



**JOINT ORDER OF THE CHAIRMAN OF THE CUSTOMS GENERAL ADMINISTRATION AND
THE CHAIRMAN OF THE INTELLECTUAL PROPERTY AGENCY**

APPROVAL OF PROCEDURE

**/ Procedure for import of goods related to intellectual property rights across the customs
border /**

June 18, 2009

Ulaanbaatar

Based on Article 8.4 of the Law on the Legal Status of Government Agencies and Article 262.2 of the Law on Customs, the ORDER is as follows:

1. To approve the "Procedure for import of goods related to intellectual property rights across the customs border" as attached.
2. The Customs Control and Clearance Division of the General Customs Agency /D.Baasan/ and the Control Division of the Intellectual Property Agency /D.Delgertsoo/ shall be responsible for monitoring the implementation of this order.
3. his order shall come into force on July 1, 2009

CHAIRMAN OF THE CUSTOMS
GENERAL ADMINISTRATION
D.TSEVEENJAV

CHAIRMAN OF THE INTELLECTUAL
PROPERTY AGENCY
N.CHINBAT

PROCEDURE FOR INTRODUCTION OF INTELLECTUAL PROPERTY GOODS AT THE CUSTOMS BORDER

One. General provision

1.1. The purpose of this regulation is to regulate relations related to the importation of goods related to intellectual property rights, registration with customs, detention, inspection and decision-making of infringing goods, and exchange of information on infringing goods.

1.2. The Constitution of Mongolia, the Civil Code, the Customs Law, the Patent Law, the Law on Trademarks and Geographical Indications, and the Copyright and Related Rights Law of Mongolia, international treaties of Mongolia and this regulation.

1.3. "Goods subject to intellectual property rights" means copyright and related works of science, literature and art, inventions patented by the Intellectual Property Office of Mongolia, product designs, utility models and geographical indications; , goods with a trademark or registered trademark.

1.4. "Seizure of goods" means the process of stopping the customs clearance of goods, prohibiting the entry of goods across the customs or state border, and prohibiting the use and disposal of goods.

Two. Import of goods related to intellectual property rights through the customs border

2.1. Except as otherwise provided in Article 264 of the Customs Law, unless otherwise provided by law or this regulation, the Customs shall allow goods subject to intellectual property rights to cross the customs border.

2.2. The Customs may take measures not to allow goods subject to intellectual property rights under customs control to cross the customs border upon the application of the intellectual property rights holder and at the request of the competent authority.

Three. Customs registration of goods related to intellectual property rights

3.1. The holder of intellectual property rights may register the goods related to his / her rights in the customs registry and enter them in the customs database.

3.2. To register in the customs registry and make changes to the customs registry, fill in the form approved in Annex 1 to this Regulation and send an official letter to the General Customs Administration with the following information:

3.2.1. The name of the goods (description, image) related to the intellectual property rights;

3.2.2. Information on the right holder (if the applicant is a legal entity, his / her name, address, organizational form, if he / she is a citizen, his / her name, surname, first name, address, jurisdiction, permanent residence or activity). country name, etc.);

3.2.3. If the intellectual property right holder registers through an authorized representative, his / her parents' name, surname, first name and address;

3.2.4. Name, number, date of issue, summary and validity period of the document certifying the intellectual property rights;

3.2.5. List of goods to be registered and protected (product name, international classification of goods and services, or BTCS code).

3.3. The decision to register goods related to intellectual property rights in the customs registry shall be made by the head of the unit in charge of control and risk of the Central Customs Administration or his / her deputy head. There is no registration fee.

3.4. Customs registration shall be maintained in electronic form by the unit in charge of control and risk of the central customs administration. The registration may be recorded in the book, in which case the pages of the book shall be signed by the head or deputy head of the above unit. All amendments to the register shall be signed and certified by one of the above persons.

3.5. The customs registry may be amended based on the information provided by the following persons:

3.5.1. The applicant himself / herself has applied for a change in the information specified in the application and attached documents;

3.5.2. The Customs has notified the Customs in writing of the expiration of the term of protection of intellectual property rights, the revocation of intellectual property rights and the change of the name of the right holder.

3.6. When making corrections in the customs registry, the relevant information shall be thoroughly checked and made within 3 working days by the decision of the head of the unit or his / her deputy specified in 3.3 of this regulation.

