods, including packaging, bearing without authorisation a trademark identical to the trademark validly registered in respect of the same type of goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the trademark-holder's rights in Montenegro;

- any trademark symbol (including a logo, label, sticker, brochure, instructions for use or guarantee document bearing such a symbol), even if presented separately, on the same conditions as the goods referred to in paragraph 1 of this item;

- packaging materials bearing the trademarks of counterfeit goods, presented separately, on the same conditions as the goods referred to in paragraph 1 of this item.

2) 'pirated goods', namely goods which are or contain copies made without the consent of the holder of a copyright or related right or design right, regardless of whether it is registered in cases where the making of those copies would constitute an infringement of copyright or related right or design right,

3) goods which infringe a patent, a supplementary protection certificate, a plant variety right, designations of origin or geographical indications, semi-conductors topography right, in accordance with the law.

(2) Any mould or matrix which is specifically designed or adapted for the manufacture of goods infringing an intellectual property right shall be treated as goods of that kind if the use of such moulds or matrices infringes the right-holder's rights under the law.

(3) For the purposes of this Regulation, 'right-holder of the intellectual property right' (hereinafter: 'right-holder' means:

1) the holder of a trademark, copyright or related right, design right, patent, supplementary protection certificate, plant variety right, protected designation of origin, protected geographical indication, semi-conductors topography;

2) Person authorized to use right referred in the Item 1 of this Paragraph (hereinafter: authorised user of the right),

3) representative of the right-holder or authorised user.

(4) Representative referred in the Paragraph 3, Item 3 of this Article can be any natural or legal person, as well as:

1) organization for collective protection of copyright or related rights,

2) groups or representatives (agent) who submitted applications for registration of protected designation of origin or protected geographical indication, and

3) breeder of plant varieties.

## **Exception from application**

### **Article 3**

This Regulation shall not apply to:

1) goods bearing a trade-mark with the consent of the holder of that trademark or to goods bearing a protected designation of origin or a protected geographical indication or which are protected by a patent or a supplementary protection certificate, by a copyright

- 2) Where a traveller's personal baggage contains goods of a non-commercial nature within the limits of the duty-free allowance and there are no material indications to suggest the goods are part of commercial traffic.

## **II PROCEDURE FOR ACTIONS FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHT**

### **Application for action for protection of intellectual property right**

#### **Article 4**

(1) The application for action for protection of an intellectual property right (hereinafter: application) is lodged by the right holder to the authority relevant for customs operations (hereinafter: Customs Administration) in written form or in electronic manner.

(2) The application is lodged in two copies, in the form filled in accordance with the Instructions in the Annex 1, making the integral part of this Regulation.

(3) The application must contain information which enable the customs authority to easily recognise the goods to which the application is related, especially:

- 1) Correct and detailed technical description of the goods,
- 2) All information in possession of the right holder, in reference to the type or method of infringement of an intellectual property right,
- 3) Name and the address of contact person, designated by the right-holder.

(4) Following the request of customs authority, the right holder shall also provide other data on original goods or goods under suspicion of infringing an intellectual property right, such as information on:

- Value of original goods;
- Location of the goods or destination of the goods;
- Based on which the shipment or packaging of the goods can be indentified;
- expected date of arrival or forwarding of the goods;
- type of transport;
- importer, exporter or holder of the goods;
- country (or countries) where the goods are produced, as well as transport routes;
- Technical and other differences, if known, between the original goods and the goods under suspicion of infringing an intellectual property right.

- (5) Depending from the type of intellectual property right for which the application is being submitted, the customs authority can request additional documents.

## **Documents attached to the application**

### **Article 5**

(1) The right-holder referred to in the Article 2, Paragraph 3, Item 1 of this Regulation, shall attach to the application following:

- 1) In case of intellectual property right which is registered or for which the registration application has been lodged, proof of registration or proof of lodged registration application;
- 2) In case of copyright or related right or design right, which is not registered or for which the registration application was not lodged, the copyright document or the document proving the status of genuine right holder is to be lodged.

(2) For the purposes of Paragraph 1, Item 1 of this Article, the proof also means the excerpt from the adequate registry.

