



IMPLEMENTATION REGULATIONS FOR CUSTOMS AUTHORITIES TO SUSPEND GOODS INFRINGING ON TRADEMARK RIGHTS

Article 1

These Regulations are prescribed in accordance with Article 78-I of the Trademark Act (hereinafter referred to as "the Act").

Article 2

A trademark right holder who requests to detain imported or exported goods that are suspected of infringing on his/her trademark rights shall submit in writing to Customs Authorities at the port where the goods are to be imported or exported and submit the following information to the authorities:

1. Facts of infringement, along with descriptions which may sufficiently identify the infringing goods,
2. Relevant substantive information including name of importer/exporter suspected of committing the infringement, name of goods, ports and dates of importation/exportation, ship or flight numbers, container numbers, storage location, and other relevant information, and
3. Trademark registration certificate or other documentation that may sufficiently prove the trademark rights.

Where the request as prescribed in the preceding paragraph is lodged by a representative agent, proof of representation shall be submitted.

Article 3

Request to detain goods that are suspected of infringing on trademark rights shall include a security in an amount equivalent to the duty-paid price of the imported goods or the F.O.B. price of the exported goods, which is assessed by the Customs Authorities, or an equivalent in one of the following securities:

1. Bonds published by the government; or
2. Certificate of bank deposit; or
3. Certificate of credit cooperative deposit; or
4. Over one year's trust certificate from investment company; or
5. Guarantee from loan institution.

A pledge for items 1 through 4 of the preceding paragraph shall be established with Customs Authorities.

Article 4

Where the request conforms to the provisions of Article 72 of the Act and request for detention is admitted, the Customs Authorities shall immediately detain goods and give a notice to the person who requested to detain goods and the owner of detained goods in writing.

Where the request has failed to conform to legal formality, Customs Authorities shall give a notice to the person who requested to detain goods to correct it. Before the



correction is submitted, Customs clearance procedures shall not be affected.

Article 5

Within a period of twelve days after the trademark right holder has been served notice of admission of the request, if the trademark right holder fails to follow Article 69 of the Act informing Authorities Customs that a lawsuit has been initiated by trademark right holder against the owner of the detained goods, the Customs Authorities shall revoke the detention request. When not violating other applicable Customs Regulations on import and export goods clearance, the Customs Authorities shall follow the procedures to release the detained goods after retaining a representative sample.

Pursuant to Article 73-II of the Act, the period as prescribed in the preceding paragraph may be extended by another twelve days by the Customs Authorities in appropriate cases.

Article 6

The owner of detained goods may request the Customs Authorities to revoke the detention in written documents and provide a security equivalent to two times of the security referred to in Article 3 of this Regulation or equivalent assurance.

The security set forth in the preceding paragraph shall be in accordance with Article 3 of this Regulation.

Article 7

Where a final ruling of the court dismisses the litigation initiated by the applicant who requested to detain goods claiming that the detained goods are infringing article, or a final judgment of the court which holds that the detained goods do not infringe trademark rights, the applicant or the owner of detained goods shall apply to Customs Authorities to revoke the detention in writing with relevant evidentiary documents.

Article 8

Customs Authorities shall follow the procedures in accordance with applicable Customs Regulations on import and export goods clearance and release the detained goods after retaining a representative sample, if any of the following exists without violating other applicable Customs Regulations on import and export goods clearance:

1. Pursuant to the preceding Article of this Regulation, the detention is revoked by Customs Authorities; or
2. Pursuant to Article 6 of this Regulation, the owner of detained goods has requested Customs Authorities to revoke detention; or
3. Pursuant to Article 73-I-4 of the Act, the trademark owner has requested to revoke the detention.

Article 9

These Regulations shall come into force from the date of promulgation.