

Best Practices for Working with Customs Around the World



Prepared by the
Anticounterfeiting Committee (ACC)





RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Articles 3, 22, 116 and 126 of the Customs Law 17-04

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

General Directorate of Customs

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

The Algerian customs adopt a trademark recordation system and are proactive in detecting and notifying brand owners with any suspected counterfeit products.

SUSTAINABILITY OF DESTRUCTION METHODS

Once the merchandise is determined to be counterfeit, the only possible consequence is its destruction. This destruction, as well as its transportation, is carried out by authorized companies depending on the type of merchandise. They are required to be part of the FEMA network and to have a valid environmental certificate of registration and monitoring of its practices.

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit are considered the same as goods reaching their final destination in Algeria

STORAGE PRACTICES AND FEES

Storage will be made at the premises of Customs

BEST PRACTICES ON CUSTOMS ENFORCEMENT

After receipt of the customs notification of the suspected fake products, the brand owner will have the option to submit a request before the president of the pertinent court requesting a descriptive seizure of the counterfeits. After reviewing the submitted evidence and descriptive seizure request, the judge will assign an expert to check the counterfeit products in order to compare it with genuine products and trademark registrations and will then draft a report in this context to accurately describe the goods. After obtaining the expert's report, the brand owner will have to file a lawsuit based on merits against the importer within one month from date of issuance of the expert's report in order to ensure continued seizure of the suspected goods until the issuance of a final decision confirming the counterfeiting act and ordering destruction or re-exportation of products.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

It is highly advisable to record trademarks with customs authority and implement training sessions to increase brand awareness of the customs inspectors and provide them with the necessary information that would enable them to identify counterfeit products.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Customs Law No. 22,415 - Articles 415, 954, item b, 863, 864, item b, and 865 item g., Law No. 25,986 - Article 46., Overall Resolution No. 4,571/2019., Law No. 22,362 - Article 31., Trade-Related Aspects of Intellectual Property Rights (TRIPS) - Articles 51, 58 and 61., Paris Convention for the Protection of Industrial Property.

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Contact with customs is mainly in person or via email. Argentina customs (Dirección General de Aduanas—DGA): is part of the Argentine Tax Agency, known as Administracion Federal de Ingresos Públicos (AFIP)., **División Prohibiciones No Económicas y Fraude marcario (non-economic prohibitions and trademark fraud division)**: Mon to Fri / 9am to 5pm, Customs Main Building, Azopardo 350, Piso 3° ala Belgrano., C1107ADD, Buenos Aires, Argentina, **Mr. Emilio Saravia**: Head of Division, emisaravia@afip.Gob.Ar , **Mr. Gustavo Nahmod**, Division Official, gnahmod@afip.Gob.Ar

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

The division in charge has trained personnel with a good predisposition to cooperate with IP right holders. Customs inspectors are also proactive and do not limit their examination of merchandise to the existence of system alerts.

Originally, when it was created, a Trademark Fraud Forum had monthly meetings with different concerned stakeholders and experts from public and private sectors: right holders, specialist lawyers, trademark office staff (INPI), customs officers, customs brokers, among others.

SUSTAINABILITY OF DESTRUCTION METHODS

Once the merchandise is determined to be counterfeit, the only possible consequence is its destruction. This destruction, as well as its transportation, is carried out by authorized companies depending on the type of merchandise. They are required to be part of the FEMA network and to have a valid environmental certificate of registration and monitoring of its practices.

MANAGEMENT OF GOODS IN TRANSIT

All Customs operations are subject to prohibition on counterfeit merchandise and Customs inspections, as well as goods in transit.

STORAGE PRACTICES AND FEES

Suspected counterfeit merchandise will remain detained until the end of the infractional procedure at the Port Terminal or Bonded Warehouse of jurisdiction of the Customs office that detainees the cargo. It cannot be released under guarantee because it is prohibited merchandise to import.

In Argentina, Port Terminal and Bonded Warehouses are private-public services. The consignee of the shipments (importer and offender) is the main liable to pay for the storage services. In case the right holder is interested in the destruction, once the goods are attested to be counterfeit, he can offer to bear the costs of storage and destruction.

The storage cost in a bonded warehouse is around USD 20 per day for a 20' container and USD 40 for a 40' container, for the first 15 days. For longer periods, these costs increase the longer the merchandise remains at the storage, reaching up to 200% for more than 60 days stays.



BEST PRACTICES ON CUSTOMS ENFORCEMENT

The best practices on Customs enforcement are: (i) registering the marks in the alert system; (ii) submitting additional identification information about merchandise to the authorities; (iii) responding to alert notices immediately; and (iv) to actively participate in the proceedings to reach a timely resolution.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Regulations provide detention of the cargo for only one day when a suspicion of counterfeiting arises from the alert system. It would be convenient to establish a longer period (3 days term, which was provided in former regulations, would be more appropriate).

Once the answer to an alert, arrest and preliminary detention is given, an administrative accusation proceeding is initiated in the Customs Legal Procedures Division (Departamento de Procedimientos Legales Aduaneros). This department currently has long delays until a decision is issued and the merchandise is destroyed. Shortening these times would be a great improvement.

It would be very valuable to re-establish trademark fraud forum meetings in Customs.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

GCC Common Customs Law of 2008/ GCC Trademark Law

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Head of Intellectual Property Department at Customs Headquarters

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Despite the absence of a customs recordation system in Bahrain, the Customs authorities are one of the most active customs in the region when it comes to stopping entry of counterfeit. They continuously report and notify brand owners (through their filing agents in Bahrain) of suspected fake imports.

SUSTAINABILITY OF DESTRUCTION METHODS

Destruction takes place based on the decision of the civil court and on the expense of the importer.

MANAGEMENT OF GOODS IN TRANSIT

Same provisions related to goods within their final destination are applied also on goods in transit

STORAGE PRACTICES AND FEES

Storage of goods are made within the warehouses of customs premises on the expense of the importer.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Customs officials do proactively notify a brand owner if they suspect that a shipment of goods may be counterfeit. In such cases, the notification will be sent to the brand owner's trade mark filing agent in Bahrain.

If the suspected goods are confirmed as counterfeit, the next stage is for the brand owner to commence civil proceedings within 10 days from date of receiving the notification (extendable another 10 days)(Otherwise, the goods will be released). Once the proceedings have been filed, Customs will detain the shipment, pending the outcome of the civil action. It is worth mentioning that the court strongly favors customs and the brand owner in customs cases. If the importer objects that the goods are fake; it is up to the importer to prove the goods are genuine. This is where a court may appoint an expert to confirm the counterfeit nature of the products.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Bahraini Customs are already active detecting counterfeits and we propose that they adopt an official customs recordal system in order to strengthen its detection for such counterfeit products entering the country.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

The National Board of Revenue (NBR) of Bangladesh issued the Intellectual Property Rights Enforcement (Import and Export) Rules, 2019 on November 19, 2019 to support the Customs Act of 1969.

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Md. Shahiduzzaman Sarkar, Second Secretary (Customs). Mobile No. +8801730061132; shahid.zaman31@nbr.gov.bd; National Board of Revenue, Segunbagicha, Dhaka-1000, Bangladesh

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

1. Recordal applications are not acknowledged. 2. No action is taken on mere application. 3. There is no centralized recordal mechanism and application needs to be filed at each port. 4. Application must contain actionable intelligence, which means the specific details of importer/exporter against which the action is sought to be taken. 5. Application is valid only for a period of 1 year. 6. There is reluctance and fear amongst Customs in enforcing the IP Rights at the territorial borders of Bangladesh because IPR enforcement is considered as a technical and complex process.

SUSTAINABILITY OF DESTRUCTION METHODS

There's no provision for destruction in place as on date.

MANAGEMENT OF GOODS IN TRANSIT

No, there is no provision for suspending in-transit consignments.

STORAGE PRACTICES AND FEES

The products will be stored in Customs warehouse. The right-holder has to bear the responsibility for storage costs.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

There's a long way to go for Bangladesh. IPR enforcement is least in priority for Bangladesh Customs.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

1. Introduce a formal recordal system 2. Start conducting detention of suspicious products 3. Organize trainings with brand owners 4. Introduce a risk assessment system and blacklisting of repeat offenders.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EC) No. 608/2013 Article 2.20.1 of the Benelux Intellectual Property Convention

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Central customs office: yousaf.jaouhar@minfin.fed.be; **Brussels airport:** Josephina Van Beneden & Sofie Pelsemacker-da.namaak.zaventem@minfin.fed.be; **Liege airport:** Nathalie Borguet-da.prosecution.bierset@minfin.fed.be; **Antwerp harbor:** annemarie.duyschaever@minfin.fed.be (left bank) & joke.mans@minfin.fed.be; **Airport Gosselies (Brussels South):** Jeremy Di Nicola & Axelle Uyttebroeck-da.controle.gosselies@minfin.fed.be; **Customs Vilvoorde:** Stefanie Teirlinck & An Troubleyn-da.controle.vilvoorde@minfin.fed.be
Customs Hasselt: Tom Hoebrechts & Thomas FALCONIERI-da.team.hasselt@minfin.fed.be

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH Rightholders

Yousaf Jaouhar is the liaison between the central customs office (directorate) and all regional customs offices. He is also concerned with granting applications for customs action.

In 2021, the statistics were disastrous and in 2022, they seemed to be even worse. The Belgian Post have ceased its activities of pre-screening and customs do not have the required staff to handle the pre-screening. In the meantime the problem has been (somewhat) resolved. The collaboration is good with the customs department, but right holders still have to organize our own storage.

Increase of detentions in 2021. The staff seems too small to handle so many files properly. The team should be expanded in 2023. On a national basis, 108 more customs officers will be recruited, some of whom will also do anti-counterfeiting work. The preservation and destruction of goods will also be handled by Customs Bierset itself without the input from right holders.

The port of Antwerp handled few cases in 2021. Even though the amount of seized goods is higher than the other customs offices, this is quite small by port standards. Cooperation is good although the destruction procedure is too complicated.

Gosselies airport is not a cargo airport, so only passengers are being controlled.

Good collaboration.

This is a quite new place of detention. The collaboration is very proactive and positive.

SUSTAINABILITY OF DESTRUCTION METHODS

Goods destined for physical destruction and recycling must be presented to Customs and/or FPS Economy for inspection and sealing. Transport to the place of physical destruction and recycling is sealed. The seal is removed under supervision at the place of destruction. Supervision ends when the goods are rendered sufficiently unusable. Afterwards, the goods are sorted. Depending on the components, they are recycled.

MANAGEMENT OF GOODS IN TRANSIT

All goods are detained even goods which are in transit. Only Liege airport and Antwerp harbor are concerned by transit goods.



STORAGE PRACTICES AND FEES

Our vendor has rented a warehouse at Brussels airport for the periodic storage of suspicious/ counterfeit goods. The annual renting amounts to approximately €7000.

Customs of Liege airport store the counterfeit goods themselves. No fees are to be paid for the storage.

The goods detained at Antwerp harbor are often stored in a commercial warehouse. The fees are being re-invoiced to right holders.

Customs of Gosselies airport store the counterfeit goods themselves. No fees are to be paid for the storage.

Customs of Vilvoorde store the counterfeit goods themselves. No fees are to be paid for the storage.

Customs of Hasselt store the counterfeit goods themselves. No fees are to be paid for the storage.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

When filing an AFA be sure to have included detailed (technical) information on the goods, any specific information you might have concerning the type of fraud, the pre-tax value of the original goods on the legitimate market in Belgium, particulars identifying packaging material, the scheduled arrival or departure date of goods, the means of transport used, the country or countries of production and the route used by traffickers, the technical differences, if known, between the authentic and suspect goods. Identification trainings are very useful for customs officers. Being present at Observatory plenary meetings is also a plus.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

The photographs should be made by customs, not by an external expert. When a consignee opposes the destruction of counterfeit goods, we need to file a criminal complaint with the public prosecutor in order to obtain the destruction of the goods. Most of the time, the public prosecutor dismisses the case and the goods are being released. We should organize a debate with public prosecutors why these goods are being released, even if the right holder has confirmed the counterfeited character of the goods. The reason invoked is always the lack of investigation.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Decision on the Implementation of Customs Measures to Protect the Rights of the Trademark Holder; Decision on the Implementation of Customs Measures to Protect the Rights of the Patent Holder; Decision on the Implementation of Customs Measures to Protect the Rights of the Copyright Holder; Decision on the Implementation of Customs Measures to Protect the Rights of the Industrial Design Holder; Trademark Law of Bosnia and Herzegovina; Patent Law of Bosnia and Herzegovina; Industrial Design Law of Bosnia and Herzegovina; Copyright and Related Rights Law of Bosnia and Herzegovina; Law on Administrative Procedure of Bosnia and Herzegovina

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Indirect Taxation Authority–Central Office

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Experienced, active.; Cooperation with right holders is good.

SUSTAINABILITY OF DESTRUCTION METHODS

In import cases, destructions are organized by the right holders as per the provisions of the relevant legislation of customs enforcement.

MANAGEMENT OF GOODS IN TRANSIT

Customs can seize and detain the goods in transit as per the provisions of the relevant legislation (Decisions) of customs enforcement.

STORAGE PRACTICES AND FEES

Goods are stored in customs warehouses operated by the private freight forwarder companies. Fees are applicable and always has to be beared by the right holder, not the customs authorities. The fees would depend on the quantity and type of the goods and calculated per day, on case by case basis.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Establishing customs measures—filing of the formal application for action with included all relevant information on the IP rights, distribution and indications fro counterfeit recognition. Good communication and availability to customs. Trainings and information sharing. Being available to customs when they need assistance and information.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Further developing of good communication for exchanging information; Trainings; Swift responding to customs notifications and/or questions they may have. Main problems and recommendations: some cases lack of knowledge how to identified the counterfeit goods. Trainings of customs officers are always recommended by the right holders. Always share with customs information on known routes and details on known infringers and importers.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Federal Constitution - Article 237.; Brazilian Criminal Procedure Code (Decree-law No. 3,689/1941)–Articles 524 to 530-I.; Brazilian Industrial Property Law (Federal Law No. 9,279/1996) - Article 198; Customs Regulation (Decree No. 6,759/2009)–Articles 605 to 689, and Article 689.; Decree-Law No. 1,755/1976 - Article 26.; Normative Ruling of the Brazilian IRS No. 1,986/2020.; Normative Ruling of the Brazilian IRS No. 680/2006.; Normative Ruling of the Brazilian IRS No. 28/1994.; Ordinance of the Ministry of Finance No. 282/2011.

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Brazilian General Coordination of Customs Administration – COANA: responsible for the administration of all the Customs offices in Brazil:

Current General Coordinate of Customs Administration: Ms. Mirela Batista; Address: Esplanada dos Ministérios, Ministério da Economia–Block P, Anexo B - 4º floor, Brasília–Federal District; **Telephone:** +55 (61) 3412-3403 / 3412-3405 **Fiscal Regions:** Brazil has ten fiscal regions, according

to a geographical separation of states: **1st fiscal region (Federal District and states of Goiás, Mato Grosso, Mato Grosso do Sul and Tocantins):**

Current person in charge: Mr. Antônio Henrique Lindemberg Baltazar **Telephone:** +55 (61) 3412-5801 / 5663 **2nd fiscal region (states of Acre, Amazonas, Amapá, Pará, Rondônia and Roraima): Current person in charge:** Mr. Severino Cavalcante de Souza. **Telephone:** +55 (91) 3223-8658

3rd fiscal region (states of Ceará, Maranhão and Piauí): Current person in charge: Mr. Wilmar Teixeira de Souza **Telephone:** +55 (85) 3878-3400 / 3401; **4th fiscal region (states of Alagoas, Paraíba, Pernambuco and Rio Grande do Norte): Current person in charge:** Mr. José Honorato de Souza **Telephone:** +55 (81) 3797-5592 / 5204 **5th fiscal region (states of Bahia and Sergipe): Current person in charge:** Mr. Francisco Lessa Ribeiro Júnior **Telephone:** +55 (71) 3416-1002 **6th fiscal region (state of Minas Gerais): Current person in charge:** Mr. Mario Jose

Dehon Sao Thiago Santiago **Telephone:** +55 (31) 99738-6927 / 99726-4283 / 99727-2328 / 99731-6278 **7th fiscal region (states of Espírito Santo and Rio de Janeiro): Current person in charge:** Mr. Flávio José Passos Coelho **Telephone:** +55 (21) 3805-2305 / 2306 / 2321 **Current person in charge:** Mr. Jose Roberto Mazarin **Telephone:** +55 (11) 3315-5102 / 5104 / 5106 / 5107 **9th fiscal region (states of Paraná and Santa Catarina): Current person in charge:** Ms. Cláudia Regina Leão do Nascimento Thomaz

Telephone: +55 (41) 3320-8366 / 3320-8280 **10th fiscal region (state of Rio Grande do Sul): Current person in charge:** Altemir Linhares de Melo **Telephone:** +55 (51) 3290-7460 / 7458

Airports and Ports: Brazil has 11 main airports and ports with Customs representation, which are a common passage for counterfeit activities in general, as follows:

International Airport of Rio de Janeiro/RJ: Current person in charge: Mr. Vicente Correa Lima Neto **Telephone:** +55 (21) 33986330 **International Airport of Guarulhos/SP:**

Current person in charge: Ms. Liliana Maciel Simeone **Telephone:** +55 (11) 2445-5547 **Port of Itaguaí/RJ: Current person in charge:** Mr. Luiz Gustavo Jotta Martins de Souza **Telephone:** +55 (21) 2688-9262 **Port of Rio de Janeiro/RJ: Current person in charge:** Mr. Márcio Roberto Santezo Baptista **Telephone:** +55 (21) 3262-7200 **Port of Santos/SP:**

Current person in charge: Ms. Patrícia de Andrade Rodrigues Ribeiro **Telephone:** +55 (13) 3208-2000 **Port of Vitória/ES: Current person in charge:** Ms. Maria Goretti Carvalho Viana **Có Telephone:** +55 (27) 3232-3500 **Port of Paranaguá/PR: Current person in charge:** Mr. Jonas Marques de Freitas **Telephone:** +55 (41) 3420-4715 **Port of Itapoá/SC:**

Current person in charge: Ms. Giovanni Zanella **Telephone:** +55 (48) 3229-2000 **Port of Itajaí/SC: Current person in charge:** Mr. Marlon Doniseti Pivatto **Telephone:** +55 (47) 3341-0300 **Port of Rio Grande/RS: Current person in charge:** Ms. Nilse Terezinha Lütkemeyer **Telephone:** +55 (53) 3234-4400 / 3234-4460 **Port of Salvador/BA:**

Current person in charge: Mr. José Alberto de Moraes Medrado **Telephone:** +55 (71) 3186-2600



CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

The most of Customs and Brazilian IRS authorities work closely with the representatives of the trademark owners.