(3) For protected designation of origin or protected geographical indication, attached to the proof referred in Paragraph 1, Item 1 of this Article, shall be also lodged the proof that the right-holder is the producer or the association and the proof that such designation is registered. The Paragraph 3 of this Article is applied accordingly to the wines and alcoholic beverages.

(4) If the application is lodged by the authorised user of right, apart from proofs referred in the Paragraphs 1, 2 and 3 of this article, it is also necessary to lodge document proving that the person is entitled to exercise right to use.

(5) If the application is lodged by the representative of the right-holder or authorised user of right, apart from proofs referred in Paragraphs 1, 2 and 3 of this Article, the authorisation for representation is also lodged. Agent is also obligated to attach the declaration referred in the Article 6 of this Regulation, signed by the person referred in the Paragraphs 1 or 4 of this Article or other document by which it is accepting liability to cover expenses incurred by the actions of the customs authority for their account, in accordance with the Article 6 of this Regulation.

(6) No fee is paid during the lodging of application for action.

## **Declaration of the right-holder**

### **Article 6**

Applications for action shall be accompanied by a declaration from the right-holder, which may be submitted either in writing or electronically, accepting liability towards the persons involved in a situation referred in the Article 1, Paragraph 1 of this Regulation if the procedure, initiated in accordance with the Article 8, Paragraph 1 of this Regulation, is terminated due to an act or

omission by the right-holder or in the event that the goods in question are subsequently found not to infringe an intellectual property right.

(1) Within the declaration referred to in the Paragraph 1 of this Article, the right holder is obligated to bear expenses related to the storing and keeping the goods withheld under the customs control in accordance with the Article 8 and 9 of this Regulation.

(2) Declaration referred to in the Paragraph 1 of this Article is submitted in the form given in the Annex 2, making the integral part of this Regulation.

### **Acceptance of the application**

#### **Article 7**

(1) Customs Administration, within 30 working days following the lodging of the application, is bringing the decision on undertaking actions for protection of intellectual property rights and submits it to the applicant in written form.

(2) When the circumstances order for urgent undertaking of actions and when the application contains sufficient data related to the shipments, suspicious of containing goods infringing the intellectual property rights, the customs administration is adopting the decision referred in the Paragraph 1 of this Article without delay, three working days following the day of lodging of application at the latest.

(3) Customs Administration with the decision to approve the application also sets the deadline for undertaking actions by customs authority, which cannot last longer than one year.

(4) Deadline referred in the Paragraph 3 of this Article can be extended for one year, following the written request of the applicant, if it has been lodged prior the expiry of existing deadline, and under condition that the expenses, charged to the right holder in accordance with the provisions of this Regulation, have been settled.

(5) Decision, referred to in the Paragraph 1 of this Article is submitted without delay to the customs authorities in charge of customs approved procedure or use of goods.

(6) The right holder is obligated, without delay, to notify the customs administration on changes occurred after the registration of rights and of termination of its rights regardless of reason for termination.

### **III CONDITIONS UNDER WHICH THE CUSTOMS AUTHORITY IS UNDERTAKING ACTIONS FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHT**

#### **Procedure following the application**

##### **Article 8**

(1) If the customs authority, to whom the customs administration has submitted the decision referred in the Article 7, Paragraph 1 and 2 of this Regulation, consulting the right holder if needed, is suspecting that the goods, matching the description of goods in this decision, is infringing the intellectual property rights, it shall suspend the release of the goods, i.e. it shall temporarily detain the goods.

(2) Customs authority shall inform the Customs administration without delay on termination of customs allowed procedure or use of goods and its temporary detention.

(3) The customs administration informs the right holder, while the customs authority informs the declarant or holder of the goods on temporary detention of goods with notification of real or estimated quantity of goods and real or assumed type of goods which was detained.

(4) Customs authority, in order to determine the infringement of the intellectual property right, while respecting the regulation on data protection, shall inform the right holder, on his request, on the name and address of the consignee, consignor, declarant or holder of the goods, as well as origin of goods which is suspected of infringing the intellectual property rights.

