

**Order of the Minister of Finance of December 3, 2001  
fixing the form of the written request for suspension of customs clearance  
for the import of goods comprising a counterfeit industrial design  
and the procedures for submission of the request to the customs authorities**

The Minister of Finance,

Considering Law No. 2001-21 of February 6, 2001, on the Protection of Industrial Designs, in particular Article 40.

Hereby orders:

**1.** A written request for suspension of customs clearance for the import of goods presumed to comprise counterfeit industrial designs, as provided for in Article 31 of the above Law No. 2001-21 of February 6, 2001, shall be submitted to the head office of the Directorate General of Customs, before the goods concerned arrive at the customs office.

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

In the case provided for in Article 37 of the above Law No. 2001-21 of February 6, 2001, the request shall be submitted within three (3) days of the date of the notification of the suspension of customs clearance, given to the requestor by the customs authorities.

**2.** The request referred to in Article one of this Order shall be submitted by the owner of the protected industrial design or his beneficiaries, in accordance with Article 5 of the above Law No. 2001-21 of February 6, 2001.

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

**4.** The customs authorities shall examine the request drawn up in accordance with Article 32 of the above Law No. 2001-21 of February 6, 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, of the acceptance of the request.

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

**6.** The request submitted by the owner shall contain all the information provided for in Article 32 of the above Law No. 2001-21 of February 6, 2001, in particular the following:

— the identity of the persons to be contacted in cases where the goods presumed to represent an infringement of the protected industrial design are withheld, their addresses, and telephone and fax numbers.

— a detailed description of the authentic goods accompanied by the following items:

\* photographs of the goods and/or any other graphic reproduction of the protected items,

\* insofar as is possible, a sample of the goods,

\* an indication of the place(s) where these goods were made,

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

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

\* photographs of these goods and/or any other graphic reproduction,

\* a sample of these goods,

\* the country of origin and/or source,

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

\* means of transport used,

\* where necessary, a copy of the court decisions already handed down regarding the infringements of the industrial design concerned.

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

— any document certifying the transfer to the requestor of the right relied on,

— where necessary, a copy of the contract granting the requestor the right to use the protected industrial design.

**8.** Once the request has been accepted, all amendments and new information relating to the applicant's right and to the items giving rise to the request shall be notified to the customs authorities.

**9.** In cases where the goods which are the subject of the request are withheld, the customs authorities shall inform the requestor accordingly by mail, fax or any other form of telecommunication.

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

Tunis, December 3, 2001.

Minister of Finance

*Taoufik Baccar*

Seen

Prime Minister

*Mohamed Ghannouchi*



**Description of the authentic goods:**

**Description of the goods presumed to be counterfeit<sup>4</sup>:**

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

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

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

Customs identification number of the importer: .....

Means of transport used: .....

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

Other information: .....

**Information concerning the persons to be contacted in cases where the goods which are the subject of the request are withheld:**

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

Address: .....

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

Fax number: .....

Done at Tunis, (date) .....  
Signature

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ATTACHMENTS

- Copy of the entry in the National Register of the industrial designs concerned.
- Certified copy of the contract for use (where applicable).
- Mark deposit certificate.
- Copy of the power of attorney if the requestor is acting as an agent.
- Photographs and graphic reproductions of the goods alleged to be counterfeit.
- Photographs and graphic reproductions of the authentic goods.
- Copy of the court decisions already handed down (where applicable).
- Other documents (state precise references) .....
- .....
- .....

UNDERTAKING

I, the undersigned .....

Hereby requesting the suspension of customs clearance for the import of the goods,  
.....

— I undertake to notify the Directorate General of Customs of any change in the information supporting my current request and, in particular, the loss of my right.

— I undertake to communicate to the customs authorities, within a period of ten (10) days<sup>6</sup> of the date of notification of the withholding of the goods, the proof of my civil or criminal appeal to the competent court.

— I undertake to cover my responsibility toward the importer and to communicate, to the customs authorities, the justification of the establishment of guarantees intended to cover this responsibility in cases where it will be duly proven that the goods withheld do not infringe the protected right, failing which the goods shall be released *ipso jure*.

— I undertake to deposit a security with the competent customs officer, designed to cover the payment of the costs which would be incurred as a result of the goods being held under customs supervision<sup>7</sup>.

— I undertake to communicate, at the earliest possible date, to the customs authorities the court decisions governing the counterfeit goods relating to this case.

Done at ..... , (date) .....  
Lawful Signature

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

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<sup>1</sup> The request shall, as a matter of course, be accompanied by the attached undertaking containing the requestor's lawful signature.

<sup>2</sup> Put a cross in the corresponding box.

<sup>3</sup> First name and surname of the representative or business name of the principal company, and first name and surname of the legal representative and address.

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

<sup>5</sup> Information to be provided, insofar as is possible.

<sup>6</sup> In the case provided for by Article 45 of Law No. 2001-20 on the Protection of Topographies of Integrated Circuits and, in particular, Article 48, this period is set at three days from the date of notification.

<sup>7</sup> The amount of the security shall be fixed by the customs authorities.