The Brazilian IRS has local offices in the States named "Smuggling and Embezzlement Repression Division", whose attribution is to perform raids at establishments seeking counterfeit products.

The Customs offices throughout Brazilian ports and airports conduct inspections of any cargoes suspected of having counterfeit products, whether being imported, exported or in transit. These inspections are carried out ex officio by the customs authorities, in accordance with their internal intelligence protocol. During the course of a customs inspection, the customs authority may, on its own initiative or at the request of an interested party, seize any products carrying falsified, altered or imitated marks or a false indication of source. Following seizure, the customs authority is under a duty to notify the trademark owner so that it may proceed with the appropriate measures to have the seizure maintained and the goods destroyed.

SUSTAINABILITY OF DESTRUCTION METHODS

There is no method of destruction pre-established by the legal system. However, the sustainability issue is always taken into consideration by the authorities when proceeding with the destruction of the goods.

MANAGEMENT OF GOODS IN TRANSIT

There is no specific provision in Brazil for goods in transit. However, the article 198, of the Brazilian Industrial Property Law, is usually invoked by the Customs authorities to retain counterfeit goods in transit throughout the Brazilian territory.

Moreover, the Superior Court of Justice has a ruling which authorizes the ex officio seizure of counterfeit goods, based on the sovereignty of the Brazilian authority in the application of the law in the Brazilian territory, even if in relation to goods in transit.

The Federal Regional Court of the 3rd Circuit (second instance at Federal Court) has the same understanding. This regional court is responsible for lawsuits filed as a result of seizures which take place in the Port of Santos, the biggest port in Brazil.

STORAGE PRACTICES AND FEES

The goods are kept in the warehouse of the Customs authorities, which do not charge for the storage of the retained goods.



BEST PRACTICES ON CUSTOMS ENFORCEMENT

The Brazilian PTO has a “Directory for Fighting Counterfeiting of Trademarks”, which compiles all the information existing on its database, and makes it available to all the agents involved in anti-counterfeiting operations in Brazil. General information on the marks is automatically included in this Directory. However, a pro-active trademark owner may file a petition requesting the inclusion of further, more detailed information in this database to assist the enforcement agents when inspecting suspicious containers.

In addition, a the rightsholder may file a petition before the Brazilian General Coordination of Customs Administration–COANA, which is responsible for the administration of all the Customs offices in Brazil, with the objective of requesting this body to issue an order to all Brazilian Customs offices to inspect and retain goods considered suspect of being infringing the rightsholder’s trademark rights.

Moreover, considering that the Brazilian Customs’ system are not integrated and each one of the Customs authorities operates independently, a rightsholder may also file petitions with each one of the Customs authorities, in order to warn and to request them to proceed with the surveillance and retain, whenever necessary, any goods under suspicion of trademark infringement, either in transit in Brazil or awaiting Customs clearance.

Another good practice on Customs enforcement is the organization of training sessions for enforcement agents on behalf of the rightsholders, in order to help them identifying counterfeit goods of the corresponding trademarks more easily.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

- (i) to act proactively before customs authorities, in order to establish an efficient communication channel.
- (ii) to always provide a fast response to the Customs authorities’ requests, especially in cases where there are doubts in regard to the ownership of an IP right or to whether a retained product is counterfeit.
- (iii) to advocate for the inclusion of a transit rule in the Brazilian legal system.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights Act on Trade Marks and Geographical Indications Customs Act

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Territorial Directorates of the Customs Agency in Sofia, Plovdiv, Ruse, Varna, Burgas

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Experienced, proactive and cooperative

SUSTAINABILITY OF DESTRUCTION METHODS

Destructions are organized by right holders. It is up to them to determine the destruction methods.

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit can be detained by customs when suspected of bearing without authorization a trade mark identical or essentially identical to the protected trade mark

STORAGE PRACTICES AND FEES

Goods in transit can be detained by customs when suspected of bearing without authorization a trade mark identical or essentially identical to the protected trade mark. Customs store detained goods in their own warehouses and collect storage fee.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Expedient electronic communication and provision of photographic images of detained goods by some customs authorities.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Timely notification of detentions



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Customs Law of People's Republic of China, issued in 1987, amended in 2021; Regulations of the People's Republic of China on Customs Protection of IP Rights, issued in 2003, amended in 2018, State Council order No. 395; Regulations of the People's Republic of China on the Implementation of Customs Administrative Penalty, issued in 2004, State Council order No. 420

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

GAC contact: Yanan Wang 010-65194114; There are 42 Direct Customs in the Mainland of China led by GAC. These Direct Customs have 562 Affiliation Customs. **Main contact: Guangzhou Baiyun airport Custom:** Miss Hu hfy4996@customs.gov.cn **Guangzhou Nansha Customs:** Jieming Yu nshgzscq@qq.com **Huangpu Customs:** Jiajia Su fgczscqbhk@customs.gov.cn **Hangzhou Customs:** Huiyu Wang iprhangzhoucustoms@163.com **Shanghai Customs:** Jue Wang shhgipr@customs.gov.cn **Ningbo Customs:** nbczscqk@vip.163.com

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Experienced: the Customs target containers, small parcels transported by airline, railway and sea transportation imported to or exported from China.

Proactive: some Customs have proactive monitoring system to target high-suspicious container or consignor. They also accept intelligence of containers reported by brand owners.

Collaborative: they always send pictures and answer questions in time.

SUSTAINABILITY OF DESTRUCTION METHODS

China Customs select destruction company to destroy counterfeits. Rightholders are not involved in the actual procedure and only involved in the payment.

According to the law and regulations in China, the confiscated goods shall be used for public welfare or acquired by brand owners, or destroyed.

In practice, normally the Customs would enstruct and monitor the qualified companies to destroy the goods in a harmless way.

Articles online: http://www.customs.gov.cn/guangdong_sub/xwfb99/fsdt/4326393/index.html; <http://www.customs.gov.cn/customs/xwfb34/302425/2892778/index.html>

http://gec.customs.gov.cn/dalian_customs/460673/460674/4370656/index.html

MANAGEMENT OF GOODS IN TRANSIT

According to the regulation of GAC, the transit goods can be inspected when necessary and detained if they are forbidden to import or export.

STORAGE PRACTICES AND FEES

China Customs select storage companies for storage. Rightholders are not involved in the actual procedure and only involved in the payment. Normally the fee is reasonable. But in some cases, the storage fee is too high as Customs don't arrange destruction in time. There is no standard criteria of the fee across different Customs.



BEST PRACTICES ON CUSTOMS ENFORCEMENT

Customs Online IPP system: China Customs has an online IP protection system which allows brand owners to upload IP rights and whitelist authorized companies. After the IP rights are uploaded in the system, Customs proactively protect brands' IP rights. Brand owners can create company's account in the online system by entering company registration information, contact information and uploading the POA for Customs issues and company registration certificate (KBIS and translated version). After GAC approves the account, brand owners can upload the IP rights to the account by entering detailed information and uploading the certificates. After GAC approved the IP rights, brand owners can add or update the authorized companies. The information to fill in for whitelist: company name, type of the company, products, authorization period.

Customs bond: brand owners can request a general bond by providing a guarantee letter from the bank and an application form to GAC. If successful, they don't need to pay a specific bond of each detention case. Otherwise, they have to pay a specific bond of each case in order to have counterfeits seized. After the case is closed, brand owners can request the reimbursement of specific bonds.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

1. Hold more trainings to Customs officers; 2. Deepen communication with Customs on the repeat infringers and blacklist them.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Decree No. 4,540/2006: first legislation that adopted controls in customs to protect intellectual property.; Decree No. 390/2016.; Decree No. 1,165/2019.; Decree No. 1,742/2020.; Decree No. 360/2021.

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Sub directorate of Customs Operation of DIAN (the Colombian national tax and Customs office)—contact information: **Deputy director of Customs operation:** Inírida Paredes; **Email:** sub_operacion_aduanera@dian.gov.co ; iparedes@dian.gov.co

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

The Customs border authorities are in charge to suspend those operations of import, export, or transit, which contain counterfeit merchandise of registered trademarks, preventing it from crossing the border and to be commercialized within the country, or be exported.

When said merchandises are seized, the authorities immediately notify the right holders of the trademarks by email to confirm if the products are indeed counterfeits and then coordinate with its inspection and destruction.

SUSTAINABILITY OF DESTRUCTION METHODS

The destruction is the process for the seized merchandise disappears or lose its usefulness or essential characteristics, and consequently, its commercial value.

The sustainability of said methods varies depending on the type of merchandise whether they are perishable or not.

Besides the destruction of merchandise, there is also the denaturation process in which the essential properties of a substance of the product are altered, leaving it in an unusable state that it cannot be used for the purposes originally intended.

MANAGEMENT OF GOODS IN TRANSIT

The Customs authorities are also in charge of apprehending goods that are in transit to be commercialized in the country. The managing of these goods in transit are done by the Customs official in cooperation with the local police and are regulated by the Decree 1165 of 2019.

The transit of goods has 5 stages that must be fulfill in order to comply with the procedures required in the Customs regulations, which are: (i) recognition; (ii) acceptance and authorization; (iii) presentation; (iv) completion and (v) execution.

STORAGE PRACTICES AND FEES

Registration of the trademarks before the Customs authorities and storage deposit of the counterfeit and seized merchandise are free of charge.



BEST PRACTICES ON CUSTOMS ENFORCEMENT

In our experience we have witness good practice of the Colombian Customs authorities in the enforcement of their laws and regulations for the protection of the trademark right holders.

In 2020, the Authorities seized a merchandise trying from China to enter country from the Port of Buenaventura with almost 200 pieces of counterfeit clothing from DIF international clients.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

We suggest to the Customs Authorities to maintain their database updated of the registered trademarks and their right holders, and also to keep up with the renovation of the registrations, because sometimes they could be changes and modifications of enforcement lawyers, contacts or trademarks that could affect the cooperation among the right holders and the authorities.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Import cases: Regulation (EU) 608/2013 concerning customs enforcement of intellectual property rights. **Market seizure cases:** National Law: Misdemeanor Law, Criminal Law, Trademark/Design/Copyright Law

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Customs Administration: Central Customs Office - supervision and handling the Applications for action (AFA) Regional Customs Offices—Border outposts and harbors. Departments for market surveillance

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Experienced, active. Cooperation with right holders is good

SUSTAINABILITY OF DESTRUCTION METHODS

In import cases: Destructions are organized by the rights holders—destruction in simplified procedure according to Regulation (EU) 608/2013

In market seizure cases: Destructions are organized by the customs—pursuant to their final decisions or court decisions

MANAGEMENT OF GOODS IN TRANSIT

Customs can and do detain goods in transit. It is mandatory that the trademark in question is identical (not similar) to the trademark of the holder and that the same mark is valid in the country of the final destination.

STORAGE PRACTICES AND FEES

Goods are stored in customs operated warehouses if/when possible. No storage costs in that case. Storage is an issue in general as there not enough storage spaces in some areas (Rijeka harbor for instance) If the goods are stored in commercial warehouses there are storage costs involved. Fees deend on the storage owner—from 2–5 Eur daily (per pallet of goods).

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Good communication and availability to customs; Trainings and information sharing; Organizing market surveys and reporting the findings to customs; Being available to customs when they require assistance and information.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Further developing of good communication for exchanging information; Trainings; Market survey and reporting the findings to customs; Swift responding to customs notifications and/or questions they may have.; Main problems: lack of officers in some areas and lack of storage space



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

On August 20, 2021, the “New Law that Reforms Several Legal Bodies to Prevent Illicit Commerce, Strengthen National Industries and Incentive Electronic Commerce” came into force. This New Law provides reforms to our Organic Criminal Code and our IP Law, which finally provide an effective mechanism for Customs authorities to identify counterfeit products and issue border measures ex-officio.

This Law now mandates the following obligations for the Ecuadorian National Customs Service (SENAE by acronym in Spanish): “Art. 575.–Obligations of Customs authority”.

In this sense, the procedure to be followed by Customs for enforcement consists on SENAE surveilling intellectual property rights, so that when incoming merchandise that is suspected to infringe intellectual property rights they can issue a border measure ex-officio, and within 5 days trespass all the information regarding the importation and the issuance of the order measure to the importer, the holder of the intellectual property rights presumably infringed, and the Ecuadorian IP Office (SENADI by acronym in Spanish).

After this information is passed on to SENADI, this authority will, in 3 days term, confirm the border measure or revoke it. If the border measure is revoked, the merchandise is released and on the contrary, if the border measure is confirmed, the holder of intellectual property rights will have 5 days to file a main action against the importer, which can be civil, administrative, or criminal.

POINTS OF CONTACT: AUTHORITIES’ CONTACT INFORMATION AND MAIN REFERENCES

Ecuador has 11 Customs locations, out of which the most important and transited ones are in Ecuador’s main cities: Quito in the north, Guayaquil in the center and Cuenca in the south of the country.

The National Customs Service of Ecuador is divided into 3 areas of work:

- The central level, where institutional control and policies are made, and public communications are handled.
- The substantive procedure level, in which operations are handled, authorizations are granted, and the National Direction of Intervention, which orders inspection over certain merchandise, operates. This is also the level at which resolutions, rules and other regulations are made.
- The district level, in which the 11 Customs locations throughout the country execute their operations, in direct contact with incoming merchandise.

When Customs is working on the execution of enforcement activities, often Customs must coordinate such activities with the IP Office, because, as explained, this office oversees the confirmation or revocatory of issued border measures.

In such manner, the points of contact and authorities contact information would be as follows:

1. SENAE (Customs):

- Carola Soledad Ríos Michaud – Administrative position: General Director of SENAE – Telephone: (593) 4 3731030 – E-mail: crios@aduana.gob.ec
- Francisco Xavier Hernandez Valdiviezo – Administrative position: National Director for Interventions in Guayaquil – Telephone: (593) 4 3731030 – E-mail: fhernandez@aduana.gob.ec
- María Gabriela Banguera Ordoñez – Administrative position: Head of Custom Procedures in Quito – Telephone: (593) 2 3945830 – E-mail: jbanguera@aduana.gob.ec
- Jose Daniel Jimenez López – Administrative position: Head of Custom Procedures in Quito – Telephone: (593) 2 3945830 – E-mail: alavanda@aduana.gob.ec
- María Emilia Crespo Amoroso – Administrative position: Head of Customs Procedures in Cuenca – Telephone: (593) 7 2807900 – E-mail: mcrespo@aduana.gob.ec
- Rolando Ramón Parra León – Administrative position: On field interventionist in Guayaquil – Telephone: (593) 4 3731030 – E-mail: roparra@aduana.gob.ec
- Daniel José Riera Rodríguez – Administrative position: On field interventionist in Cuenca – Telephone: (593) 7 2807900 – E-mail: drieria@aduana.gob.ec



2. SENADI (IP Office):

- Luisa Sujey Torres Armendáriz – Administrative position: General Director of SENADI – Telephone: (593) 2 3940000 – E-mail: storres@senadi.gob.ec
- Cristina Loaiza – Administrative position: National Director of industrial property SENADI – Telephone: (593) 2 394-0000 – E-mail: lcloaiza@senadi.gob.ec
- Karin del Rocío Jaramillo Ochoa – Administrative position: National Director of Copyright SENADI – Telephone: (593) 2 394-0000 – E-mail: krjaramillo@senadi.gob.ec

Since the legal framework finally providing Customs with the possibility of issuing border measures ex-officio is relatively new, Customs authorities as well as the legal representatives of the holders of IP rights are still learning how to bring the law to effective practice.

For such purposes, two issues are encountered regarding Customs diligence when surveilling and enforcing intellectual property rights.

First, most of the officials in charge of inspecting merchandise do not have any training or knowledge about the types of intellectual property that must be protected, whether the importation infringes trademarks, copyrights, or patents. As well as such, they often don't know who the holder of the intellectual property right presumably infringed is. To help Customs Officials better understand intellectual property rights and identify the holder of them, the current common practice is for law firms and other legal representatives to file a writ identifying the intellectual property rights they represent and requesting to be notified with any incoming merchandise which is presumed to be counterfeit. So far, such practices have been working and notifications are being sent out to those who have filed such writ, so that they could promptly act against the release of the merchandise into commercial channels, and so that they could provide Customs officials with enough information about if they should issue the border measure, and if the IP Office should confirm it.

Second, there is a current issue of personnel shortage in Customs, which forces the institution to constantly rotate the officials in charge of executing inspections. The constant rotation of officials involves a constant change in the relevant points of contact for the holder of intellectual property rights, making it difficult for such rights to be efficiently and rapidly enforced. To illustrate the issue, imagine you have contacted an inspection official, and explained to him/her all the intellectual property rights that should be looked over, and you start working very well, because such inspection official knows you and sends you all relevant information regarding presumably counterfeit items that concern you. After a few months, this inspection official is removed from their unit and transferred to another one, leaving one of the main ports where most of the merchandise that concerns you arrives. You, as holder of intellectual property rights must identify the new inspection official of the unit that you are concerned about, establish contact, and explain to him/her all the intellectual property rights that should be looked over and notified to you all over again.

Further from these issues, which are a work in progress, a positive aspect of Customs diligence is that every officer encountered is willing and open to help, and ready to learn about intellectual property rights and their proper enforcement, which is one of the most important steps of the way towards efficient enforcement at custom level.

