

**Order of the Minister of Finance of December 3, 2001,  
fixing the form of the written request for suspension of customs clearance of the  
import of goods containing a counterfeit factory, trade or service mark and the  
procedures for submission of the request to the customs authorities**

The Minister of Finance,

Considering Law No. 2001—36 of April 17, 2001, on the Protection of Factory, Trade and Service Marks, in particular Article 65.

Hereby orders:

**1.** The written request for suspension of customs clearance of the import of goods presumed to contain a counterfeit factory, trade or service mark, as provided for by Article 56 of the above Law No. 2001—36 of April 17, 2001, shall be submitted to the head office of the Directorate General of Customs, prior to the arrival of the goods concerned at the customs office.

However, the customs authorities may accept submission of the request after the arrival of the goods at the customs office, if the requestor proves that the goods in question have not yet been removed from said office.

In the case provided for by Article 62 of the above Law No. 2001—36 of April 17, 2001, the request shall be submitted within three (3) days of the date of notification of the suspension of customs clearance given to the requestor by the customs authorities.

**2.** The request referred to in Article 1 of this Order shall be submitted by the owner of the protected factory, trade or service mark, or his beneficiaries.

**3.** The written request, provided for by Article 1 of this Order, shall be drafted on a special form in accordance with the model attached to this Order, to be obtained from the head office of the Directorate General of Customs. The request shall contain all the information and data provided for by Article 6 of this Order.

**4.** The customs authorities shall examine the request drawn up in accordance with the provisions of Article 57 of the above Law No. 2001—36 of April 17, 2001, and shall immediately inform the requestor, in writing, of the decision taken concerning his request. Appropriate reasons shall be given for the decision.

**5.** The request shall remain valid for a period of one year from the date of notification by the customs authorities to the requestor that it has been accepted.

The request shall be renewed by registered letter sent by the requestor.

**6.** The request submitted by the owner shall include all the information provided for in Article 57 of the above Law No. 2001—36 of April 17, 2001, in particular the following:

– the identity of the persons to be contacted in the case of retention of the goods presumed to represent an infringement of the protected factory, trade or service mark, their addresses, telephone and fax numbers.

– a detailed description of the authentic goods accompanied by the following:

\* photographs of the goods and/or any other graphical reproduction of the protected mark,

\* a sample of the goods where possible,

\* an indication of the site(s) where the goods were manufactured,

\* the names of the companies which import the goods.

– a detailed description of the incriminating goods accompanied, insofar as is possible, by the following:

\* photographs of the goods and/or any other graphical reproduction,

\* a sample of the goods,

\* the country of origin and/or source,

\* surnames, first names and addresses of the manufacturers, distributors, recipients and/or importers, and their customs identification numbers,

\* means of transport used,

\* where appropriate, a copy of the court decisions already handed down relating to the counterfeiting of the factory, trade or service mark concerned.

**7.** The following shall be attached to the request:

– any document proving that the right invoked has been transferred to the requestor,

– where appropriate, the copy of the contract granting the requestor the right to use the protected factory, trade or service mark.

**8.** Once the request has been accepted, any changes and new information relating to the requestor's right and the factors underlying the request should be notified to the customs authorities.

**9.** In the case of retention of the goods which are the subject of the request, the customs authorities shall inform the applicant accordingly by mail, fax or any other means of telecommunication.

**10.** The Director General of Customs shall be responsible for enforcing this Order.

Tunis, December 3, 2001.

Minister of Finance

Taoufik Baccar

Witnessed by

Prime Minister

Mohamed Ghannouchi

REPUBLIC OF TUNISIA  
MINISTRY OF FINANCE  
DIRECTORATE GENERAL OF CUSTOMS

REQUEST FOR SUSPENSION OF CUSTOMS CLEARANCE  
OF THE IMPORT OF GOODS COUNTERFEITING A PROTECTED  
FACTORY, TRADE AND SERVICE MARK

Information concerning the requestor:

I, the undersigned <sup>1</sup> .....
.....
.....
Customs identification number: .....
acting as <sup>2</sup> :       – owner of a protected factory, trade and service mark. – having the right to use a protected factory, trade and service mark. – Agent <sup>3</sup> .....
residing at: .....
Telephone number: .....      Mobile telephone number: .....
Fax number: .....
Number and date of entry in the National Register of Marks: .....
.....
Depositing body: .....
Duration of protection of the mark: .....
Hereby requests the Customs Authority to apply the provisions of Article 56 of Law No. 2001—36 of April 17, 2001 on the Protection of Factory, Trade and Service Marks, to the goods presumed to counterfeit the mark which is the subject of the entry in the National Register of Marks, as indicated above.
Done at Tunis,
Signature

Description of authentic goods:

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Description of presumed counterfeit goods<sup>4</sup>

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Information concerning the dispatch which is the subject of the request<sup>5</sup>:

Country of origin: ..... Country of source: .....

Importer and/or distributor and/or manufacturer (surname and first name or name of the company and surname, first name and address of its representative: .....

Importer customs identification number: .....

Means of transport used: .....

Customs office concerned with the import transaction: .....

Other information: .....

Information concerning the persons to be contacted in case of retention of the goods which are the subject of the request:

Surname and first name or name of the company and surname and first name of its legal representative: .....

Address<sup>6</sup>: .....

Telephone number: ..... Mobile telephone number: .....

Fax number: .....

#### ATTACHMENTS<sup>7</sup>

- Copy of the entry in the National Register of Marks concerned.
- Certified copy of the operation contract<sup>7</sup>.
- Mark deposit certificate.
- Copy of the power of attorney where the requestor acts as an agent.
- Photographs and graphical reproductions of the alleged counterfeit goods.
- Photographs and graphical reproductions of the authentic goods.
- Copy of the court decisions already handed down<sup>7</sup>.
- Other documents<sup>8</sup>.

#### Undertaking

I, the undersigned, .....

hereby request the suspension of the customs clearance of the import of the goods

- I undertake to notify the Directorate General of Customs of any change in the circumstances which have given rise to my request and in particular the loss of my right.

– I undertake to submit to the customs authorities, within ten (10) days<sup>\*</sup> of the date of notification of retention of the goods, the proof of my civil or criminal appeal to the competent court.

– I undertake to submit to the customs authority the proof of establishment of guarantees intended to cover my responsibility toward the importer where it shall be duly proven that the goods retained do not constitute an infringement of the protected right, failing which the goods will be released *ipso jure*.

– I undertake to deposit a guarantee with the competent customs collector, intended to cover payment of the amount of the fees that would be incurred as a result of the goods being kept under customs supervision<sup>9</sup>.

– I undertake to inform the customs authorities, as soon as possible, of the court decisions concerning the counterfeit goods and in relation to this case.

Done at Tunis,  
Lawful signature

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*Note:* Translation by the International Bureau of WIPO.

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<sup>1</sup> Indicate the surname and first name for natural persons and the name of the company and surname and first name of the legal representative and address of the head office for legal persons.

<sup>2</sup> Delete as applicable.

<sup>3</sup> Surname and first name of the agent or head office and surname and first name of the legal representative and nature of the principal.

<sup>4</sup> Mention the elements specific to the counterfeit goods in comparison with the authentic goods.

<sup>5</sup> Information to be supplied as far as possible.

<sup>6</sup> Must necessarily be domiciled in Tunisia.

<sup>7</sup> Where appropriate.

<sup>8</sup> Please specify.

<sup>\*</sup> In the case provided for by Article 62 of Law 2001—36, this period is set at three days from the date of notification.

<sup>9</sup> The amount of the guarantee shall be fixed by the customs authorities.