(5) Customs authority shall allow the inspection of temporary detained goods to the right holder and persons involved in some of customs allowed procedure or use of goods, referred to in the Article 1 of this Regulation.

(6) Customs authority can, during the inspection of goods, in order to facilitate the procedure, collect the samples of goods and hand it over to right holder, on his request, only for the purpose of analysis of samples of the goods.

(7) Under conditions stipulated in Article 9, Paragraph 1 item 2 of this Regulation, the samples must be returned after the analysis is completed, before placing the temporary withheld goods into the customs allowed procedure or use.

(8) The right holder has the responsibility and covers the expenses of analyses referred in the Paragraph 6 of this Article.

#### **Destruction of goods under customs control**

##### **Article 9**

(1) If in some of the cases referred to in the Article 1, Paragraph 1 of this Regulation, customs authority temporarily detains the goods under suspicion of infringing the intellectual property rights, in order to simplify procedure, it can, following the request of the right holder, destroy the

1) the right holder, within 10 working days or in case of perishable goods, within three working days from the receipt of the notification, referred to in the Article 8, Paragraph 3 of this Regulation, in written form, notify the customs authority that the temporarily detained goods is infringing the intellectual property rights, with submission of written consent of the declarant, holder or owner of the goods for destruction of goods.

2) The destruction of the goods is carried out in a manner that the responsibility and expenses of destruction lay with the right holder, if the law doesn't stipulate otherwise.

(2) If the declarant, holder or owner of the goods fails to submit the appeal on decision to destroy the goods within the deadline stipulated in Paragraph 1, Item 1 of this Article, and there is an evidence of duly receipt of notification, it shall be considered that the approval has been granted. When the circumstances require so, the deadline of 10 working days can be extended for additional 10 working days by the customs authority.

(3) Prior the destruction of goods the customs authority is collecting samples which may serve as evidence in case of initiation of court procedure.

(4) If the declarant, holder or owner of the goods oppose to destruction of goods, the customs authority shall act in accordance with the Article 12 of this Regulation.

## **Utilization of information**

### **Article 10**

(1) The right-holder shall use information referred to in the Article 8, Paragraph 4 of this Regulation only for purposes of exercising rights referred to in the Article 9, Paragraph 1 and Article 11 Paragraph 1 of this Regulation.

(2) If the right holder is not using information referred in the Article 8, Paragraph 4 of this Regulation in accordance with the law, the customs authority shall revoke decision, referred to in the Article 7, Paragraph 1 of this Regulation.

## **Deadlines**

### **Article 11**

(1) The right-holder is obligated, within 10 working days following the receipt of notification referred in the Article 8, Paragraph 3 of this Regulation, to notify the customs authority on initiation of procedure at competent court due to infringement of intellectual property right.

(2) Customs authority, following the justified request of the right-holder, can extend the deadline stipulated in the Paragraph 1 of this Article for additional 10 working days.

(3) In case of perishable goods, suspected of infringing the intellectual property rights, deadline referred to in the Paragraph 1 of this Article shall be three working days and it cannot be extended.

## **Notification**

### **Article 12**

(1) If the customs authority, within the deadline stipulated in the Article 11 of this Regulation, was not notified that the procedure at competent court has been initiated or has not received the request for destruction of goods, referred to in the Article 9 Paragraph 1 of this Regulation, the customs authority shall proceed with the customs allowed procedure or use of goods.

(2) If the customs authority is notified within the deadline stipulated in Article 11 of this Regulation, that the procedure at competent court has been initiated or that the court has decided on temporary action base on which the releasing goods is suspended, the customs authority shall delay the release of goods.

## **Security**

### **Article 13**

(1) If the goods are temporarily detained under suspicion of infringement of right of industrial design, trademark, supplementary protection certificate or plant variety protection right, the declarant, owner, importer, holder or consignee of the goods, can, on provision of security, submit the request for the release of goods, i.e. the request for termination of detention of goods, provided that:

- 1) The customs authority has been timely informed on initiation of the procedure at competent court, in accordance with the Articles 11 and 12 of this Regulation,
- 2) Before the expiry of deadline stipulated in the Article 11 and 12 of this Regulation, the competent court has not appointed temporary action, and
- 3) Conditions for placing of goods into customs allowed procedure or use of goods have been met.