SUSTAINABILITY OF DESTRUCTION METHODS

On April 26, 2022, SENA issued a resolution publishing the manual for the destruction of merchandise under Custom control. For such purposes, the Manual explains several categories of merchandise that can be destined to destruction. These categories are:

- Destruction of goods that are not under the Customs regime, and are in temporary storage
- Destruction of good that entered the country with suspension or release of taxes of foreign trade.
- Destruction of merchandise in Customs warehouses, temporary storage or related warehouses that could not be awarded free of charge, auctioned or donated, or any type of good that due to their nature or condition lost their commercial value, are expired, deteriorated or unfit for consumption according to the law.

The goods that concern counterfeiting matters fit within those goods that are unfit for consumption according to the law, as our law expressly recognized counterfeit products as illegal as explained above.

The procedure for such is that a request for destruction must be made either by the interested party of a Customs Officer to the Head of Customs Procedures, who will assign an official to conduct an inspection and count the units of the merchandise that must be destroyed. The holders of intellectual property rights could assist to such inspection.



In practice, after the inspection is conducted, the official in charge will, with motive, determine if the merchandise should be destroyed or not, which is registered. If the merchandise is determined to be destroyed, it is generally sent to a determined deposit that is accredited for handling this sort of requirements, such as garbage deposits.

The entities accredited for conducting the destruction of goods, and the owners of the deposits where destructions can happen are called “environmental managers” (gestores ambientales in Spanish) and must count with adequate environmental practices to get their operation permit, for which it is understood that when merchandise is sent to be destroyed, the environmental managers enforce sustainable practices for the destruction of the merchandise, considering the items to be destroyed and if they represent a risk to the environment or to public health.

MANAGEMENT OF GOODS IN TRANSIT

“The Ecuadorian Customs are subject to the Community Customs Transit policies contained in decision 617 of the Andean Community. This regime entails dispositions for goods coming from and to countries that belong to the Andean Community.

Ecuador complies with the dispositions in this regime adequately, in as much as when it comes to incoming goods, Customs:

- Reviews the importation declaration, and compares it to the units in the container, the mechanism of transport, etc. that was effectively taking place.
- Inspects the merchandise and its trajectory to make sure it does not invoke any cause for sanction.

Further from the Andean Community, Customs have knowledge that statistically, most of counterfeit goods come from Asia, which has led them to exercise more control over incoming merchandise from such continent.

All in all, we could say that in practice, the main ports of Ecuador (Quito, Guayaquil and Cuenca), management of goods is well organized, agents are well distributed, and control is exercised, for which holders of intellectual property rights are getting notified of potential violations of their rights.

STORAGE PRACTICES AND FEES

On December 2002, last reformed on March 2019, Customs published a resolution detailing the fees for Custom services, in which the fees for storage are contained.

Article 1 of such resolution establishes:

“(…) PORT STORAGE TAX Shall be applied to all merchandise and transportation or cargo units that are or are stored in customs warehouses or yards, for auction, administrative or judicial procedures. This fee shall be applied according to the table contained in Annex 2 and shall be charged on all goods upon leaving such warehouses or yards.”

Annex 2 of such resolution establishes the following fees:

TIME OF STORAGE FEE

1 to 10 days \$1,88 + \$3,76 + \$0,14 per square meter or metric ton per each day.

11 to 20 days \$2,63 + \$5,26 + \$0,21 per square meter or metric ton per each day.

From 21 days on \$3,38 + \$6,77 + \$0,28 per square meter or metric ton per each day.

Regarding storage practices, Customs has issued manual No. SENAE-MEE-2-3-008-V3, titled “Specific Manual for the Administration of Procedures for the Income, Evaluation, Remain, Exit and Security of Merchandise that is in Custom Storages”.

This manual contains the general mandatory practices for storage, such as:

- Following recommendation of the Security and Health Directory for the prevention or labor risk.
- Following good environmental practices in case the goods represent a risk to the environment surrounding the storage center or public health.
- The Head of Storage of each province shall monthly report the Director of Storage Control about the goods that are currently stored in Custom warehouses, detailing whether these



goods have been abandoned, retained due to administrative or judicial procedures, or retained due to other reasons. As well as such, the Head of Storage must also inform the Director of Storage control when certain goods are released, with the reason for their release.

- Inventories should be constantly conducted over all the incoming merchandise, and their destiny for clear traceability.

These practices are respected in practice, and so far, since the new law came into force, we have not encountered a case of lost or released goods that concern counterfeiting issues.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

The best practices on Customs enforcement are not yet very clear to point out, because, as explained, the legal framework for Customs enforcement is relatively recent and Customs Officials are still learning about intellectual property rights.

Nonetheless, there are some practices worth mentioning as positive milestones in the process of finally having efficient Customs enforcement:

- Customs leaders of every department are very open towards receiving training with relation to intellectual property rights, and they seem interested to learn.
- As a result of some training programs that have been executed, Customs officials are indeed inspecting merchandise, identifying the representatives of the holders of intellectual property rights concerned, and are constantly asking them for information and examples of original products.
- Customs has been meeting with the Ecuadorian IP Office to figure out ways to coordinate the institutions for better access to information and more efficient mechanisms to identify counterfeits.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Important suggestions that must be made to improve the efficiency of Customs are the following:

First, in accordance with the personnel rotation issue detailed in point 3 of this questionnaire, it is necessary that Customs Officials continue to train in intellectual property matters, so that they can identify and even use the proper terminology when regarding copyrights or industrial property.

Second, it may also be suggested that Customs destines a team to control the briefs filed into the institution by the holders of intellectual property rights, that detail the rights they hold and their representative for enforcement issues. In this way, an internal team in Customs could answer all inquiries relating who should be notified and what rights are protected, instead of having Customs officials look for and contact holders of intellectual property rights with such inquiries through e-mails/phone. This will make their diligence more efficient, as they will know quickly and for sure if the border measure should be issued, and who to notify immediately after.

Finally, Customs and the IP Office should continue to hold interinstitutional events where they develop upon the types of intellectual property that can be counterfeited, examples, etc. as well as continue to create bonds between the officials working in both institutions. So far, these events have been held in the capital of Ecuador, Quito, but they should expand to other provinces as well.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

IP Law No. 82 for 2002; Minister Decree No. 770 for 2005; Executive Regulations No. 430 for 2021 for Customs Law

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Head of Intellectual Property Department at Customs Head Authority

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Customs are proactive with the rightholder once the latter submit his registration certificates

SUSTAINABILITY OF DESTRUCTION METHODS

Destructions are made on the account of the claimant after a final judgment from the court with the destruction

MANAGEMENT OF GOODS IN TRANSIT

The goods in transit are managed as the goods in the final destination and there are final judgments issued in Egypt against the goods in transit

STORAGE PRACTICES AND FEES

The storage of the goods are made inside the customs on the account of the claimant

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Civil Action: According to the Ministerial Decree (Ministry of Trade & Industry No. 770/2005 article 27), which stipulated the boarder measures where the owners of an IP right is entitled to file a complaint to the Customs Authorities against a shipment suspected to infringe their IP rights, either before the completion of the procedures to release same or in its way to the Egyptian ports. The complainants should present all the necessary information about the shipment, a proof of his ownership of IP rights and a proof that the contents of the containers are infringing their rights.

The Customs Authority will require a cash deposit or a letter of guarantee for 25% of the value of the infringing products to be accompanying the complaint. Upon this complaint the customs will be obliged to stop the releasing procedures for ten days renewable for another 10 days upon a decision from the Minister of foreign trade during the said ten days, the complainants should obtain a seizure order from the competent court against the subject container.

The court can accept or reject the application without giving any reasons. i) if the court grants the order to seize the goods, then the complainants should file a case within 15 days to secure the said seizure and to plead the merit of the case. ii) if the court rejects the application, the complainants have the right to reapply again if the court accepts the application then it will have to justify the reason for accepting the application in the second time and later the complainants will follow the procedures in (i) here above. If the court rejects the application for the second time, then the complainants can oppose this rejection before the court within 30 days from the rejection of the order.

This is according to Article 27 of Ministerial Decree (Ministry of Trade & Industry No. 770/2005) and Article 115 and 117 from IP Law No. 82 for 2002 and Article 9 and 66 of Customer protection Law No. 181 for 2018



INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

In Egypt, we could file a custom recordal for the trademark owner to the customs. However it is a notification system by which we submit letter to the customs notifying them with the TMs of the brand owner and in case the customs found any counterfeit products, then they will notify us to take the civil action as described before at the customs.

We are of the opinion that there should be a recordal system at the customs to record and register the IP rights for the rightholder which will be more active

RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EU) n° 608/2013 of the European Parliament and of the council of 12 june 2013

COUNTRY

France





RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

EU Regulation No. 608/2013; §§146-151 German Trademark Act

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

General Customs Directorate; Direktion VI Referat Verbote und Beschränkungen-Zentralstelle Gewerblicher Rechtsschutz–Sophienstraße 6; 80333 München; Telefon: 089 / 5995-2351; Fax: 089 / 5995-2317

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

In General, the German customs offices are experienced and diligent in their work, and are very cooperative with right holders.

SUSTAINABILITY OF DESTRUCTION METHODS

We have no doubt that the seized products are regularly destroyed (when destruction is requested) in accordance with the German Waste Regulations, which are based on the corresponding EU laws.

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit are seized in accordance with § 146 of the German Trademark Act. Such seizures are reported in much the same way as “ordinary” seizures, although the customs offices do not always provide photographs of products seized under §146.

STORAGE PRACTICES AND FEES

Goods are stored and destroyed by the individual customs offices, who charge based on the weight of the seizure. Usually the cost for small seizures is € 35. The customs office in Hamburg requires destruction to be organized directly by right holders.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

It is important to send a message of no tolerance to the consignee and shipping companies involved, and to show an interest in the work of the customs offices.

Best practice in this respect is to provide quick responses and training (where possible). The main problem is that German Customs are not willing to organize any training.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

The most important thing is to ensure that the customs monitoring application contains as much relevant information as possible to allow the customs authorities to seize more products. This includes providing indications for officers to recognize original goods, information on any central warehouse(s) for products, specific production sites (if possible with their EORI no. address and tariff code) and any countries of production (or countries where no production takes place). Having regular trainings would be very important also.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EU) n° 608/2013 of the European Parliament and of the council of 12 June 2013

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Customs in Greece belong administratively to the AADE, an institution independent from government which is competent for collecting taxes. There is a central Customs authority (Customs' Periphery) which is responsible for granting and renewing local AFAs, for for monitoring EU AFAs. This central authority sends to local Customs units the info in the AFAs. Local Customs units (at the point of entry) usually access COPIS and are not really using IPEP, although use is gradually increasing. The operation of Customs is very decentralized and we contact the different local units directly for better results. Besides Customs units at entry points, there is also a Mobile Customs Unit (KOE) and a unit with competence to perform market controls post importation (ELYT).

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Depends completely on the person involved. Customs officers may move between the different Customs Units and this is especially the case for Directors of different Units, which interchange. Most Customs Officers at the major entry points like: Pireaus port, Thessaloniki port, Kipoi Customs (main entry from Turkey) are very proactive.

SUSTAINABILITY OF DESTRUCTION METHODS

Brand owners are involved in the destruction process, in that they are asked to approve the process because they are carrying the costs. Also brand owners can be represented during destruction and witness such. As far as possible, according to the availability of recycling facilities in the geographical area, destruction with complete recycling of the residue is chosen. This is especially the case for the Athens area, where there is the existence of state of the art recycling facilities that all 100% recycling. More specifically, after shredding and mixing, the residue of a destruction of products like accessories, shoes, bags, belts, clothes, is handed over to a cement factory and is burnt in the furnaces as bio-fuel, leaving ashes behind. Perfume, which is a dangerous inflammable material, after shredding are turned into bio-diesel. Bottles with spirits are shredded and the liquid is strained and is then used as bio-fertilizer. During the COVID pandemic, bulk alcohol that was seized for smuggling was tested and then was used as raw material for hand sanitizers for use in public hospitals. Seized counterfeits are also transported from Crete, when quantities are significant, and are destroyed by full recycling in Athens. Similar destruction facilities exist in the Thessaloniki area, and counterfeits seized all over Northern Greece are destroyed there. However, there are still enforcement authorities that destroy on the spot counterfeits seized in stores, mainly clothes, shoes and accessories (by used of garbage lorries, so the counterfeits enf up shredded and mixed with garbage at dump sites). Watches with batteries are treated before destruction and the battery is removed and recycled separately then the watch undergoes the same recycling process described above.

MANAGEMENT OF GOODS IN TRANSIT

Transportation of counterfeits through the Greek territory amounts to trade mark counterfeiting that is illegal in Greece, according to Greek trade mark law, for many years already as Greece has always been a transit country. Therefore, Greek Customs have always had the experience and legal basis and are indeed seizing goods in transit. Moreover, they are particularly experienced in examining and contesting the final destruction of the goods in transit as described in the transit documents, in that they are experienced to find irregularities and discrepancies in the address, name etc of the final destination in the EU and Balkan countries as declared, thus enabling them to contest and establish that the counterfeits are illegal.



STORAGE PRACTICES AND FEES

This depends on the enforcement authority and on the management made by the brand owners and their representatives. Piraeus Customs which is seated in the container terminals are bound to use the services of the container port operator (Chinese state company COSCO) and they dictate costs. Brand owners try to destroy fast, so as to avoid incurring storage costs as much as possible. In Thessaloniki, the port uses the storage facilities of some private companies, but the costs are significantly lower compared to those of the COSCO owned container terminals in Piraeus. Other smaller Customs may provisionally use warehouses of third parties, which will agree to such use at a minimal cost. When an enforcement authority has its own storage premises and these are used, there are often no storage costs. In Greece, there is a process of immediate administrative destruction of counterfeits from market seizures, by simplified procedure. Brand owners do not need to cover storage costs in such cases of immediate destruction. For the cases where for legal reasons counterfeits must remain available until the issuance of a Court decision (i.e. smuggled spirits), then these are stored. When these are stored at Customs' own premises, there is usually no cost. When they are stored/blocked at the premises of the infringer and under his responsibility until the issuance of the decision, there are no storage costs. If the counterfeits are stored at a logistics company, this may incur a charge, depending on the agreement. Storage costs are very much a matter of management by the brand owner.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

The best practice is to distinguish those customs authorities and officers that have the will to enforce, be near them and assist them by providing technical training, preferably on the spot and in person. Also, it is important to provide fast responses to queries (no waiting for the last day of the deadline) so that they may manage and close cases fast. Brand owners should manage fast and efficiently the destruction and storage process, so that Customs may concentrate and have as much time as possible for enforcement. The fact is that Customs are understaffed, so whatever possibly may be done to allow them to do more efficient enforcing is the solution.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Legal background: <https://www.szttnh.gov.hu/en/legal-sources/enforcement-of-rights>

Act CLII of 2017 on the implementation of the Union customs legislation; Section 1 (1) In respect of customs administrative cases, the Union customs legislation shall be implemented subject to the provisions of this Act. This Act and the provisions of international treaties applicable in Hungary to import and export procedures shall apply to matters not covered by European Union law in cases related to international trade in goods in the territory covered by this Act if they fall within the material competence of the customs authority.

Act CXXII of 2010 on the National Tax and Customs Administration

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

The Hungarian Customs is available through traditional channels (in person, by phone, email), and there are also online, semi-automated options for dealing with a number of cases online. **Hungary:** 06 (80) 20-21-22 **Abroad:** +36 (1) 441-9600 **e-mail:** <https://nav.gov.hu/nav/kapcsolat>
<https://nav.gov.hu/en/contact>

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Due to the recent reorganization within customs, most of the officers with IP protection experience left customs or were transferred to other working areas. Therefore, Hungarian Customs' proactivity and the number of the cases have significantly decreased.

In course of cooperation, Customs holds so called "contact meetings", where the rightholders, their representatives and brand agents are given the opportunity to share information about identifying fake items with the Customs officers. The Customs officers can also access such information given by the right holders through a dedicated Customs internal database. The Customs officers can also contact the rightholders and their representatives in person.

SUSTAINABILITY OF DESTRUCTION METHODS

As Hungary is a Member State of the EU, all relevant EU regulations apply to the Hungarian customs proceedings. Namely, the destruction of the counterfeit products is done by the rightholders in simplified cases so the method is also selected by them. In accordance with Art. 25 of Regulation (EU) No 608/2013, Customs Authorities can decide to release the counterfeit goods for free circulation in the event that the goods are to be recycled or disposed of outside commercial channels, including for awareness-raising, training and educational purposes. The conditions under which the goods can be released for free circulation shall be determined by the customs authorities

There are also products which use, sale, or other uses are also prohibited by law. These include, for example, untaxed excise products (alcoholic beverages, tobacco manufactures, fuels, etc.) which must also be destroyed after the procedure has been completed. The seized cigarettes and tobacco are stored in the crime store until the court's final decision and then destroyed in the incinerator with the advantage of producing heat this way.

MANAGEMENT OF GOODS IN TRANSIT

Customs has jurisdiction to control export and transit goods. However, due to the issues detailed above, their efficiency has decreased.

Act CLII of 2017 Section 1 (1) In respect of customs administrative cases, the Union customs legislation shall be implemented subject to the provisions of this Act. This Act and the provisions of international treaties applicable in Hungary to import and export procedures shall apply to matters not covered by European Union law in cases related to international trade in goods in the territory covered by this Act if they fall within the material competence of the customs authority.



STORAGE PRACTICES AND FEES

Legal background: Regulation (EU) No 608/2013, Article 20, Conditions for storage

The conditions of storage of goods during the period of suspension of release or detention shall be determined by the customs authorities.

In simplified procedures, the storage fee is HUF 200/10 kg/day (approx. EUR 0,05/kg/day)

Most of the seized goods are stored at the Goods and Crime Management Office of the Customs Authority. This Office has currently a warehouse base in three locations in the country (Csepel on Petróleum Street, Sava Street in Budapest and Ságvár). In addition, there are criminal signal warehouses in the departments of the NTCA, for example, they store seized goods at the Directorate-General for Deployment of the NTCA and Liszt Ferenc International Airport, but they also have external storage capacity under contract. However, it is an important condition that these containers cannot contain such goods that the NTCA is not authorized to store and handle (e.g. weapons, drugs, explosives, etc.) and also such products for which the NTCA does not have the appropriate storage space (food, products requiring refrigerated storage, certain fire and explosive products, goods requiring special treatment).