3.7. The unit specified in 3.3 of this regulation shall notify the relevant customs authority of the information registered in the customs registry within one working day.

3.8. The Press Office of the Central Customs Administration may publish the list of goods registered in the customs registry and changes thereto in the official customs edition and some information on the customs website with the permission of the person specified in 3.3 of this Regulation.

Four. Detention of goods related to intellectual property rights by customs

4.1. Customs shall detain goods that may infringe intellectual property rights if the conditions and requirements specified in 4.4 of this regulation are met in the following cases:

4.1.1. The holder of intellectual property rights or his / her authorized representative has submitted a written request to the Customs Headquarters in respect of goods in violation of his / her intellectual property rights in accordance with the form approved by Annex 2 to this Regulation;

4.1.2. The Intellectual Property Office, other state organizations, as well as foreign customs and other authorized organizations have submitted a written request to the central customs authority to detain goods in violation of intellectual property rights in accordance with the form approved by Annex 2 to this Regulation;

4.1.3. The Customs shall consider it appropriate to detain goods on its own initiative where there is a clear violation of intellectual property rights.

4.2. The following information shall be reflected in the application or request specified in 4.1.1 and 4.1.2 of this regulation:

4.2.1. Information on the right holder (if the intellectual property right holder is a legal entity, name, address, telex, fax, telephone number, copy of the state registration certificate, registration number registered with the tax authority; if the citizen is the name of the parent) , your name, serial number of the identity document, date of issue, address address, postal address, nationality or name of the place of jurisdiction, etc.);

4.2.2. Information on goods related to intellectual property rights (if possible, free accompaniment of original goods, designs and photographs);

4.2.3. Detailed information on goods that may infringe intellectual property rights (if possible, free counterfeit goods and designs): product name, standard information, place of manufacture, name of business entity to export and import the goods, name of potential port of entry , time, shipping status, product specifications, price information, etc .;

4.2.4. The grounds and time for detention of the relevant goods by the Customs;

4.2.5. The number registered in the Customs registration specified in 3.4 of this Regulation.

4.3. Evidence of intellectual property rights shall be attached to the application or request specified in 4.1.1 and 4.1.2 of this regulation.

4.4. The following conditions and requirements shall be met by the customs for seizure of goods infringing intellectual property rights:

4.4.1. Goods to be detained in accordance with this regulation shall be under Customs control (this includes goods carried by passengers, sent by post, transit, transshipment, being in a free zone, etc., as well as goods subject to post-clearance inspection);

4.4.2. To have the intellectual property rights of the relevant person at the time of submitting the application, request and decision specified in 4.1 of this regulation;

4.4.3. The applicant specified in 4.1.1 of this Regulation shall provide the Customs with a cash deposit or bank guarantee equal to the total value of the detained goods and expenses specified in 5.1 of this Regulation (expenses specified in 5.1 of this Regulation shall be paid in advance). if it is not possible to determine, it is equal to 1500000 togrogs) and this collateral is a guarantee that the applicant will not cause harm to the exporter or importer of the goods and if it causes damage, it will be used to pay it;

4.4.4. The person who submitted the application or request specified in 4.1.1 and 4.1.2 of this Regulation shall submit the documents required by the Customs in a timely manner.

4.5. The decision to detain goods related to intellectual property rights shall be made by the head of the relevant customs authority and notified to the Intellectual Property Office, the applicant and, if necessary, the right holder through the General Customs Office within 7 (7) working days after the detention.

4.6. In case of seizure of goods infringing intellectual property rights by the customs, a copy of the "Detention sheet for goods and means of transport" (form № 5) shall be made in 2 copies, the first copy shall be given to the customs office and the second copy to the applicant and consignee.

4.7. The Customs shall review and resolve the application and request specified in 4.1 of this Regulation within 30 working days after receiving it in accordance with the relevant legislation. However, applications and requests that do not fall within its competence shall be transferred by the relevant authority within 3 days.

4.8. The Customs may refuse to accept applications and requests specified in Articles 4.1.1 and 4.1.2 of this Regulation in the following cases:

4.8.1. The conditions and requirements specified in 4.4 of this regulation have not been met;

4.8.2. Provided unrealistic information or submitted false documents when submitting an application or request regarding violation of intellectual property rights.