(2) Security referred to in the Paragraph 1 of this Article must be provided in the amount sufficient for protection of intellectual property rights and it shall not exclude use of other legal remedies available to the right holder.

(3) The applicant referred in the Paragraph 1 of this Article, is obligated to cover the expenses occurred in reference to the storing and keeping of goods prior the collection of goods.



## **Ex officio procedure**

### **Article 14**

- (1) When the customs authority in some of cases referred in the Article 1, Paragraph 1 of this Regulation, prior the submission of application referred in the Article 4 of this Regulation, suspects that the goods are infringing the intellectual property rights, it can terminate customs allowed procedure or use of goods, i.e. temporarily detain the goods, of which it shall inform the customs administration.
- (2) Customs Administration shall without delay inform in written form the right holder of temporary detention of goods, possible infringement of intellectual property rights as well as possibility of submission of request referred in the Article 4 of this Regulation, within three working days from the receipt of that notification.
- (3) The customs authority shall inform the applicant or holder of the goods, if they are known, on termination of customs allowed procedure or use of goods, i.e. its temporary detention.
- (4) Customs authority can, in accordance with the regulations and without disclosing information, apart from data on real or assumed quantity and type of goods, prior notifying the holder of goods on possible infringement of its right, to request from the holder of right to provide it with the information necessary for confirming suspicion of infringement of intellectual property right.
- (5) If the right holder, within the deadline stipulated in the Paragraph 2 of this Article does not submit the application for action for protection of intellectual property right, the customs authority shall release the goods and continue to conduct requested customs allowed procedure or use of goods, in accordance with the customs regulations.
- (6) If the right holder submits the application for action for protection of intellectual property right, within the deadline stipulated in the Paragraph 2 of this Article, the Customs Administration shall without delay adopt a decision on accepting the application in accordance with the Article 7 of this Regulation.
- (7) Deadlines referred in the Articles 9 and 11 of this Regulation are counted from the next day of the receipt of application referred in the Article 4 of this Regulation.

## **IV PROCEDURE WITH GOODS FOUND TO INFRINGE INTELLECTUAL PROPERTY RIGHTS**

### **Procedure with goods**

#### **Article 15**

Goods which, in accordance with this Regulation, is found to infringe an intellectual property right shall not be:

- 1) Entered into the customs territory of Montenegro,
- 2) released for free circulation,
- 3) removed from the customs territory of Montenegro,
- 4) exported from the customs territory of Montenegro,
- 5) re-exported from the customs territory of Montenegro,
- 6) placed under the suspensive procedure, or
- 7) placed in free zone or free warehouse.

### **Notification on finalization of court procedure**

#### **Article 16**

The right holder is obligated, without delay, and within eight working days following the receipt of decision of the competent court at the latest, to notify the customs administration of finalization of court procedure at competent court.

### **Procedure in case of dropping of charges**

#### **Article 17**

(1) If the competent court drops the charges or rejects the petition, the Customs Administration, in accordance with the final decision of the court, within eight working days following the receipt of decision of the court at the latest, notify the competent customs authority in written form, who continues with the customs allowed procedure or usage of goods.

(2) After the receipt of notification referred to in the Paragraph 1 of this Article, the customs authority shall inform the declarant, holder or consignee of the goods that they can place the goods into customs allowed procedure or use, if other conditions prescribed for placing referred goods in customs allowed procedure or use have been met.

### **Conditions for destruction of goods**

#### **Article 18**

(1) If the competent court adopts a decision that the goods, infringing the intellectual property rights shall be destroyed or removed from regular trade flows, the customs authority shall order the destruction of such goods under customs control or its removal from regular trade flows in some other manner (including giving away free of charge, in humanitarian purposes, recycling etc.), under condition that:

- 1) Risks of future infringement of intellectual property rights are reduced to the highest extent possible;
- 2) No harm is done to the right holder;
- 3) Right holder is allowed to suggest the procedure of removal of goods.