BEST PRACTICES ON CUSTOMS ENFORCEMENT

“Contact meetings” with rightholders held by Customs; Regular and rapid exchange of information between NTCA; Rightholders and representatives; Public awareness actions for consumers organized by Customs; National Board Against Counterfeiting <http://www.hamisitasellen.hu>, <http://www.hamisitasellen.hu/home/>, a common platform for all the authorities and stakeholders involved in the protection and enforcement of intellectual property rights

Regarding enforcement: Trainings for law enforcement authorities; Conferences, events about IPR enforcement issues; Working groups against online infringements, counterfeiting of pharmaceuticals, law enforcement, public awareness (for youth - festivals, special lectures, etc.); surveys on counterfeiting and copyright issues; publications, media campaigns; Hungary was removed from the USTR Special 301 Watch List in 2010.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

A representative in Hungarian language with 24/7 availability; Better co-ordination and cooperation among the relevant enforcement authorities; Rightholders are encouraged to provide Customs with up-to-date information regarding the identification of counterfeit products, thus ensuring that Customs internal database (that can be accessed by all Customs officers) has current data



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EU) n° 608/2013 of the European Parliament and of the council of 12 June 2013, Regulation (EU) 952/2013 laying down the Union Customs Code

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Dublin port: All goods moving through Dublin Port and Temporary Storage Facilities controlled by Revenue Customs at Dublin Port

Dublin airport: All goods moving through Dublin Airport and Temporary Storage Facilities controlled by Revenue and Customs at Dublin Airport.

Rosslare Europort: All goods moving through Rosslare Europort, New Ros, Belview, Arklow, Wicklow and Temporary Storage Facilities controlled by Revenue Customs at Rosslare Europort. **Shannon Airport:** All goods moving through Shannon Airport, Limerick, Foynes and Temporary Storage

Facilities controlled by Review Customs at Shannon Airport. **Cork Port and Airport:** All goods moving through Cork Port and Cork Airport, Bantry, Castletownbere and Temporary Storage Facilities controlled by Revenue Customs at Cork Port and Airport. **An Post:** All parcels and freight, subject to Customs control, moving through the Dublin mail centre. **Main points of contact:** for AFA applications email

revenuecustomsprohibitionsrestrictions@revenue.ie; for general customs queries, email ecustoms@revenue.ie. For queries relating to classification,

origin, valuation, authorizations, reliefs, simplifications and AEO: Customs Division, Government Offices, St Conlon's Road, Nenagh, Co. Tipperary, E45 T611. For prohibitions and

restrictions: Customs Division, 2nd Floor, Treasury Building, Dublin Castle, Dublin 2, D02 PD90. For general import/export procedures and postal queries: Customs Division, Office of the Revenue Commissioners, Upper Yard, Dublin Castle, Dublin 2, D02 PD90.

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

We have found the Irish Customs Office to be diligent and honest and fair in applying the rules. Customs and excise officers work closely with other agencies including the Garda and the Department of Foreign Affairs, and are often proactive in combating the importation of counterfeit goods and other banned items.

SUSTAINABILITY OF DESTRUCTION METHODS

Destruction of goods is one of the measures available to Customs in accordance with Art. 198 UCC. However, it is always preferable to re-export the goods where possible. If the resulting waste has any value then this will need to be accounted for through a customs declaration (Art. 248 UCC IA refers). The method of disposal will depend on the goods in question; for example, if the goods are counterfeit, the items must be shredded or processed in a manner that they cannot be used or released into free circulation.

MANAGEMENT OF GOODS IN TRANSIT

Transit is a customs procedure that allows goods to be moved across international borders under customs control. A guarantee is required to secure all charges on the goods. There are three types of transit: (1) union transit - allows for the movement of goods within the European Union; (2) common transit - allows for the movement of goods between the union and common transit countries, and the common transit countries themselves; and (3) Transport Internationaux Routiers (TIR) - allows for the movement of goods internationally over one or more frontiers. A portion of the journey between the start and the end of the TIR operation must be by road. The common transit countries are Iceland, Norway, Sweden, Switzerland, Liechtenstein, Turkey, the Republic of Macedonia, Serbia, and the United Kingdom (the combined territories of the Union, and the common transit countries are known as the common transit areas). An authorized consignee is a person authorized by Revenue to receive goods moved under a transit procedure at his/her premises or any other specified place without presenting them at the customs office of destination. An application for authorized consignee can be filed electronically using the Customs Decision System (CDS). An application for approval as an authorized consignor or an authorized consignee, will allow an authorized consignor/consignee to complete the transit formalities at your own premises and communicate with Revenue electronically through the New Computerised Transit System (NCTS). Queries relating to management and transit of goods can be sent to centraltransitoffice@revenue.ie.



STORAGE PRACTICES AND FEES

The Irish Revenue authorities provide two types of storage - (i) temporary storage and (ii) customs warehousing. Temporary storage is the situation of non-European Union goods temporarily stored under customs supervision. A temporary storage facility is: a custom approved place inside or outside the port or airport; is where non-Union goods are placed in storage for up to 90 days; and must be authorized by Revenue as a temporary storage facility. The customs warehousing procedure allows traders to store non-European Union (EU) goods without payment of customs charges or Value-Added Tax (VAT). Normal rules regarding import or export prohibitions or restrictions continue to apply to goods in a warehouse. An application for warehousing can be filed electronically using the Customs Decision System (CDS). Irish Revenue do not charge storage or destruction fees. The cost of destruction of goods shall be borne by the holder of the goods (as per Art 197 UCC).

BEST PRACTICES ON CUSTOMS ENFORCEMENT

The Customs and Excise Enforcement Manual on Best Practices is currently being updated so the manual is currently unavailable.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Customs Ordinance [New Version] Trademark Ordinance [New Version], 5732-1972 Copyright Law, 5768-2007 Design Law, 5777-2017 (the former Patents and Designs Ordinance still governs designs filed before the new Law came into force)

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Head of Intellectual Property—Customs Administration - Taxes Authority

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Israeli Customs authorities are proactive. Under the Israeli Customs IP procedure, the Customs Authorities may detain shipments containing goods suspected of being counterfeit, on their own initiative, or pursuant to a complaint filed by the rights owner.

Customs IP regular procedure: Generally implemented in cases of shipments containing large quantities of goods suspected of being counterfeit. Customs notifies the rights owner upon the arrival of a shipment containing goods suspected of being counterfeit. The rights owner should then inform Customs as to whether the goods are counterfeit, within three business days (an extension of three business days may be requested). If the goods are found to be counterfeit, the rights owner should file a bank guarantee (bond) in a sum specified by Customs.

Once the bank guarantee/deposit is filed, Customs will disclose the identity of the importer. In accordance with Customs' IP regular procedure, the rights owner should subsequently file a regular civil action against the importer (without having to apply for an interlocutory injunction) with the court, within ten business days from the date the owner received Customs' initial notice regarding the shipment (an extension of ten business days may be requested). If an action is filed, the goods will be detained until the end of court proceedings.

Customs IP expedited procedure: Customs may provide the rights owner with the option of pursuing the expedited procedure.

Within the framework of the expedited procedure, the rights owner should provide an opinion indicating whether the goods are infringing, and brief details of their counterfeit nature, and provide Customs with an undertaking for indemnification (UFI) to cover possible unjustified damages that may be caused to the importer as a result of the goods' detention, within three business days from receiving Customs' notice regarding the shipment.

After the requested opinion and the signed UFI have been provided to Customs, the goods, subject of the shipment, will be destroyed. In this procedure, the rights owner is not required to submit a bank guarantee or deposit.

SUSTAINABILITY OF DESTRUCTION METHODS

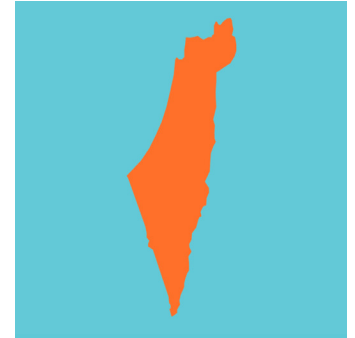
In the framework of the regular procedure, destruction of the goods is carried out upon receipt of court order or by a settlement agreement reached before filing an action. The rights owner is responsible for the destruction costs. However, in practice, these costs are borne by the importer in accordance with the settlement reached.

In the framework of the expedited procedure, the goods are destroyed within two to three months, unless he initiates legal proceedings against Customs contesting their destruction. The destruction costs are borne by Customs.

The goods are destroyed in accordance with environmental regulations, and are transferred, when applicable, for recycling.

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit are treated as goods destined to its destination and may be detained once reached to its final destination.



STORAGE PRACTICES AND FEES

Detained goods are stored in warehouses under the supervision of the Customs Authorities.

In the framework of the regular procedure, the rights owner is responsible for the storage costs. However, in practice, these costs are borne by the importer in accordance with the settlement reached.

In the framework of the expedited procedure the storage costs are borne by Customs.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

While, in accordance with Customs regular procedure, an action should be filed against the importer, rights owners may take advantage of the time before the deadline for filing the action, to negotiate a settlement with the importer. Such a settlement will not only include the goods' destruction, but also payment of storage and destruction costs by the importer, an undertaking signed by the importer, disclosure of information and documents regarding the goods' supplier, and compensation for costs. In such cases, the rights owner may promptly finalize the matter without having to file an action, reducing legal costs considerably. In practice, most cases are resolved with a settlement, without filing an action, when this approach is taken.

The expedited procedure is the most commonly implemented procedure by Customs, and as described below, is a shorter process and a more cost-efficient option. However, unlike the regular procedure, when the expedited procedure is implemented, the Customs Authorities do not provide the rights owner with details of the importer.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Since a separate service for trademark recordal at Customs does not exist as such in Israel, it is highly recommended to conduct customs training sessions, thereby alerting Customs officials to the importation of counterfeit goods, raising their awareness of the brand, and teaching them how to identify counterfeit goods.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

EU Legislation: EU Regulation No 608/2013 of the European Parliament and of the Council of June 12th 2013.; EU Regulation No 2424/2015 of the European Parliament and of the Council of December 16th 2015.; European Commission guidelines

Domestic Legislation: Law no. 99 of July 23rd 2009; Legislative Decree n. 131 of August 13th 2010; Letter n° 23166 of March 3rd 2015

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Italian Customs and Monopolies Agency (ADM); address: Piazza Mastai, 12, 00153 Roma RM; telephone: 06 58571

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Customs are proactive with the rightholder since they stop goods that are suspected of being counterfeit when they believe they present identical, similar or copycat trademarks.

SUSTAINABILITY OF DESTRUCTION METHODS

Once goods are confiscated, either through an administrative proceeding or by a court order, Italian customs is entitled to destroy the IP infringing goods. Italian customs is responsible for ensuring that seized products are disposed of in compliance with environmental legislation. With a view to minimizing environmental impact, trademark counterfeit goods that allow for the removal of the infringing signs may not be destroyed but donated to charity.

MANAGEMENT OF GOODS IN TRANSIT

With the introduction of the internal market and the generalization of the principle of free movement of Union goods, the scope of the Union transit regime is mainly limited to non-EU goods (Union external transit T1) or, in some specific cases, to EU goods (Union internal transit T2), as long as there are express provisions to that effect.

External Community Transit (T1) covers non-Union goods that can move from one point to another in the customs territory of the Union without being subject to import duties and other taxes or trade policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

Internal Community Transit (T2) allows Union goods to move from one point to another in the customs territory of the Union, passing through a country or territory outside the European Community, without changing their customs status.

STORAGE PRACTICES AND FEES

Seized goods are stored in customs warehouses and the fees are on the importer. However, it might be difficult to charge the costs to the importer following the conclusion of criminal proceedings because of the significant time period between the moment of identification of the IP infringing goods to the date of their destruction that, in some cases, can take several years.

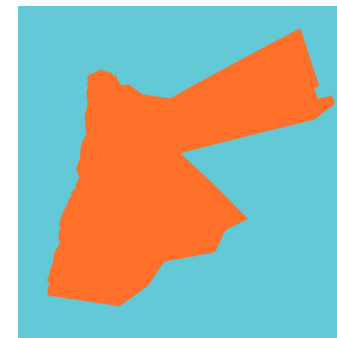
BEST PRACTICES ON CUSTOMS ENFORCEMENT

If a customs authority deems a good suspected to be counterfeit, it will contact the owner of the supervised trademark and the owner will have a period of 10 working days to indicate to the Customs Agency whether the detained goods are original or counterfeit. If the goods are indeed counterfeit, the Customs Agency will seize them and a criminal case will be automatically initiated. The trademark owner has the right to be informed about the origin and destination of the counterfeit goods in order to be able, then, to act accordingly, even initiating a civil action for example, against the final consignee.



INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

It would be appreciable, in order to improve the efficiency of Customs seizures management and the cooperation among Authorities and Rightholders, to have more clarity and communication regarding the fact that products have been destroyed.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Law no. 16/2000 amending Law no. 20/1998

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Head of Intellectual Property at Customs Department

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Customs are proactive with rightholders as customs authorities is suspending entry into Jordan of alleged counterfeit products bearing identical or similar trademarks

SUSTAINABILITY OF DESTRUCTION METHODS

The customs would destroy or re-export the products based on the final outcome of the complaint and the decision issued by the pertinent court.

MANAGEMENT OF GOODS IN TRANSIT

The customs have the authority to seize suspected infringements based on the confirmation from the trademark owner that the suspected products are counterfeit.

STORAGE PRACTICES AND FEES

The storage of the products are located at the Customs and the fees are on the importer

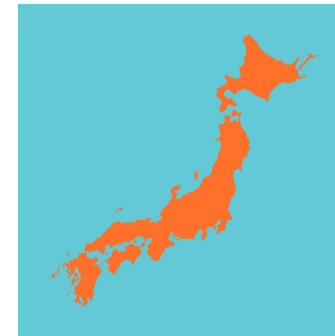
BEST PRACTICES ON CUSTOMS ENFORCEMENT

As a first step, the Customs authority notify the rightholder with the detected counterfeit imports. Accordingly, the brand owner can initiate legal proceedings by filing a court action within a period of eight-days (Otherwise, the detected goods will be released). The counterfeit nature of the goods should be established during the court action proceedings, either with a confession from the defendant or through submitting genuine samples as well as expert opinion. Once counterfeiting is established, the court It would issue a decision condemning the defendant with trademark infringement and ordering the destruction of the products.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Our suggestions to improve the efficiency of the Customs seizures management by recording the trademarks with Customs authorities. The records will enable and assist the officials to promptly notify us of suspected shipments.

It is also recommended to conduct a training seminar for the customs authorities on methods of identifying counterfeit products.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Japan Customs enforce goods infringing Intellectual Property Right (IPR) at the border. The exportation, importation, and transit of goods infringing IPRs are prohibited under Articles 69-2, 69-11, 30, or 65-3 of the Customs Law. The goods infringing IPRs may be confiscated and destroyed by Customs (Paragraph 2 of Article 69-2, Paragraph 2 of Article 69-11, Paragraphs 1 and 2 of Article 118 of the Customs Law.)

Any person who has transported or attempted to transport such goods into/from Japan shall be punished under Article 109, etc. of the Customs Law. Amendments to the Japan Trademark Law and Design Law came into force on April 1, 2022. They have been introduced with the purpose of clarifying that the act of a foreign business entity using a person in Japan to bring in counterfeit goods by mail constitutes an act of trademark or design rights infringement. These amendments are expected to strengthen regulations by the Japan Customs on the private import of counterfeit goods.

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Tokyo Customs main office prosecution department 9th, Tel 03-3599-6491 Ms. Ishibashi; Tokyo Customs Overseas Mails Clearance Generalization Department 3rd, Tel 03-5665-3731 Mr. Miura; Hakodate Customs Branch in Hokkaido Investigation and prosecution Department, Tel 0138-40-4246 Mr. Abe; Narita Customs Branch 4th Prosecution Department Tel 047-634-9526 Mr. Fujii etc.

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

The Business Customs Clearance section is dealing with the identification program to stop the suspicious parcels following the application with materials submitted by the trademark owner. This section is also dealing with training sessions to the customs officials by inviting trademark owners. But due to Covid19 the activity has been suspended for the last 2 years.

The Prosecution Department is dealing with seizing illegal products such as prohibited products for import by the customs authority. They sometimes make investigation together with the police when they raid the premises of the importer offender on a charge of infringement of the customs law.

SUSTAINABILITY OF DESTRUCTION METHODS

Burning in most of the cases.

MANAGEMENT OF GOODS IN TRANSIT

See relevant legislation column.

STORAGE PRACTICES AND FEES

We have never heard that the brand paid a fee for the warehouse to keep seized goods by customs.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

It might be one of the ways to provide the training to the officials by applying the program provided by the customs which is only available for the trademark owner who applied the Identification Program.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Anti-Counterfeit Act No 13 Of 2008;

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

The Anti-Counterfeit Authority, 3rd Floor, Dunga Road Junction Industrial Area, P.O. Box, 47771-00100 (GPO), Nairobi, Kenya, info@aca.go.ke; intelligence@aca.go.ke

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Anti-Counterfeit Authority officials are proactive and inform the right holders of any suspected goods at the entry points or in the market once the brand owner has recorded their marks

SUSTAINABILITY OF DESTRUCTION METHODS

Destruction of counterfeit goods is carried out following a court order or a settlement between the parties. The defendant/accused person bears the cost of destruction. Destruction methods are advised by the National Environment Management Authority depending on the type of goods.

MANAGEMENT OF GOODS IN TRANSIT

ACA officials may seize and search goods in transit where there is reason to suspect that the goods are counterfeit.

STORAGE PRACTICES AND FEES

Seized goods are stored at gazetted counterfeit depots until they are destroyed. The Claimant may be requested to pay for the transportation of the goods to the depots.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Where the brand owner suspects the trade in counterfeit goods a complaint is filed with the ACA. Where ACA official encounter suspect counterfeit goods at the entry points or in the market they notify the brand owner who is also required to file a complaint. The complaint is supported by an indemnity. ACA will then conduct an investigation, gather evidence and prosecute the offender. Brand owners should record their marks with the ACA for ease of detection of suspect counterfeits.