4.9. Failure to register goods related to intellectual property rights in accordance with “Three” of this Regulation shall not serve as a ground for the Customs to refuse to accept applications and requests specified in Provisions 4.1.1 and 4.1.2 of this Regulation and to refuse to detain related goods.

Five. Payments and responsibilities

5.1. In case the court finds that the goods detained by the Customs are in violation of intellectual property rights, the Customs shall deduct the following payments from the cash deposit of the relevant person:

5.1.1. Payment for storage of relevant goods in a warehouse owned by the Customs, insurance by the Customs and maintenance;

5.1.2. other expenses incurred by the customs (inspection and analysis of relevant goods and documents, obtaining information and inquiries from professional organizations, involvement of relevant organizations and officials in customs inspections, confiscation, destruction, etc.).

5.2. If the goods detained by the Customs in accordance with this procedure are not proved to be infringed by intellectual property rights, the detained persons shall be held liable in accordance with the relevant laws and regulations.

Six. Others

6.1. Customs and the Intellectual Property Office are protected by intellectual property rights and shall exchange information on goods registered in their database, as well as information on infringements of intellectual property rights, if necessary.

6.2. Customs and the Intellectual Property Office shall strictly keep the business secrets of the relevant persons in the implementation of intellectual property protection activities.

6.3. Customs may conduct post-clearance inspections to detect infringing goods.

6.4. The Intellectual Property Office may provide free professional assistance and training in connection with activities such as identification, inspection, detention and storage of infringing goods.

6.5. Cooperate with customs and other public and private organizations in the fight against counterfeiting and theft of intellectual property.

6.6. During the inspection of suspicious goods and related activities by the Customs, the owners of intellectual property rights, consignors and consignees shall render all possible assistance to the Customs.

6.7. Measures to be taken by the customs shall not prevent the holder of intellectual property rights from protecting his / her rights in accordance with the legislation of Mongolia.

6.8. Other issues not regulated by this regulation shall be resolved in accordance with the relevant legislation.

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Annex 1 to the Procedure for
introduction of intellectual property
goods to customs border

REGISTRATION APPLICATION OF GOODS RELATED TO THE INTELLECTUAL PROPERTY RIGHTS

Date _____

To department/division of the Customs General Administration of Mongolia

1. Applicant:

(name, surname or name of legal entity): _____

(registration number, number of identity card/document of citizen): _____

(address): _____

(phone): _____

(type of activities): _____

(name of country): _____

(name of country of residence): _____

(either the intellectual property holder or the trustee) _____

2. Name, number, place of issuance, date, summary and expiration date of the document certifying the intellectual property rights:

3. List of goods to be registered and protected under customs (name of goods, international classification of goods and services, or BTCS code, if possible, free accompaniment of genuine goods, models and photographs, a separate list of goods may be attached to the application):

4. Amendments to the customs registration:

Signature.....

5. Decision of the General Customs Administration on whether to register with the Customs: _____

6. Validity: _____

7. Date: _____

8. Signature: _____

9. Registration number _____

10. Types of intellectual property (copyright, patents, trademarks, industrial designs, geographical indications, etc.): _____

Annex 1 to the Procedure for
introduction of intellectual property
goods to customs border

**DETENTION APPLICATION AND REQUEST OF GOODS RELATED TO INTELLECTUAL
PROPERTY**

Date _____

To department/division of the Customs General
Administration of Mongolia

1. Applicant:

To department/division of the Customs General
Administration of Mongolia

1. Applicant:

(name, surname or name of legal entity): _____

(registration number, number of identity card/document of citizen): _____

(address and phone number):

(types of activities): _____

(name of country): _____

(name of country of residence): _____

(either the intellectual property holder or the trustee) _____

2. Name, number, place of issuance, date, summary and expiration date of the document certifying the intellectual property rights:

3. Customs registration number: _____

4. Information on goods that may infringe intellectual property rights (name of product, standard information, place of manufacture, name of business entity to export or import the goods, name of potential port of entry, date, condition of transportation, characteristics of goods, price information, etc.) Free access to counterfeit goods, if possible): _____

Signature.....

Note of General Customs Administration (each note is signed and certified by date and personal mark):

5. Decisions: _____

6. Types, classification codes, prices and quantities of detained goods: _____

7. Place and time of detention: _____

8. Extension of the period of detention: _____

9. Place stored goods with violation: _____

10. Other notes (status of violation, court decision, or non-violation of goods, return of goods, etc.): _____