(2) Removal from regular trade flow, referred to in the Paragraph 1 of this Article, shall not mean mere removal of stamps which were placed onto the counterfeit goods without authorisation.

### **Collecting samples**

#### **Article 19**

If the decision of the competent court or customs authority orders for destruction of goods under customs control, the customs authority, prior destruction of goods, shall allow the right holder to keep the samples of such goods in the amount needed as evidence in procedure against persons involved in infringement of the intellectual property rights.

### **Expenses**

#### **Article 20**

In accordance with this regulation, storage, keeping or destruction of the goods, held under the customs control, shall not give rise to costs for the customs administrations.

## **V TRANSITIONAL AND FINAL PROVISIONS**

### **Initiated procedures**

#### **Article 21**

(1) Decisions of the customs authority on actions for protection of intellectual property rights, adopted in accordance with the Regulation on procedure of customs authority with the goods under suspicion of infringing the intellectual property rights („Official Gazette of the Republic of Montenegro“, 25/05 and „Official Gazette of Montenegro“, 16/08), shall be valid until the expiry of time period for which they were adopted.

(2) Procedures for application of actions for protection of intellectual property rights, initiated prior the entering into force of this Regulation, shall be completed in accordance with the Regulation on procedure of customs authority with the goods under suspicion of infringing the intellectual property rights („Official Gazette of the Republic of Montenegro“, 25/05 and „Official Gazette of Montenegro“ 16/08).

### **Termination of validity**

## **Article 22**

On the day of entering into force of this Regulation, the Regulation on procedure of customs authority with the goods under suspicion of infringing the intellectual property rights („Official Gazette of the Republic of Montenegro“, 25/05 and „Official Gazette of Montenegro“, 16/08) shall cease to be valid.

## **Entry into force**

## **Article 23**

This Regulation shall enter into force on the eight day following that of its publication in the *Official Journal of Montenegro*, and it shall apply with effect from 1 January 2012.

## **GOVERNMENT OF MONTENEGRO**

No: 03 - 6309

Podgorica, 23 June 2011

Prime Minister,  
PhD Igor Lukšić

APPLICATION FOR ACTION FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. Date of receipt of application for action

<input type="text"/>	<input type="text"/>	<input type="text"/>
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day / month / year

2. Details of applicant (i.e. the right holder within the meaning of Article 2, Paragraph 3 and 4 of this Regulation):

Name

Function

Address

City

Postal code

Country

VAT No

Tel

Mob

Fax

E-mail

Internet address

<p>3. Status of applicant ( within the meaning of Article 2, Paragraph 3 and 4 of this Regulation ):</p> <p> <input type="checkbox"/> Right holder (*)                    <input type="checkbox"/> Right holder's representative (*)       </p> <p> <input type="checkbox"/> Authorised user of the right (*)                    <input type="checkbox"/> Representative of authorised user (*)       </p>	
<p>4. Type of right to which application refers (¹):</p> <p> <input type="checkbox"/> Trademark                    <input type="checkbox"/> Industrial design                    <input type="checkbox"/> Copyright or related right       </p> <p> <input type="checkbox"/> Patent                    <input type="checkbox"/> Designation of origin                    <input type="checkbox"/> Geographical indication       </p> <p> <input type="checkbox"/> Supplementary protection certificate           <input type="checkbox"/> Plant variety           <input type="checkbox"/> Topography of semiconductors       </p>	
<p>5. Name and address of contact person (for administrative matters):</p> <p> <input style="width: 100%;" type="text"/>  <input style="width: 100%;" type="text"/>            Tel <input style="width: 100%;" type="text"/>            Mob <input style="width: 100%;" type="text"/>            Fax <input style="width: 100%;" type="text"/>            E-mail <input style="width: 100%;" type="text"/>            Internet address <input style="width: 100%;" type="text"/> </p>	<p>6. Name and address of contact person (for technical matters):</p> <p> <input style="width: 100%;" type="text"/>  <input style="width: 100%;" type="text"/>            Tel <input style="width: 100%;" type="text"/>            Mob <input style="width: 100%;" type="text"/>            Fax <input style="width: 100%;" type="text"/>            E-mail <input style="width: 100%;" type="text"/>            Internet address <input style="width: 100%;" type="text"/> </p>
<p>7. Attached data on original goods / goods under suspicion of infringing the intellectual property rights:</p> <p> <input type="checkbox"/> Number of documents attached (²)                    <input type="checkbox"/> Number of photos attached (²)       </p>	
<p>8. Attached specific data on type or manner of infringement of rights:</p> <p> <input type="checkbox"/> Number of documents attached (²)                    <input type="checkbox"/> Number of photos attached (²)       </p>	
<p>9. Attached document(s) attesting that the applicant holds the right of application for action</p>	