In addition to the criminal suit prosecuted by the ACA, a brand owner may also file a civil suit in the High Court. In most instances, for first time offenders, ADR is encouraged and matters are settled out of court if the parties agree.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Trademark recordation by brand owners; Conduct of occasional market surveys by brand owners; Conduct of brand training to better equip the ACA officials;



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

GCC Common Customs Law of 2008/ Trademark Law No. 13/2015

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Kuwaiti General Administration for Customs Intellectual Property Rights Unit.

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH Rightholders

Despite the absence of a recordation system in Kuwait, Customs are proactively notifying brand owners with any suspected products that seem clearly as counterfeit. However, the customs might request for assistance from the owner of the trademark/agent to confirm if the seized goods are genuine or not.

SUSTAINABILITY OF DESTRUCTION METHODS

Such goods shall be destroyed at the expense of the importer, or disposed out of the commercial channels if such destruction may cause unacceptable harm to public health or the environment.

MANAGEMENT OF GOODS IN TRANSIT

ACA officials may seize and search goods in transit where there is reason to suspect that the goods are counterfeit.

STORAGE PRACTICES AND FEES

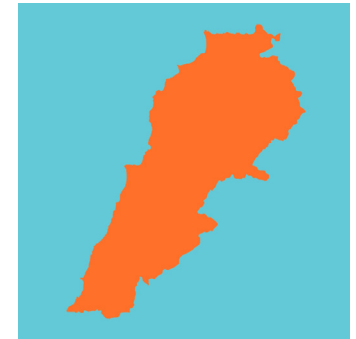
Goods are being stored within the custom's warehouses at the expense of the importer.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

The Customs notify the brand owner of a suspected counterfeit shipment and request a report confirming that the goods are fake. The customs would then fully handle the seizure without involving any party. Accordingly, Customs will take the appropriate course of action without involving the right holder. However, if the owner sustains direct damage arising out of any infringing act for his rights under the provisions of the said Law, may file a claim before the court of jurisdiction to request a judgment for adequate compensation to redress the damage affected him as a result of the infringement, including profits earned by the defendant.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

We recommend implementing a trademark recordation system, holding more training to customs inspectors to assist in detection of counterfeits and linking information between the MOCI Trademarks and the Kuwait General Administration for Customs Intellectual Property Rights Unit.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Decree No. 4461 dated 15/12/2000 (customs law); Decision No. 2385/24 TM and Industrial design law; Law No. 75/99 Copyright law; Law No.240/2000 patent law

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Customs; IP office, Courts

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Customs conduct an ex-officio search for imported goods, and report any findings to IP office, which informs the IP rights owners or their agents.

SUSTAINABILITY OF DESTRUCTION METHODS

Destruction is either decided by court decision, or by the customs authorities. It is made at the expenses of the party who committed the infringement.

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit are also subject to the same rules that apply to imported or exported goods.

STORAGE PRACTICES AND FEES

Storage is made at Customs facilities.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Customs cannot be requested to take any action directly. Accordingly, as a first step, requests need to be made before the courts, and Customs would execute court orders in that respect especially before the . Penal complaints, injunctions or civil actions should be initiated, and the customs notified of any decision regarding goods they have seized.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Training of Customs officers; sharing documents enabling Customs to differentiate genuine from infringing goods.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EC) No. 608/2013 & Benelux Intellectual Property Convention (Art.2.20.1)

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG - Administration des Douanes & Accises - Inspection Douanes et Accises - Claude.Entringer@do.etat.lu & Olivier.Seil@do.etat.lu

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Luxembourg customs are not very proactive. They worked fully with IPEP some time ago but with an internal IT problem they had to go back to COPIS.

SUSTAINABILITY OF DESTRUCTION METHODS

We have no idea whatsoever the destructions are being performed in a sustainable or ecologic way. We receive offers from Lamesch Exploitation S.A. If we agree, the goods are being destroyed and a final invoice is being sent.

MANAGEMENT OF GOODS IN TRANSIT

No transit goods are being detained, at least not during the last years.

STORAGE PRACTICES AND FEES

Detained goods are stored and destroyed by Lamesch Exploitation S.A. We have to agree on a proposal of invoice after which the goods are being destroyed.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

When filing an AFA be sure to have included detailed (technical) information on the goods, any specific information you might have concerning the type of fraud, the pre-tax value of the original goods on the legitimate market in Belgium, particulars identifying packaging material, the scheduled arrival or departure date of goods, the means of transport used, the country or countries of production and the route used by traffickers, the technical differences, if known, between the authentic and suspect goods. Identification trainings are very useful for customs officers. We are present at all trainings organized. Being present at Observatory plenary meetings is also a plus.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

We should insist on having more identification trainings organized.



SUSTAINABILITY OF DESTRUCTION METHODS

Destruction methods are applied in accordance with the court decision.

STORAGE PRACTICES AND FEES

Storage of counterfeit imports will occur where the court decides and on the expense of the importer.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

In spite of the lack of custom recordation system or enforcement measures within the Libyan Customs, it is possible to obtain injunction orders to seize shipment as well as decisions ordering destruction (after filing the necessary court actions). However, do note that the brand owner would have to provide detailed information relating to the imported shipment.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Field of IP rights enforcement within the Customs needs a lot of enhancement by passing relevant laws, implementing accurate recordation systems and conducting workshops for customs inspectors and officials.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

The following legislation is the one applicable to enforcement practices of IP rights on Customs matters: Customs Law; Regulations of the Customs Law; Federal Law for the Protection of the Intellectual Property; Copyright Federal Law; Regulations of the Intellectual Property Law; Federal Law of Administrative Proceeding; Trade-Related Aspects of Intellectual Property Rights (TRIPS); Berne Convention for the Protection of Literary and Artistic Works; Paris Convention for the Protection of Industrial Property; United States–Mexico–Canada Agreement (USMCA); General Rules related to Foreign Trade

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

We currently keep our communications with Customs authorities in person and by using different digital media, including telephone and email, being this last one the mean of communication used to inform us about suspicious merchandise.

The official email account through which Customs sends us all such alerts is consultas.pirateria@sat.gob.mx.

Through this email account, Central Customs informs us about the arrival of merchandise that is presumably counterfeited, for us to report the IP right holder.

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

In Mexico, Customs authorities are quite cooperative with rightsholders, as they are open to get training courses so that they can obtain all the necessary information to be able to identify counterfeit products that are introduced into Mexican territory.

In addition, there has always been an openness for any rightsholder company representative to obtain an appointment with the authorities to discuss specific situations.

While it is true that there are several areas of opportunity regarding the operation and efficiency in the identification and reporting of counterfeit products, Mexican Customs authorities are open to change and proactivity.

SUSTAINABILITY OF DESTRUCTION METHODS

In Mexico there are two types of proceeding in which one of the ultimate objectives is the destruction of the counterfeited goods, the administrative infringement proceeding and the criminal claim.

In the administrative proceeding, once the infringement is declared against the importer, the authority orders the destruction of the goods. Depending on the specific circumstances of the case, and where is located the merchandise, we can proceed with the destruction process. In certain cases, the MPTO takes care of all the proceeding until the final destruction, and in other cases, we have to coordinate with a specialized company to conduct this proceeding.

On the other hand, for the criminal proceedings all the destruction process is conducted by the authority. Once the expert appraisal concludes that there is falsification of a trademark or unauthorized copyright use, if there is no possibility to initiate a criminal trial against the responsible person, the Federal Prosecutor orders the destruction of the seized goods.

MANAGEMENT OF GOODS IN TRANSIT

For this type of goods, Customs also sends us an alert for us to confirm if the rightsholder wants to proceed, but in these cases, we can only proceed with the administrative infringement proceeding.

In cases in which rightsholders do not want to proceed in Mexico, Customs authorities cooperate with foreign Customs, providing them the necessary information to track and seize the goods in the final port.



STORAGE PRACTICES AND FEES

For this point is also important to distinguish between the two types of proceeding:

When it comes to the administrative infringement claim, there will be plenty of chances that we would need to pay for the storage of the seized products. An average of monthly storage fees is of approximately \$1,000.00 USD.

It is a bit different the storage situation on the criminal procedures. After we file the criminal complaint, the Federal Prosecutor orders the detention of the merchandise and then the Federal Police conduct an inspection of the products. After this, the products remain at Customs facilities without any charge for the rightsholder.

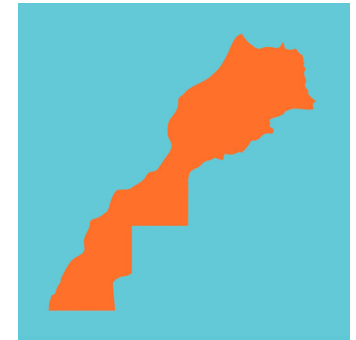
BEST PRACTICES ON CUSTOMS ENFORCEMENT

The most recommended practice related to customs matters is to register all the trademarks at the Customs database. With such action, when products bearing the recorded designs or trademarks (or any similar one), the rightsholder or their legal representative will receive an alert providing all the information related to the cargo.

Also, we recommend a zero-tolerance policy, even with cargoes with few products. This type of proactive participation will send a message to all the importers and could significantly reduce the counterfeiting industry for that specific trademark or copyright.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

As it was mentioned, there are several areas of opportunity regarding the efficiency of Customs seizure, but the following ones improve and strengthen the relationship between Customs Authorities and brands: Recording the right holder's trademarks before Mexican Customs; Responding to customs alerts; Try to take legal action as much as possible; To follow-up the course of the seizure of the goods in those cases in which the right holder has decided to take legal actions; Participate actively in Customs training programs; Attending Customs Authorities guidelines; To comply with the Law; To cooperate with IP relevant authorities.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Law 23-13 & Law No.31-05 amending and supplementing the basic trademark Law 17-97

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Administration of Customs and Indirect Taxes (ADII)

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Morocco have established a trademark recordation system for registered trademarks – which are registered with the Moroccan Trademark Office—this system is undoubtedly help Customs officials target, intercept, and confiscate shipments of infringing goods.

SUSTAINABILITY OF DESTRUCTION METHODS

Destruction processes are established after the issuance of a decision by commercial court and infringers can be obliged to pay the cost of warehousing counterfeit goods

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit are considered the same as goods reaching their final destination.

STORAGE PRACTICES AND FEES

Seized goods will be stored in the custom's warehouses

BEST PRACTICES ON CUSTOMS ENFORCEMENT

After the customs notify the rightholder of the suspected shipment of counterfeit products, the owners should submit within a period of 10 days from the notification date to the Customs confirmation evidence that they had Obtained a preliminary injunction from the Court ordering seizure of the counterfeit goods (conservatory measures provided for under Article 206), and initiated actual legal proceedings against the importers along with payment of a bond in order to compensate the counterparts in case the goods were not found counterfeit subsequent to a Court decision. This legal proceeding is commonly demonstrated a court action before the Commercial Court. The time-frame for such cases could range between 3 to 6 months during which the products are kept under custody of the customs and a final judgment that would likely order destruction of the goods would be issued.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

It is worth noting, that in order to ease the proceedings of Customs collaboration with the right holders or their representative by allowing and before initiating the civil proceedings via bailiff, to take pictures of the detained goods. In addition to this, brand owners are advised to conduct yearly trainings to the customs officers to familiarize them with the originals and typical counterfeits. In addition, it is significant to record the trademarks before the customs and conduct training for customs officer



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Customs & Excise Management Act Cap C45 Laws of the Federation of Nigeria, 2004 (CEMA); Customs Duties (Dumped and Subsidized Goods) Act Cap C87 LFN 2004; Customs and Excise Management (Disposal of Goods) Act

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Deputy Comptroller and Head of Intellectual Property Right, Nigeria Custom Service (NCS)

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Established in 1891, the NCS has over a 100 years' composite experience in border control. The NCS calls for corporation from right holders and partners with other agencies including the Standard Organisation of Nigeria, the National Agency for Food and Drugs Administration and Control, the Nigerian Drug Law Enforcement Agency and the Nigerian Copyright Commission to boost better border control and enforcement. The NCS also collaborates with different stakeholders.

SUSTAINABILITY OF DESTRUCTION METHODS

According to the Guideline on the Procedure for Disposal of Seized and Overtime Goods, issued and signed by the Comptroller-General of the NCS in 2016, perishable goods with or without Defendants are required to be disposed of by the committee set up for that purpose by the NCS while goods classified as general goods are destroyed after condemnation by the court, which order shall be made after 30 days of seizure provided there is no notice of litigation over the goods.

MANAGEMENT OF GOODS IN TRANSIT

There is no jurisdiction with respect to goods in transit, unless where the NCS is alerted that such goods are illegal or there exist a strong basis of suspecting so.

STORAGE PRACTICES AND FEES

Goods are stored in warehouses approved by the NCS which may or may not require the payment of fees and duties under the CEMA. By Section 81 of the CEMA, the Minister of Finance is permitted to declare (by notice in the Federal Gazette) what goods may be warehoused without payment of duty.

In the event that there is absence of space to store the goods, the goods may continue to be kept in the vehicle used in conveying them under the NCS watch pending further actions by the NCS.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

The IP Right Unit of the NCS was established in 2014 as the lead IP enforcement agency in the NCS. Rightsholders can therefore report or make complaints of potential infringements of their rights. The complaint should disclose all relevant evidence that would aid the NCS to conduct its investigation.

By section 46 of the CEMA, any goods imported into Nigeria contrary to a prohibition is liable to forfeiture and the importer is liable to 5years imprisonment without option of fine.

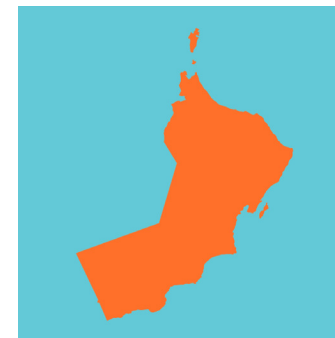


INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Firstly, it is important for Right Holders to ensure that their marks, logos, inventions, designs are registered with the Trademarks, Patents and Designs Registry in Nigeria.

Secondly, Right Holders can sign an MOU with the Nigeria Customs Service for interception and seizure of counterfeits at the borders. The MOU will detail the brands/goods and persons to contact in the event of any interception. Right Holders are also encouraged to train enforcement agents on how to differentiate their genuine products from counterfeits.

In addition, registrations with anti-counterfeiting associations like the Anti-Counterfeiting Collaboration of Nigeria (ACC) is strongly advised as they work closely with enforcement agencies in Nigeria.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

GCC Common Customs Law of 2008& GCC Trademark Law of 2015

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Directorate General for Custom Services of the Omani Royal Police

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Despite the absence of a recordation system to be adopted by the Customs services, Directorate might act based on a compliant filed before their Screening and Risk Assessment Department.

SUSTAINABILITY OF DESTRUCTION METHODS

Despite the absence of a recordation system to be adopted by the Customs services, Directorate might act based on a compliant filed before their Screening and Risk Assessment Department.

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit are considered the same as goods reaching their final destination.

STORAGE PRACTICES AND FEES

Custom's department warehouses will be responsible for the storage of seized goods.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

It is possible to file a complaint before the risk and assessment department at the customs. The complaint should include documents evidencing the complainant rights , detailed information on how to differentiate between original and counterfeited products,and information regarding the incoming counterfeited products (date of arrival, amount, shipper, receiver, border point). The complaint should be filed immediately before the expected date of arrival of the shipment in order to increase the chances of having customs act on the complaint and seize the products. There is no clear procedures on how to follow-up on such complaints and customs are free to share (or refrain from sharing) information concerning the actions taken after filing the complaint.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

It is highly advisable to implement a customs recordation system by forming an unit within the Customs specialized in detection any possible infringements or counterfeit products entering Oman.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

TRIPS Agreement (Law no. 444/1994): the Agreement recognizes the importance of border enforcement procedures that will enable right holders to obtain the cooperation of Customs administrations so as to prevent the release of infringing imports into free circulation. The special requirements related to border measures are contained in Section 4 of the enforcement part of the Agreement; Paris Convention (1979 Revision) (Law no. 300/1994); MERCOSUR Harmonization Protocol on Intellectual Property, as for Trademarks, Geographical Indications and Appellations of Origin 1995 (Law no. 912/1996); Law no. 6,796/2021 That Approves The Agreement Between The Government Of The Republic Of Paraguay And The Government Of The United States Of America Regarding Mutual Assistance Between Their Customs Administrations; Law no. 2,422 Customs Code; Law no. 6,417/2019 That modifies and expands articles 336 and 345 of Law no. 2,422/2004 of the Customs Code; Decree no. 215/2018 By which Art. 2 of Decree no. 4,672/2005 is modified, and the Organizational Structure of the National Customs Directorate is established; Customs Administration Resolutions no. 130/2010 and no. 271/2010; Decree no 3,994/2010 by which Article 176 of the Annex To Decree no 4,672/2005 “By Which Law 2422/04 “Customs Code” Is Regulated” Is Modified And The Organizational Structure Of The National Customs Directorate Is Established.; Decree no. 4,672/2005 by Which Law no. 2,422/2004 “Customs Code” is Regulated, and The Organizational Structure of The National Customs Directorate is Established.; Regulatory Decree no. 4,672/2005 by which Law no. 2,422/2004 “Customs Code” is regulated; Customs Regulations on Trademark Registration and Protection no. 130/2010 and 271/2010; Criminal Code - Law no. 1,160/1997, as amended by Law no 3,440/2008; Trademarks Law no 1,294/1998; Trademark Law Decree no 22,365/1998; Law no 6,604/2020 - Approves The Nice Agreement Regarding the International Classification Of Goods And Services For The Registration Of Trademarks; Registration of and Control on Imported Recordable Devices Decree no. 603/2003; National Council for the Protection of Intellectual Property Rights Decree no. 14,870/1996, as amended by Decree no. 13,487/2001; Resolution No. 256/2018 - Consolidating in a single instrument the provisions related to the registration, control, and cancellation of national Customs transit operations from a Customs office of entry to the Customs office of destination, through the computer application of the traffic management system; Resolution no. 664/2017 by which the complementary procedures of DNA Resolution no. 580/2017 are established for the multimodal transit of imports entering the country by air and river, to the Customs office of destination; Resolution no. 580/2017 by which the adequacy of the computer application of the National Customs Transit Management System for the registration, automated control and cancellation of Customs transit operations of goods from a Customs office of entry to the Customs office of destination; Resolution no. 02/2017 - Which updates, approves and establishes the validity of the computer application of the National Customs Transit Management System for the control and cancellation of merchandise transit operations from a Customs office of entry to the Customs office of destiny; Resolution no. 424/2016 By which the application and regulation of the procedures for the settlement and payment of fees for extraordinary Customs services provided by officials of the institution is established, by virtue of the provisions of Article 264 of Law no. 2,422/2004 “Customs Code” and Article 343 of Regulatory Decree no. 4,672/2005

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Decree no 215/2018: JULIO MANUEL FERNÁNDEZ FRUTOS, Customs Nacional Director; ROBERTO ANTONIO QUIÑÓNEZ VALENZUELA, Assistant Nacional Director; ROMILIO VALLEJOS, General Secretary; VIVIAN TORRES, IT and Communications Director; CRISTIAN PAREDES, Customs Procedures Director; RAMÓN GÓMEZ, Foreign Relations Director; NELSON BÁEZ SILVA, Administrative Coordination Of Customs Investigation (Caia) Director; GERMAN ZONETTI, Operational Coordination of Customs Investigation (COIA) Director Tel: (595 21) 413 4100/4101 - email: car@aduana.gov.py



CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

As far as experience and proactivity, the Institution points to a higher qualification of the personnel and a greater modernization of the System. The entity has an Annual Academic Plan in which the courses, seminars and workshops are planned, which are carried out through the Higher Customs Technical Institute (Instituto Técnico Superior Aduanero - ITSA).