Number of documents attached <sup>(2)</sup>

10. Declaration attached in accordance with the Article 6 of the Regulation (\*\*)

Declaration attached

11. Any other information in the right holder's possession:

- Country or countries of production      Number of documents attached <sup>(2)</sup>     

- Routes used by traffickers      Number of documents attached <sup>(2)</sup>     

- Technical differences between the authentic goods and the goods  
under suspicion of infringing the intellectual property right      Number of documents attached <sup>(2)</sup>     

- CN tariff heading

Other useful information

Number of documents attached <sup>(2)</sup>

12. Date of filling of application:

day / month /year

Place

Signature and stamp of the applicant (\*\*\*)

\* ( ) See the box 9 (for additional information refer to the Instructions for filling the form and submission of application for actions for protection of intellectual property rights)

\*\* ( )for additional information refer to the Instructions for filling the form and submission of application for actions for protection of intellectual property rights

\*\*\* ( )If the applicant is the right holder's representative, it must produce the proof that is is authorised to represent the right holder

(1) Tick the adequate box(es)

(2) Enter the appropriate number; if there are no attachments enter 0.

## **INSTRUCTIONS FOR FILLING OF THE FORM AND SUBMISSION OF THE APPLICATION OF ACTION FOR PROTECTION OF AN INTELLECTUAL PROPERTY RIGHT**

### **I DOCUMENTS ATTACHED TO THE APPLICATION**

1) If the right-holder is submitting the application of action for protection of an intellectual property right (hereinafter: application) in person:

- in case of registered right or the right for which the registration application is being submitted, the registration document or the submitted application must be provided,

- in case of copyright or related rights or patent right, which is not registered or for which the registration application has not been submitted, the copyright document or the genuine right holder is submitted.

2) If the application is lodged by a person referred to in the Article 2, Paragraph 3 item 2 of this Regulation, who is authorised to exercise any of right referred to in the Article 2, Paragraph 1, Item 1, 2 and 3 of this Regulation, apart from documents referred to in the Item 1 of these Instructions, it is also necessary to lodge document proving that the person is entitled to exercise referred right.

3) If the application is lodged by a representative of the right holder or authorised user of any of rights referred to in the Article 2, Paragraph 1, Item 1, 2 and 3 of this Regulation, apart from documents referred to in the Items 1 and 2 of these Instructions, it is also necessary to lodge authorisation for representation.

The natural or legal person filling the box 2 of the application must provide documents prescribed in the box 10 of the application.

### **II CONTENTS OF THE APPLICATION**

The right holder lodges the application as a preventive measure if there is a suspicion of infringement of its right or intellectual property right or that they shall be infringed. The application contains all information that enables the customs authority to easily recognise the goods related to the application, specifically:

- correct and detailed technical description of the goods,
- all information in possession of the right holder, related to the type or manner of infringement of the intellectual property right,
- name and address of the contact person designated by the right holder,
- declaration referred to in the Article 6 of this Regulation and proof that the applicant is the right holder in reference to the referred goods.



Right holders shall return the receipt of notification (proof) sent from the customs authority in accordance with the Articles 14 and 8 of this Regulation. Prescribed deadlines (three working days or 10 working days) start from the date of receipt of notification of the right holder from the customs authority.

For the purpose of this Regulation working day means every day except holidays, Saturday and Sunday. Day of receipt of notification is not counted in the deadline, and the next day is counted as start of the deadline.

The application can be submitted electronically, if the system of electronic data exchange has been established and approved. In all other cases, the form can be filled with typewriter or legible handwriting. Regardless of filling method, erasing marks, cross-out words or other alterations shall not be visible.

### III METHOD OF SUBMISSION OF THE APPLICATION

The right holder lodges the application for action for protection of an intellectual property right to the Customs Administration, to its headquarters address (Oktobarske revolucije 128, Podgorica). The application is lodged in two copies, one for customs authority and one for the right holder. The Customs Administration, within 30 working days from the lodging of the application, shall provide the applicant with the decision in written form. If the application is rejected, the Customs Administration adopts a decision, with a justification, to which the right holder is entitled to appeal. Actions for protection of intellectual property right are approved for a period not exceeding one year following the adoption of the decision. Approved period can be extended for one year, following the written request of the right-holder, which was submitted prior the expiry of approved period, and if all previous expenses, charged to the right holder in accordance with the provisions of this Regulation, have been settled.

### IV EXPLANATION OF MAJOR BOXES FILLED BY THE APPLICANT

Box 2 (Data on the applicant): in terms of Article 2, Paragraph 3 of this Regulation the applicant can be the right-holder in person, authorised user of the intellectual property right or representative of the right-holder or authorised user of the right.

Box 3 (Status of the applicant): tick adequate field.

Box 4 (Type of right to which the application refers): tick adequate field.

Boxes 5 and 6 (Name and address of contact person for administrative and technical matters): the box 5 should be filled with data of contact person of the applicant in charge of the administrative matters, while the box 6 should be filled with data on the person in charge of liaison with customs authority in order to clarify technical specifics in terms of withheld goods. The contact person must be available at any time of day.

Boxes 7 (Attached data on original goods), 8 (Attached specific data on type or manner of infringement of rights) and 11 (Any other information in the right holder's possession): provide specific and precise data which enables customs authority to correctly recognize authentic goods, as well as data that the right holder might have in possession on type and manner of infringement of rights (documents, photos, etc.).

Data should be as precise as possible in order to allow customs authority to have simple and efficient recognition of suspicious shipment using the system of risk analysis.

The referred boxes should be filled with data aimed at raising awareness of customs authority on goods and types of possible fraud. Additional data can be provided, such as: value of original goods, location of the goods or destination of the goods, data used for identification of goods or packaging, expected date of arrival or forwarding of the goods, type of transport, data on importer or holder of the goods.

Box 10 (Declaration attached in accordance with the Article 6 of the Regulation): natural or legal person who fills the box 2 of the application for action must, in all cases, be the person who will provide the documents referred to in the box 10 of the application.

Box 12 (Date of filling of application): by signing in this box, the right holder confirms to accept terms and conditions as well as its obligations stipulated in this Regulation.

**ANNEX 2**

DECLARATION IN ACCORDANCE WITH THE ARTICLE 6 OF THE REGULATION ON PROCEDURE  
OF CUSTOMS AUTHORITY WITH GOODS UNDER SUSPICION OF INFRINGEMENT OF  
INTELLECTUAL PROPERTY RIGHTS

I, the undersigned, \_\_\_\_\_, declarant  
(name and surname)

right-holder, within the meaning of Article 2, Paragraph 3 of Regulation on procedure of customs authority with goods under suspicion of infringement of intellectual property rights (hereinafter 'the Regulation'), hereby undertake in accordance with Article 6 of the Regulation to assume liability towards the persons involved in customs allowed procedures, referred to in Article 1 of this Regulation, in the event that a procedure initiated pursuant to present Regulation is discontinued owing to an act or omission on my part or in the event that the goods in question are subsequently found not to infringe an intellectual property right.

- I hereby undertake to pay all costs incurred under the Regulation by keeping goods under customs control pursuant to Article 8 of this Regulation, and where applicable Article 9 of this Regulation, including costs occasioned by the destruction of goods infringing an intellectual property right pursuant Article 18 of this Regulation.

- I confirm that I have taken note of Article 10 of this Regulation and undertake to notify the customs administration of any alteration to or loss of my intellectual property rights.

Done at \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Signature:

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