Regarding cooperation with rightsholders, border protection measures currently exist to protect trademarks. Every clearance of any kind that is linked to a trademark registered with the Customs will be notified by email or phone message to the holder or its agent, and in case of suspected irregularities, the holder will be able to ask for the temporary suspension of the clearance and eventually file administrative, civil or criminal actions.

Customs can act ex officio, though most cases are brought by IP holders' claims before Prosecutor Office. Such ex officio actions take place in two different ways: Customs may file the claim directly before Prosecutor Office or send a notification to the IP agent, if the trademark has been registered at the institution's trademark registry. Once notified, the IP agent can request the suspension of the import/export directly to Customs or through the Prosecutor's Office.

Once suspension is ordered by Customs, the TM rightsholder and importer are notified and their presence is allowed during inspection of the goods. There is no specific term for the importer to file a defense during investigation stage and the appointment of an expert witness may be requested by the importer. Once goods are seized, the Prosecutor will request deposition of the importer and eventually, file an official indictment request.

In general terms, Customs cooperation with rightsholders is what can be expected within reason. Sufficient regulations exist so that the owner of the trademark right who is aware of an importation in violation of his rights, can request and obtain judicial measures to prevent the entry of that merchandise into the market. In addition, the violation of trademark rights, as well as copyright, is a crime of public action and consequently, the same customs official can file the complaint so the Prosecutor can request the judicial measure. Therefore, it is clear that Customs authorities are key players in the repression of acts of piracy and counterfeiting.

SUSTAINABILITY OF DESTRUCTION METHODS

Paraguayan legislation expressly allows, before a final judgment is rendered, the destruction of the counterfeited goods in the criminal jurisdiction (not in the civil jurisdiction) as long as there is a firmed technical ruling declaring that the goods are counterfeited.

As far as sustainability of destruction methods, once a judicial order of destruction of goods has been issued, destructions take place normally by trashing the goods, reducing the remains and recycling whenever possible. No products are recovered or inserted into the market.

MANAGEMENT OF GOODS IN TRANSIT

Customs has electronic tools that strengthened dispatch controls and contributed to greater transparency in the processes. Among the most relevant is the COMPUTER SYSTEM FOR RISK ANALYSIS AND MANAGEMENT (SBR). It is the computer application to determine the assignment of Selectivity Channels for import and export Customs declarations and their Customs regimes. (GREEN CHANNEL: Without physical or documentary control, with Administrative Dispatch procedure in 30 minutes; ORANGE CHANNEL: Documentary control and Administrative Dispatch procedure in 45 minutes and RED CHANNEL: Physical and documentary control without time limit).

It also has an Internal Customs Transit Computer System (SGT), which covers all land movement of goods that takes place from any Customs administration (start of transit) to another (destination). What is registered within the SGT is a sworn statement and will be used compulsorily to continue with the other Customs operations that use this data (Example: Manifests, Dispatches, etc.).



STORAGE PRACTICES AND FEES

Practices and fees are not uniform and change according to each storage facility. **These are the main ones:** Puerto Seguro Fluvial; Sub Administración Sajonia; Gical; Paksa; Ita Enramada; Villeta; Terport; Puerto Caacupemi; Puerto Fenix; Chaco´i; Ceregral

BEST PRACTICES ON CUSTOMS ENFORCEMENT

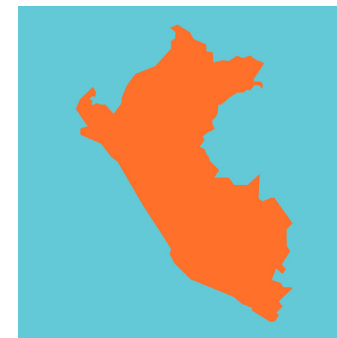
The Bill of Lading, Party Logistics and Commercial Invoice could include, in a mandatory manner, the correct description of the merchandise that by its nature is susceptible to counterfeiting so it is monitored by the prosecutor's office. Such description should include the complete detail of the nature of the product and trademark.

In Paraguay, all Intellectual Property crimes are of public nature so Customs Authorities should take an active role when inspecting loads of doubtful origin or with risk profiles, contacting the Prosecutor´s office immediately.

Rightsholders should take advantage of the Trademark Registry at Customs as once a trademark has been registered into the Sofia System, any customs transaction must go through such system, automatically detecting suspicious borders transactions.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Encouraging IP rights holders to register their trademarks at Customs Registry.; Extending Customs Registry and control to patents, copyright and industrial models and designs, as at the present moment, only trademarks can be registered and are controlled.; Initiating information campaigns regarding impact of counterfeited products in the economy of a country, insisting on the damage it causes to companies that carry out their activities legally, to society and to consumers.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

General Customs Law: Legislative Decree No. 1,053.; Regulation on the General Customs Law: Supreme Decree No. 010-2009-EF.; Border Measures Legislation: Legislative Decree No. 1,092.; Regulation on Border Measures Legislation: Supreme Decree No. 003-2009-EF.

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

The following are the contact information and main references: **Marilú Haydeé Llerena Aybar**, National Peruvian Customs Office.; E-mail: mllerenaa@sunat.gob.pe; Phone number: (+511) 6343300 / Extension: 53306; **Luis Arnaldo Figueroa Santa Cruz**, Maritime Customs Office in Callao Port.; E-mail: lfigueroas@sunat.gob.pe; Phone number: (+511) 6343700 / Extension: 21002; **Vilma Rosario Villanueva Eslava**, Air and Postal Customs Office.; E-mail: villanuevae@sunat.gob.pe; Phone number: (+511) 3150730 / Extension: 21500

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Customs Officers in Peru are very active and always show great disposition to cooperate with rights holders. For instance, although the Border Measures Procedures in Peru can also be initiated upon the request of the IP owners, according to our legal practice, these actions are normally initiated ex officio. In that sense, when the suspicious merchandise is detected and the IP owners have their trademarks and/or artworks registered within Customs records, Customs Officers immediately alert us and immobilize the products for 3 business days, a period in which the affected rights holders must confirm having filed a claim before the administrative or criminal authorities. Afterwards, once the actions initiated within the granted period have been confirmed, Customs Officers extend their immobilization for an additional term of 10 business days so that the competent authority can rule within said period on the precautionary measures requested by the corresponding IP owners. With respect to this matter, it should be noted that, in case the products are original or legal actions are not initiated within the first period of 3 business days, Customs Officers cancel their preliminary immobilization and the products continue with their regular dispatch.

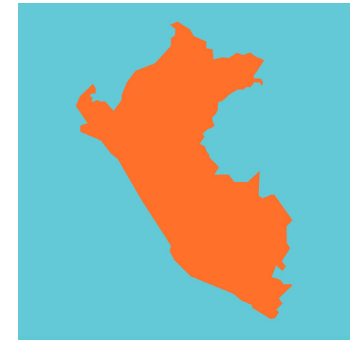
On the other hand, it is worth mentioning that the above-mentioned Border Measures Procedures are initiated when the detected merchandise exceeds a FOB Value of US\$ 200.00; but when the products have been declared at Customs with a lower price, Customs Officers also immediately alert us. The only difference in such scenario is that the products cannot be preliminarily immobilized and the IP owners have to initiate legal actions as soon as possible in order to avoid the infringing products from entering or leaving the country. Unfortunately, in Peru Customs Officers are not entitled to directly seize the products they detect and their verifications must be followed by claims filed by the IP owners in order to detain the products for good.

In any case, the support we receive from Customs Officers is definitely crucial, as they are the ones verifying the products directly. With respect to this matter, the Peruvian Trademark and Copyright Offices only have one inspector doing this type of verifications in situ, which is nothing compared to all the Customs Officers that constantly send us information of possible counterfeit products.

SUSTAINABILITY OF DESTRUCTION METHODS

As mentioned in the previous bullet, in Peru IP owners have to initiate legal actions in order to have the infringing goods seized for good. When these actions are initiated as criminal cases, the IP Prosecutor is the one that takes the products to their own warehouse and, once the procedures conclude, the IP Prosecutor handles the corresponding destruction or donation directly. On the contrary, when the cases are initiated before the administrative authority (either the Peruvian Trademark, Copyright, Patent or Unfair Competition Offices), the IP owner assumes the storage expenses throughout the procedures and also handles the destruction of the goods once they end.

With respect to this matter, we follow eco-friendly methods of solid waste management in coordination with a destruction company we work with in Peru. Our goal is to become progressively sustainable when dealing with the waste generated by the destruction of counterfeit products. In that sense, our objective is to provide a purpose for the waste with no other destination than the landfill. Regarding this, after our destruction procedures are carried out at the private warehouse in which we store the products, the solid waste is separated by type of material and then transported to a landfill. In such location the waste is covered with clay material and when the solid waste decomposes, it generates methane gas, which is captured by gas wells and transported through a gas pipeline, being collected by a suction station where the methane gas is processed and converted into electrical energy that is distributed through transmission networks throughout the Peruvian territory.



It is worth mentioning that, prior to the destruction procedure itself, we evaluate if some parts or elements of the infringing goods could be donated for their reuse or recycling. Of course, this is previously coordinated with the IP owners and upon their approval we handle the delivery of the reusable material with non-governmental organizations which have reuse and recycling programs destined to help different social projects. In Peru there are several non-profit organizations committed to contributing to the environment and creating awareness of the sustainable actions that can help our planet. Therefore, depending on the involved products to be destroyed in each case, we may determine which organization is more suitable to donate them the material to be reused or recycled.

MANAGEMENT OF GOODS IN TRANSIT

In order to better understand this matter, first we must take into consideration that numeral 3.1. of the Third Article of our Border Measures Legislation establishes the following:

“Article 3.- Scope of Application 3.1. This regulation is applicable when it is presumed that the merchandise destined for the importation, exportation or transit regimes is piracy or counterfeit merchandise.” (The underlining is ours).

As it can be appreciated, Border Measures Legislation is applicable before the presumption of piracy or counterfeit merchandise destined to three Customs regimes, namely: (i) importation, (ii) exportation, or (iii) transit.

With respect to the transit regime, according to Title VI of the General Customs Law, the three transit regimes are the following: (i) Customs transit, (ii) transshipment, and (iii) re-embarkation. In that sense, we understand that the aim of the regulation is that the adoption of Border Measures should be applicable to the allegedly counterfeit merchandise detected in the importation, exportation, or any of the three transit regimes. Notwithstanding this, the Regulation on Border Measures Legislation, specifically in its Third Article states the following:

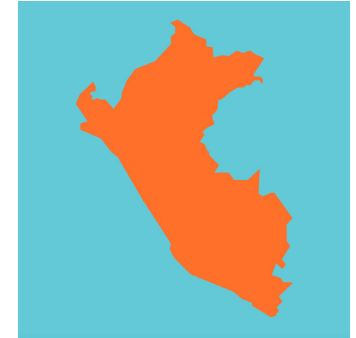
“Article 3.- Scope of Application This Regulation is applicable to the goods referred in the Law that have been destined to the regimes of importation for consumption, re-importation in the same state, temporary entry for re-exportation in the same state, definitive exportation, temporary exportation for re-importation in the same state or Customs transit.” (The underlining is ours).

As it can be appreciated, the normative text has been drafted in such a way that it excludes from the application of the rule, the infringements detected in the Customs regimes of transshipment and re-embarkation, which, as we have indicated, should also be considered in the transit regime. In that sense, by not being included, both transit regimes (transshipment and re-embarkation) are being used for committing infringements against registered IP rights, as it is known that there is no control over those regimes, which would change with a simple modification on the mentioned regulation.

STORAGE PRACTICES AND FEES

The storage practices and fees would mainly depend on the type of procedure that is initiated upon a Customs case. For instance, and as mentioned before, when a claim is filed before the IP Prosecutor’s Office, the products are taken to their institutional warehouse and, once the procedures conclude, the IP Prosecutor handles the corresponding destruction or donation of the goods directly, without the participation of the IP owners. Therefore, no storage fees are charged to the IP owners in this scenario.

On the other hand and being that most of the Customs cases are initiated before the administrative authority (either the Peruvian Trademark, Copyright, Patent or Unfair Competition Offices), in the administrative cases the IP owners are in charge of the custody of the seized products throughout the procedures. Therefore, once seized they take the goods to a private storage, in which the fees may vary depending on the quantity of seized products and their volume.



BEST PRACTICES ON CUSTOMS ENFORCEMENT

Among the best practices we carry out on Customs enforcement, we consider the main one is to keep in constant communication with the Officers in charge of the verification of products, not only through formal means or e-mails, but also by having their direct cell phone numbers to be able to guide them through their labor, especially when they have doubts on the products they detect and send us pictures in advance. This also allows us to have the information earlier and be able to send it to the IP owners for a faster evaluation.

Another good practice is to be attentive to the periodic renewals of Customs Officers and always have their contact information updated. With respect to this matter, it is also important to constantly arrange trainings on how to detect possible counterfeit products to maintain a good degree of remembrance of the IP owners we represent at the institutional level.

Finally, we also consider it is extremely important to have IP rights registered before Customs. Otherwise, Customs Officers will not be entitled to stop ex officio any suspicious merchandise in application to our Border Measures Legislation. This Customs recordal may be filed at any time of the year, but always need to be renewed every January (the first 30 days of a year).

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

We consider that there is a current problem that lies in the bad drafting of the regulations applicable to the adoption of Border Measures for the protection of Intellectual Property rights.

As explained before, first of all it would be important to include the three transit regimes (Customs transit, transshipment and re-embarkation) in the Regulation of our Border Measures Legislation, so that this procedure could be applicable to all Customs regimes.

In addition, we also consider important to modify the aforementioned rules regarding the competent authority to resolve the cases in which Border Measures are being applied, which are currently the administrative authority and the judicial authority; when they ought to be administrative authority and the IP Prosecutor's Office. In the legal practice, it is not possible to request a judge to apply Border Measures because it is precisely the Prosecutor's Office, through the prosecutors specialized in Customs offenses and Intellectual Property, the one that has the faculties and the means to apply Border Measures. However, when some complaints have been filed before IP Prosecutors, some of them have inhibited because they consider that they have no competence to apply Border Measures, making a completely literal reading of the mentioned Regulation.

As final suggestions, we also consider important to exclude from our Border Measures Legislation the application of the procedure only in cases that exceed a FOB Value of US\$ 200.00, given that most of the infringers declare at Customs a very low price of their products or they even bring the goods in separate small shipments to pass unnoticed through Customs control. Moreover, it would be ideal to have more inspectors from the administrative authority doing verifications at Customs, as currently we basically rely on the Customs Officers' labor of keeping us alert before possible infringements.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

16 Customs Chambers: **1.** Podlaski Urząd Celno-Skarbowy w Białymstoku, ul. Octowa 2, 15-399 Białystok, tel. +48 85 745 85 55, email: podlaski.ucs@mf.gov.pl; **2.** Lubelski Urząd Celno-Skarbowy w Białej Podlaskiej, ul. Celników Polskich 21, 21-500 Biała Podlaska, tel. +48 83 344 98 33, email: lubelski.ucs@mf.gov.pl; **3.** Pomorski Urząd Celno-Skarbowy w Gdyni, Delegatura w Gdyni, ul. Północna 9a, 81-029 Gdynia, tel. +48 58 666 90 90, email: znd2.pomorski.ucs@mf.gov.pl; **4.** Śląski Urząd Celno-Skarbowy w Katowicach, Plac Grunwaldzki 8-10, 40-127 Katowice, tel. +48 32 758 70 00, email: sekretariat.UCS.katowice@mf.gov.pl; **5.** Świętokrzyski Urząd Celno-Skarbowy w Kielcach, ul. Ściegiennego 264 D, 25-116 Kielce, tel. +48 41 348 99 15, email: ockielce.sekretariat@mf.gov.pl; **6.** Małopolski Urząd Celno-Skarbowy w Krakowie, ul. Pachońskiego 3A, 31-223 Kraków, tel. +48 12 35 07 600, email: malopolskie.ucs@mf.gov.pl; **7.** Łódzki Urząd Celno-Skarbowy w Łodzi, ul. Lodowa 97, 93-232 Łódź, tel. +48 42 63 88 222, email: zpe.ucs.368000@mf.gov.pl; **8.** Warmińsko-Mazurski Urząd Celno-Skarbowy w Olsztynie, ul. Dworcowa 1, 10-413 Olsztyn, tel. +48 89 539 72 68, email: warminsko-mazurski.ucs@mf.gov.pl; **9.** Opolski Urząd Celno-Skarbowy w Opolu, ul. Drzymały 22, 45-342 Opole, tel. +48 77 401 78 00, email: sekretariat.ucs.388000@mf.gov.pl; **10.** Wielkopolski Urząd Celno-Skarbowy w Poznaniu, ul. Krańcowa 28, 61-037 Poznań, tel. +48 61 658 35 00, email: wielkopolski.ucs@mf.gov.pl; **11.** Podkarpacki Urząd Celno-Skarbowy w Przemyślu, ul. Sielecka 9, 37-700 Przemyśl, tel. +48 16 676 43 02, email: podkarpacki.ucs@mf.gov.pl; **12.** Izba Administracji Skarbowej w Zielonej Górze, ul. Sikorskiego 2, 65-454 Zielona Góra, tel. +48 660 557 001, email: ias.zielonagora@mf.gov.pl; **13.** Izba Administracji Skarbowej w Szczecinie, ul. Roosevelta 1, 2, 70-525 Szczecin, tel. +48 91 48 03 600, email: ias.szczecin@mf.gov.pl; **14.** Kujawsko-Pomorski Urząd Celno-Skarbowy w Toruniu, ul. Batorego 61, 87-100 Toruń, tel. +48 56 619 76 02, email: kujawsko-pomorski.ucs@mf.gov.pl; **15.** Mazowiecki Urząd Celno-Skarbowy w Warszawie, ul. Jagiellońska 55 B, 03-301 Warszawa, tel. +48 22 670 60 00, email: mucs.ucs.448000@mf.gov.pl [this unit is responsible for acceptance the application for customs protection for the cases all over the Poland]; **16.** Dolnośląski Urząd Celno-Skarbowy we Wrocławiu, ul. Stacyjna 10, 53-613 Wrocław, tel. +48 71 355 75 00, email: wroclaw.ucs@mf.gov.pl

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH Rightholders

In all chambers there are dedicated customs officers handling IP cases. Most of them are active attendees of IP trainings for customs organized in Customs Training Centres. Customs usually seize goods on their own initiative and are well informed of which legal representative they should contact to (generally based on data given in VINCI database but also on their experience and knowledge from trainings).

SUSTAINABILITY OF DESTRUCTION METHODS

Burning and grinding by professional destruction companies.

MANAGEMENT OF GOODS IN TRANSIT

Burning and grinding by professional destruction companies.



STORAGE PRACTICES AND FEES

There are different practices in different chambers but generally each customs chamber usually have its own warehouse where the seized goods are stored. Fees are not revealed as the Ministry of State Treasury is the entity covering the costs.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

We suggest to participate in most trainings organized for customs as we believe they are very effective and motivate officers directly handling the IP cases.

It is very important to provide customs with quick reaction from the representative of the aggrieved parties - to quickly assess whether there has been an infringement and to quickly file a motion to prosecute the perpetrator.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

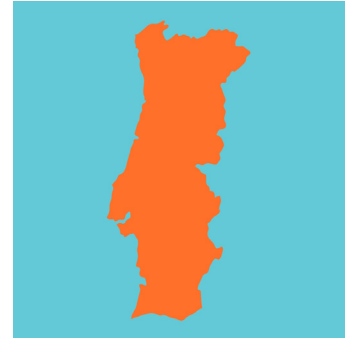
As on the left + provide customs with leaflets or guidebooks describing how to confirm the infringement.

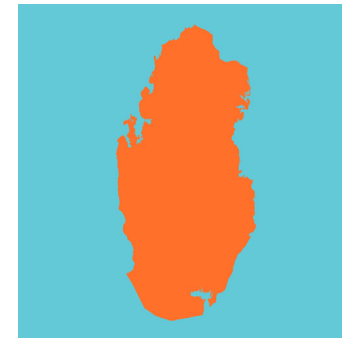
RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EU) n° 608/2013 of the European Parliament and of the council of 12 june 2013

COUNTRY

Portugal





RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Law No. (17) of 2011 on “The Border Measures for the Protection of IPRs”

POINTS OF CONTACT: AUTHORITIES’ CONTACT INFORMATION AND MAIN REFERENCES

General Directorate of Customs in the Ministry of Economy and Finance

CUSTOMS’ DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Despite the lack of active recordation systems, customs act instantly when they suspect products that are clearly infringing the brand owner or when the brand owner notifies them with a possible counterfeit imports.

SUSTAINABILITY OF DESTRUCTION METHODS

Destructions are established prior to the decision of the Customs’ legal department

MANAGEMENT OF GOODS IN TRANSIT

Provisions of dealing with goods reaching their final destination apply as well on goods in transit.

STORAGE PRACTICES AND FEES

Storage of seized goods takes place in the custom’s premises and any related charges would be on the expense of the adverse party.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

After detecting the suspected counterfeit imports, customs would proceed with the following: **1-** The customs seize the goods and keep them at their custody in customs’ temporary stores for a week. **2-** The brand owner should provide genuine samples of goods corresponding to the seized items.

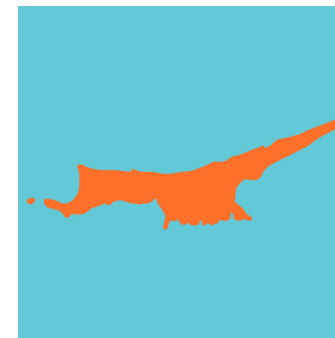
3- Once testing of goods is complete and if goods are found counterfeit, the customs issues a decision at its sole discretion to either:

- (i) Destroy the goods with the cooperation of the Municipality; or
- (ii) Return the goods as they are to the country of origin at the importer’s cost.

Nevertheless, if importer objects to claim that products are fake, an appeal can be filed before civil courts as the importer must pay a cash deposit/bond to the court and this amount will only be returned if court rules in favor of importer. The court usually reviews the case and issues a ruling within three days from date of receiving the case file

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Active recordation systems should be implemented for a booming country like Qatar, by create special units within the customs that are specialized in recording IP rights of brand owners and combating infringing and counterfeit imports.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

EU Regulation Number 608/2013

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Head of Intellectual Property Department at Customs Head Authority

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Customs are proactive with the rightholder once the latter submits the customs application for action in the IP Enforcement portal at the European Union Intellectual Property Office

SUSTAINABILITY OF DESTRUCTION METHODS

Destructions are made after the issuance of the Court's decision

MANAGEMENT OF GOODS IN TRANSIT

The goods in transit are managed as the goods in their final destination

STORAGE PRACTICES AND FEES

The storage of goods is made in warehouses. The fees depend on the number and weight of the goods.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

If the Cypriot authorities suspect that an imported shipment contains counterfeit or illicit goods, the rightholder would be notified and will be allowed to take action within 10 days from date of notification. Accordingly, customs will share available information related to the seized products such as, quantities, country of origin and images of the seized products.

If the products are determined to be fake, the brand owner would either have to file a civil action before the District Court or contact the importer and try to persuade him to abandon the goods. In general, a civil action is the appropriate measure as it is filed together with an application for an interim order. It takes approximately 2-3 years from the filing of the civil action till the issuance of the Court's decision. The court would likely order destruction of the counterfeit imports.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

As from December 11, 2021 all customs applications for action are filed in IP Enforcement portal for all European countries and therefore now it is easier for the national Customs to check the goods



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Law No. 344/2005 of November 29, 2005, on Specific Measures for the Enforcement of Intellectual Property Rights in Customs Clearance Operations; Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Romanian Customs Authority; Address: 34-40 Alexandru Ivasiuc, District 6, Bucharest, Postal Code 060305; Phone: 021 / 315.58.58, 021 / 315.58.59; E-mail: vama@customs.ro

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Romanian Customs regional offices are generally active in protecting rights at borders and detaining goods suspected of infringing IP rights.

However, obtaining photos of goods detained proves to be very cumbersome, as some Offices don't usually provide photos when notifying right holders / representatives of a detention. Communication with persons in charge is very difficult. In many cases, we need to travel to various Customs storage places, to be able to make photos and handle cases.

SUSTAINABILITY OF DESTRUCTION METHODS

Destructions are typically handled by authorized companies, specialized in destruction of various types of goods / materials. However, there are very few, which delays substantially destruction processes and severely increases costs with storage.

MANAGEMENT OF GOODS IN TRANSIT

Romanian Customs is active and detains goods declared to be in transit, arriving from non EU member states and destined to EU member states (other than Romania).

STORAGE PRACTICES AND FEES

Customs Offices typically do not have storage spaces, thus private storage companies need to be hired. Average costs are as follows: handling the goods: approximately 15-20 EUR + VAT; actual storage can cost between 0,2 - 0,5 EUR + VAT / cubic meter.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Maintaining a good and effective communication with the right holders / their representatives; Informing the right holders / representatives of all relevant data regarding the detention, for example details re importer and storage company;

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

It is indeed imperative that Customs provide photographs of detained goods, when notifying right holders / its representatives, of detentions.

Organization of destructions of the goods should be made much much faster, without delays, preferably immediately after confirmation on the counterfeit nature of the goods. This should help to avoid right holders having to pay excessive amounts with handling and storage costs.

Development of destruction facilities, or cooperations with private entities, seem very necessary too.

Information provided as of December 2023



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

1) Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation **2)** Commission Implementing Regulation (EU) No 1352/2013 of 4 December 2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property right **3)** Commission Implementing Regulation (EU) 2018/582 of 12 April 2018 amending Implementing Regulation (EU) No 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights **4)** Commission Implementing Regulation (EU) 2020/1209 of 13 August 2020 amending Implementing Regulation (EU) No 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights **5)** The Slovenian Decree on the implementation of the Regulation (EU) concerning customs enforcement of intellectual property rights

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Finančna uprava Republike Slovenije - Financial Administration of the Republic of Slovenia; Generalni finančni urad; Šmartinska 55, 1000 Ljubljana, Slovenia; Telephone: 01 478 3800 H.C.; Email: gfu.fu@gov.si; Link: <https://www.fu.gov.si/>

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Depending on the individual customs office/department, but in general the Slovenian customs officers are very cooperative and are quick with respect to issuing relevant decisions or providing requested information.

SUSTAINABILITY OF DESTRUCTION METHODS

The destruction must be organized by the right holder in cooperation with customs. Destruction is regulated through the "destruction companies" that obtained the permit to destroy and to dispose the goods. The destruction company is usually chosen by the right holder. The costs with respect to destruction and disposal are usually borne by the right holder.

MANAGEMENT OF GOODS IN TRANSIT

The goods in transit are subjects of the customs supervision and detention (especially as regards the Port of Koper). If the goods in transit are detained, they are treated the same as the "normal" cases of detention.

STORAGE PRACTICES AND FEES

The storage costs are usually borne by the right holder. The storage costs vary from case to case, depending on how long it takes from the issuance of the customs decision allowing destruction to the execution of the destruction.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

The information provided in the AFA should be of good quality, easily understandable and easily accessible to the customs officials. Updated information (regarding counterfeits, routes, involved companies etc.) should be provided to customs on a regular basis. An additional message/letter can be sent to the customs officials (with the relevant information in the slovenian language)—if an increased presence of the counterfeiting products is detected in the certain areas; consequently, the customs officials are more attentive.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

The information provided to customs should be of good quality and easily understandable and easily accessible.

COUNTRY

Slovenia





RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Regulation (EU) n° 608/2013 of the European Parliament and of the council of 12 June 2013

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Departamento de Aduanas e Impuestos especiales. Avenida Llano Castellano n°17, 28034 Madrid

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Customs are quick in their response and quite cooperative with trademark owners.

SUSTAINABILITY OF DESTRUCTION METHODS

Destruction has to be made in accordance with environmental regulation. Customs ask from brand owners to use a destruction company that has sustainability certificates.

STORAGE PRACTICES AND FEES

Products are usually stored in customs facilities. If government ask for payment of cost of storage, we have successfully argued in court that it is for the infringer to pay, which is usually accepted. It is not the same for destruction cost, that have to be born by the trademark owner.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Customs trainings are always appreciated by Spanish officers. In addition, it is much appreciate to fullfil as much information as the brand is able to provide in the AFA.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Trade Marks Act No. 194 of 1993; Copyright Act No. 98 of 1978; Merchandise Marks Act No. 17 of 1941; Counterfeit Goods Act, 37 of 1997

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

The South African Revenue Services (SARS/Customs)

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

An Intellectual property right (IPR) owner can lodge an application for a Customs Recordal in terms of Section 15 of the Counterfeit Goods Act. Upon the application being granted, should there be goods suspected to infringe on the IPR owner's rights, the goods will be detained and the IPR owner will be notified.

The proforma Customs Recordal application lodged by the IPR owner must include: 1) Details of the IPR rights; 2) Indemnity; 3) Power of Attorney for the IPR owner's local representative; and 4) Indication of minimum quantities.

Once registered the Section 15 application is valid for 2 years and it is managed by SARS through a central database.

SUSTAINABILITY OF DESTRUCTION METHODS

Traditionally upon finalization of a matter, counterfeit goods are destroyed by means of shredding and burial. There is, however, a recent trend towards environmentally friendly destruction methods, such as recycling and/or re-purposing, but these methods are still in the infancy phase.

MANAGEMENT OF GOODS IN TRANSIT

In the case of **A M Moola Group Limited and Others vs. The Gap, Inc. and Others**, the Supreme Court of Appeal held that goods which are in transit are not subject to the provisions of the Counterfeit Goods Act. Therefore, there was no valid legal reason to detain consignments being transhipped through South Africa to the landlocked country as the word "import" does not include transshipment. Based on the Gap case, we would under normal circumstances not be able to take action against the importer in terms of the Counterfeit Goods Act in South Africa. We would therefore be required to institute proceedings at the final destination of the consignment.

STORAGE PRACTICES AND FEES

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BEST PRACTICES ON CUSTOMS ENFORCEMENT

Section 15 of the Counterfeit Goods Act provides for the formal Customs recordal system. Such recordal is valid for 2 years. Furthermore, the Act provides for civil and criminal remedies. Consignments of suspected counterfeit goods are detained by Customs for verification. Customs then inform the IPR owner and provides them with an opportunity to inspect and confirm if the suspected goods are counterfeit.

The IPR owner has 5 working days to inspect and depose to an affidavit confirming that the goods are counterfeit. Extension is possible provided satisfactory reasons are provided. Should the IPR owner not submit the required affidavit timeously, the consignment is liable to be released to the importer.

If the required affidavit is submitted timeously, Customs will formally seize the counterfeit goods, issue a formal seizure notice and move the counterfeit goods involved to the premises of a designated Counterfeit Goods Depot for safekeeping pending the finalization of the civil and/or criminal proceedings.

Civil proceedings: upon issuance of the formal seizure notice, in terms of Section 7(1) of the Counterfeit Goods Act, the IPR owner must, within 10 days of the issuance of the seizure notice, notify the importer of its intention to commence civil proceedings. Where after, within 10 days, those civil proceedings must be instituted against the importer. Failure to comply with the aforementioned deadlines could result in the release of the counterfeit goods to the importer.

Criminal Proceedings: within 3 days of the issuance of the formal seizure notice referred to above the IPR owner may lodge a criminal complaint with the South African Police Service, requesting that they investigate and prosecute the importer for the offence of dealing in counterfeit goods. In such an instance, the State is required to inform the importer of their intention to initiate criminal proceedings, within 10 days of the date of the issuance of the formal seizure notice, and then formally institute criminal proceedings against that importer within 10 days of the issuance of the notice of intention.

Civil orders may include: i) an order for the delivery-up and destruction of the counterfeit goods; ii) Disclosure of the source of the counterfeit goods;

Criminal convictions may carry the following sanctions: First time offender – R5000 (approximately \$330) per article or imprisonment not exceeding 3 years or both; and; Second time offender – R10 000 (approximately \$660) per article or imprisonment not exceeding 5 years or both

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

There is very good collaboration between South African Revenue Services (SARS /Customs), South African Police Services (Border Police), Crime Intelligence Unit of the Police, Commercial Crimes Unit (CCU), Brand holders and/or their representatives.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Federal Law of 28 August 1992 on the Protection of Trademarks and Indications of Source (Trademark Law, LPM; RS 232.11).

The provisions related to Customs seizures: Title 3 “Legal Protection”; Chapter 3 “Assistance provided by the Customs Administration”; Article 70 to article 72 h)

POINTS OF CONTACT: AUTHORITIES’ CONTACT INFORMATION AND MAIN REFERENCES

Main contact (Swiss Customs and also Member of the Management committee of Stop Piracy): Esther Wüest,; Taubenstrasse 16, 3003 Bern; Tel.: +41 58 462 15 26; esther.wueest@bazg.admin.ch; www.bazg.admin.ch; rafael.leu@ezv.admin.ch (Caporal, Customs Specialist, Zurich); susanne.sonderegger@ezv.admin.ch (Customs Zurich); patrick.schiegg@ezv.admin.ch (Custom auditor); nadine.oswald@ezv.admin.ch (Customs Specialist Zurich); martin.meier@ezv.admin.ch (Border Guard Zurich); maruschka.vock@ezv.admin.ch (Auditor, Zurich); daniela.fuchs@ezv.admin.ch (Customs Specialist Zurich); christof.zuend@ezv.admin.ch (Customs Specialist Zurich)

CUSTOMS’ DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Experienced (they target parcels mostly coming from China and Turkey). Always available to send pictures and reply quickly. Easy cooperation (they can extend the deadline). Always available to answer to our questions on the procedure.

SUSTAINABILITY OF DESTRUCTION METHODS

No information on the destruction methods in Switzerland. The procedures seems to be well established and reliable though.

An article posted online (<https://www.watchesandculture.org/forum/fr/destruction-massive-de-montres-contrefaites-en-suisse/>) reveals that watches have already been destroyed by Stop Piracy and Swiss Customs in a recycling factory.

MANAGEMENT OF GOODS IN TRANSIT

The cases we have in Switzerland always concern imported products into the Swiss territory (in tourists’ luggages or parcels) and never goods in transit.

The Law provision (column A) expressly refers to import/export into/from the Swiss territory.

STORAGE PRACTICES AND FEES

Customs keep the products once they are seized and immediately proceed to the destruction. Everything is charged at the same time and it is always the same amount of CHF120, for the whole case. Additional charges when a deadline extension is requested from our side.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

We could recommend to proceed to blacklisting of consignors based in China who appear in many cases. Show to Customs our interest to investigate and to send us any information they may have such as URL of online purchase.

Encourage Customs to continue targeting parcels shipped from Turkey and China, and tourists coming from Turkey (control of luggages).



INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

1. Organize trainings with brand owners (impossible for the time being). **2.** The big majority of seizures come from the post center in Mulligen-Zurich. Very few cases elsewhere in the country. Investigate about the reasons of this trend. **3.** Ask Customs to be more proactive and do more than reporting cases, when we have repeat infringers. **4.** Some customs officers could answer directly to the infringer instead of giving our contact information. **5.** We are charged for every single case handled by Customs and need to request the reimbursement to infringers, which is very time consuming and expensive. Customs could charge importers instead and decrease their fees taking into consideration the very low number of products contained in small parcels.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

1. The Merchandised Marks Act, No. 20 of 1963 (and amended from time to time) **2.** The Fair Competition Act, No. 8 of 2003 **3.** The Merchandised Marks Regulation, G.N No. 89 of 2008 **4.** The Merchandised Marks (Amendments) Regulation, G.N No. 46 of 2010 **5.** The Fair Competition Rules, G.N No. 344 of 2018 **6.** The Fair Competition Tribunal Rules, 2012 **7.** The Customs (Management and Tariff) Act, Cap 403 Revised Edition 2019”

POINTS OF CONTACT: AUTHORITIES’ CONTACT INFORMATION AND MAIN REFERENCES

Chief Inspector or Director General of the Commission: The Fair Competition Commission (FCC).All correspondences are routed through the Director General pursuant to Rule 3, 4 (1)(2) of the Fair Competition Rules, 2018.; P. O. Box 2351 Dar es Salaam; Tel: + 255 262329086; Fax; + 255 222926126; Email: info@fcc.go.tz

CUSTOMS’ DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

The Customs Office is proactive to the Applicant/Right Holder, once the rightholder has proved the genuineness and ownership of the goods to the office and provided all the requirements like: **1.** Provided grounds for seeking the Application; **2.** The names of suspected infringer; **3.** The possible destination from which or to the offending goods are consigned; **4.** The reliable information as to the Offender’s or infringer’s particulars; **5.** Evidence facts evidencing a prima facie case of infringement; and **6.** A sufficiently detailed description of the offending goods to make them readily recognizable by the proper officer of Customs Department. Pursuant to Regulation 12 (1) (a-f) of the Merchandise Marks Regulations.

SUSTAINABILITY OF DESTRUCTION METHODS

The Chief Inspector is authorized to order destruction of counterfeit goods pursuant to Regulation 54(1) of the Merchandised Act. Destructions of counterfeit goods is made thirty days after the final judgment from the Court and where no appeal has been preferred. The destruction is made on the account of the Applicant/Right Holder, pursuant to Regulation 55(2) (b) of Merchandise Marks Regulations.

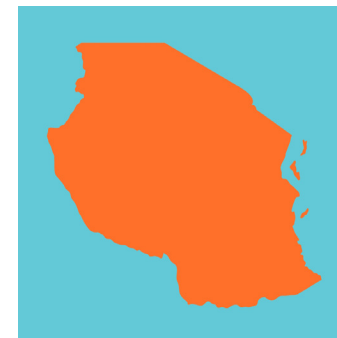
MANAGEMENT OF GOODS IN TRANSIT

In Tanzania, goods in transit are not treated as goods in destination therefore no orders as to determination of application for counterfeit can proceed until the shipment reached the destination at the customs department.

STORAGE PRACTICES AND FEES

Where upon search by the Inspector to be offending goods shall be liable to detention or seizure and shall be stored in a Customs in respect of goods in Customs area, or in a government warehouse, or in any other case, in such private premises or go down or retail shops as the Chief Inspector may determine as proper place facility for storage pursuant to Regulation 31 of the Merchandise Marks Regulations.

Further, the storage at the Customs, warehouse, transit shed, government warehouse or other suitable place shall be at the expense and risk of the Applicant or Rightholder. Pursuant to Regulation 53(1) of the Merchandise Marks Regulations.



BEST PRACTICES ON CUSTOMS ENFORCEMENT

Best practice in custom enforcement in Tanzania is in two ways that is administrative and Court Process that is through Civil and or Criminal. Depending on the enforcement procedure taken by the Rights holder, the results are either compensations, fines, payment of damages, injunctive orders, destruction of counterfeit goods payment of fines to a range not exceeding Tanzanian Shillings 5 Million or liable to imprisonment, or both fine and imprisonment as provided for under Section 3 (f) and 6 (b) of the Merchandise Marks Act read together with the Second Schedule of Merchandise Regulations, 2008.

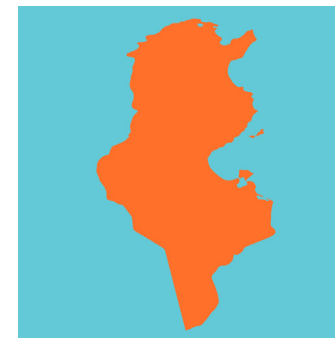
Administrative enforcement: administrative enforcement is through administrative means through the Chief Inspector as established under Section 4(a) of the Merchandised Marks Amendment of 2007 under the Fair Competition Commission established under Section 62(1)(3) of the Fair Competition Act. Where the Right holder shall file an application (Form C) to the Chief Inspector showing particulars and grounds/ prema facie case as against the infringer pursuant to Regulation 12(1) of the Merchandised Marks Regulation, 2008. The Chief Inspector on proof of the case/application may make orders to the pay fine, compensation pursuant to Regulation 48 of the Merchandised Marks Regulation, 2008 and in case where the Applicant has made a frivolous application, the Chief Inspector can order applicant to pay appropriate compensation to the owner of the consignment pursuant to Regulation 23 of the Merchandised Marks Regulations, 2008.

Note, any aggrieved party by the decision of the Chief Inspector can file an appeal to the Fair Competition Tribunal pursuant to Regulation 51 of the Merchandised Marks Regulations, 2008. Under civil procedure the Right Holder can initiate a civil case like other civil cases through a plaint claiming for damages or injunctive orders against the infringer. Under this process, Section 13, 14 of the governing law in Civil case that is the Civil Procedure Code (Cap. 33), Revised Edition 2019. Further, civil suits are filed depending on where the Defendant resides, the dispute arose, the nature of the matter (commercial) and or pecuniary of the matter in dispute.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

In Tanzania, there is no formal custom recordal system since there is no law that binds the customs on recordals of trademarks in the country.

We, therefore recommend for a solid legislation on customs recordal of trademarks. That, on mandatory recordal of trademarks by the custom, will enable right holders to a quick and effective recourse in dealing with the infringers and the with the aim to some way to minimize the influx of counterfeit goods in the country.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

Chapter 7 in TN patent Law 84-2000; Article 40 custom code; Chapter 5 TN design Law 21-2001; Chapter 7 in Tunisian's TM law 2001-36.

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

Central Control Office of the General Administration of Tunisian customs (DOUANE)

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

Based on our long experience in Tunisia, the Tunisian authorities are usually proactive in sending notifications and following up any suspected counterfeits upon the rightholder's request, to prevent the customs clearance of a good in the event of infringement of any kind

SUSTAINABILITY OF DESTRUCTION METHODS

Any destruction process is subject to the order or customs office (based on the complaint's decision) or the decision of the pertinent court.

MANAGEMENT OF GOODS IN TRANSIT

Goods in transit are considered the same as goods reaching their final destination as the customs can seize them in case of suspicion.

STORAGE PRACTICES AND FEES

Storage of seized goods takes place in the custom's premises without any related charges or fees.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

Customs Authority will send a notification to the rightholder regarding any suspected counterfeit imports. If the seized products are confirmed to be counterfeit, we move forward as follows:

1- Submit a letter confirming that the products are counterfeit before the customs authorities in Sousse who will issue an official seizure decision and will send a copy of the letter to the importer informing them that the products are counterfeit and asking for their confirmation. **2-** In case the adverse party confirms that the products are counterfeit, we may immediately proceed with obtaining an order of destruction and filing a complaint Before the arrival of the goods concerned to the Customs office or within 3 days of the arrival of the goods in certain cases. **3-** In case the adverse party does not confirm that the products are counterfeit, the only remaining action would be to refer the matter to the court by filing a civil action depending on the case in accordance with article 40 of the Tunisian Customs code.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

Tunisian Customs are very efficient but they lack of means of detection. In general, the ongoing dilemma is that the rights holder want to act for big seizures only and the customs acts in principle for every seized products (small or big quantity). Accordingly, in order to ensure full protection for rightholders, they have to sign a cooperation agreement with the customs as well as undergoing training session in order to raise awareness towards counterfeit products and how to stop them.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

GCC Common Customs Law of 2008 as well as Federal law No (8) of 2015 concerning the Federal Customs Authority

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

IPR Department each Emirate's Customs

CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH Rightholders

Once a trademark is recorded with the customs authorities, any suspected shipment received containing the recorded trademark would be notified to the representative to confirm whether the products are genuine or counterfeit.

SUSTAINABILITY OF DESTRUCTION METHODS

In case products are determined to be fake by brand owner/representative, complaint filed and genuine samples provided, the customs will move forward. If the products are fake, a decision to confiscate the products would be issued. The legal department would also issue a fine and either decide to destroy the products or re-export the same. In this regard, we note that different customs authorities may likely issue different decisions on whether to destroy / re-export the products.

MANAGEMENT OF GOODS IN TRANSIT

The goods in transit are dealt with as the goods in final destination in UAE especially the Emirate of Dubai

STORAGE PRACTICES AND FEES

Products remain in the custody of the customs premises. Furthermore, after issuance of a decision to destroy the products or re-export the same, the said products would be kept also at storage facilities at the customs. Brand owners are usually not asked to settle any costs relating to transport, storage or destruction of products.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

After notification of suspected imports is sent, Brand owner has three days to conduct verification of product and decide whether to move forward with filing a complaint at the IPR Department or not. If brand owner/representative states that the products are fake, the customs will recommend that the brand owner/representative should file a complaint upon the fulfillment of the official fees. Afterwards, case file is transferred to legal department at customs who would issue one of the following decisions: **(i)** Recycle/destroy seized goods; **(ii)** Re-export seized goods; **(iii)** Release seized goods (only if they are genuine); **(iv)** Fine the importer. The fine is usually added to decisions in points (i) and (ii) above.

Please note that the complaint has an administrative nature whereby customs take action directly without the need to obtain a court order. However, after complaint is filed with customs, the brand owner can ask the customs authorities to refer the case to criminal courts. It is nevertheless not mandatory to refer the case to criminal courts. Furthermore, the brandowner has the option also to refer the case to civil courts for the sake of securing compensation and damages. Please note that the usual time frame to consider until goods are destroyed and the case is closed is between 2 to 6 months.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

It is always recommended to protect a client's rights by recording its trademarks with the customs authorities to be alerted to any suspected shipment.



RELEVANT LEGISLATION ON CUSTOMS ENFORCEMENT

The Customs Code (Law No. 19,276) is the general national regulation that applies throughout the territory of the Eastern Republic of Uruguay and in the enclaves that have been granted in favor of the country. It provides who are the Customs subjects, the Customs control over the traffic of goods, the entry and exit of goods, Customs destinations, areas with special regimes and the infringement regime, among others; Agreement on Trade-Related Intellectual Property Rights (TRIPS). With regard to specific regulations, Law no. 16,671/1994 ratified the TRIPS Agreement. In Part III, Section IV, it establishes a complete set of border measures, allowing the holder of a trademark to request before the Customs authorities the suspension of the clearance of goods in case of reasonable signs of counterfeiting; Article 51 regulates the procedure for border measures, which is initiated at the request of the holder of the right, with the filing of the corresponding complaint. In Uruguay, this implies that, although the Customs authorities may, in performance of their duties, adopt a provisional measure, it will always be necessary for the holder of the right -i.e., the trademark holder- to file the corresponding complaint. The authorities will not be able to seize counterfeit goods ex officio, unless additionally the existence of a Customs infringement such as smuggling is confirmed. Therefore, the withholding of the merchandise in alleged trademark infringement is considered a provisional measure at the beginning of a criminal proceeding, subject to the request of the trademark holder

POINTS OF CONTACT: AUTHORITIES' CONTACT INFORMATION AND MAIN REFERENCES

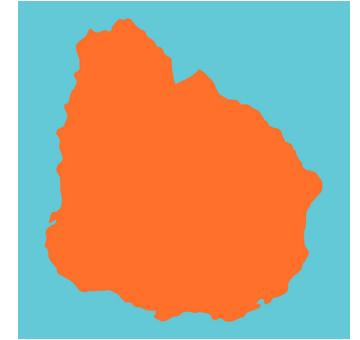
According to the Customs Code (Law no. 19,276), the National Customs Directorate is the national administrative competent agency for the application of Customs legislation (Art. 6). It will promote the easing and security of trade, monitoring and controlling the import, export, transit, circulation, storage and presence of goods throughout the national territory, combating Customs offenses and non-compliance with customs regulations, notwithstanding the other tasks assigned by laws and/or regulations. The Customs Director is Mr. Jaime Borgiani.

By General Resolution no. 65/2021/2021, a new organizational structure was established within the framework of the provisions of Article 122 of law No. 19,996, which was subsequently amended by General Resolution 08/2022 dated March 2, 2022 .

Within this structure, it is worth mentioning, on the one hand, the Organizational Unit Risk Control and Management Area (Manager Eng. Diego Casella), whose aim is to manage the processes associated with risk management, in order to ensure a balance between ease and control of the Customs activity, with the purpose of providing security to society and contributing to the economic development of the country. This area is in charge of supervising the Divisions of: Risk Analysis; Control; and Illicit Cargo.

And, on the other hand, the Organizational Unit Customs Operational Management Area (Manager Andrés Méndez), whose purpose is to manage, design, direct and supervise customs control throughout the national territory (primary Customs zone, secondary customs zone and special customs surveillance zone). The following depend on it: Carrasco Customs Administration; Montevideo Customs Administration.; Mobile Surveillance (South Regional Surveillance Department, North Regional Surveillance Department, West Regional Surveillance Department); South Zone Operations (Chuy Customs Administration, Colonia Customs Administration, Punta del Este Customs Administration, Carmelo Customs Administration); North Zone Operations (Rivera Customs Administration, Aceguá Customs Administration, Artigas Customs Administration, Rio Branco Customs Administration); West Zone Operations (Nueva Palmira Customs Administration, Fray Bentos Customs Administration, Paysandú Customs Administration, Salto Customs Administration).

Authorities: <https://www.aduanas.gub.uy/innovaportal/v/15440/2/innova.front/autoridades.html>; Organizational structure scheme: <https://www.aduanas.gub.uy/innovaportal/v/5308/2/innova.front/estructura-organica.html>



CUSTOMS' DILIGENCE: EXPERIENCE, PROACTIVITY, COOPERATION WITH RIGHTHOLDERS

The National Customs Directorate plays a fundamental role in controlling the entry and transit of counterfeit goods into the country. It is empowered to adopt administrative measures to suspend the entry and/or transit of goods suspected of infringing trademarks. Notwithstanding the fact that the Trademark Law No. 17.011 does not provide anything in this regard, the aforementioned Article 51 of the TRIPS Agreement determines the procedure for border measures, initiated at the request of the right holder upon suspicion of entry/transit of infringing goods.

Likewise, it is worth mentioning the trademark registration system at Customs. Decree No. 2,014/013, in Section III 2.6.4 of Annex 1, established within the duties of the Intellectual Property, Money Laundering and Drug Trafficking Division -currently Illicit Cargo Division, under the Risk Control and Management Area- of the National Customs Directorate to "(...) keep updated the Voluntary Register of Trademarks that have requested the National Customs Directorate to protect them in the national territory."

The purpose of such registration is that the holders of Intellectual Property Rights, who have previously complied with the registration before the National Directorate of Industrial Property (DNPI), express before the DNA their willingness to have the Customs administration enforce their rights in all the borders of the country. It has mainly an operative nature in order to provide the administration with information regarding, among others: data of the right holder, trademarks registered in the country, legal representatives, products and their identification in case of possible counterfeiting.

By Release No. 12/2020, dated May 11, 2020, the authority to update such registers was transferred to the Risk Control and Management Area, being essential requirements for their registration/renewal: power of attorney granted by the trademark holder, certificate of registered trademarks and complementary information on the company and/or how to identify counterfeit products (optional).

Currently, by Release No. 20/2022, dated April 26, 2022, with the purpose of digitalizing trademark registrations, the DNA developed a computerized system for trademark registration and consultation, by means of which legal representatives must register through a user designated by the administration, and the latter will only notify those who are duly registered therein and have provided the above-mentioned information regarding the right holder in the event of findings of allegedly counterfeit trademarks.

SUSTAINABILITY OF DESTRUCTION METHODS

The Trademark Law 17,011 in its article 84 paragraph 2° and the Law 9.739 in its article 46 paragraph C establish that the infringing goods that have been seized will be confiscated and destroyed. In such destructions, counterfeit products (such as toys, shoes, perfumes, make-up, etc.) become waste.

At first, the way to destroy such products was to burn them or destroy them and bury them in the landfill. In view of this large generation of waste and burying of unusable products, it arose the idea of finding a sustainable solution that would benefit the environment.

Currently, 100% of the seized counterfeit merchandise has a final destination that does not harm the environment or pollute it. Ninety percent is destroyed and 10 percent is donated, after the removal of the logos. Of the 90% that is destroyed, 40% of the waste generated is used as raw material for the manufacture of new products that are reintroduced into the market.

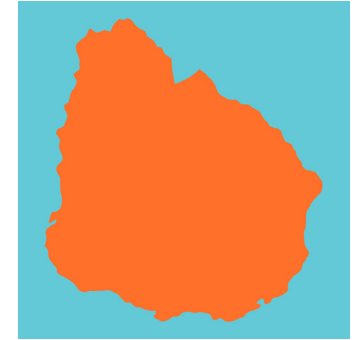
By means of alliances with different Uruguayan companies, we have implemented the sustainable destruction of counterfeit products. With the waste generated from plastics and rubber, plates are made that are then used to make roofs, furniture, composting bins, etc.

MANAGEMENT OF GOODS IN TRANSIT

Uruguay is considered the logistics hub and gateway to the southern part of Latin America, due to its strategic location to access the rest of the region. This allows the development of commercial and logistic activities. It is one of the countries with the best quality port infrastructure in South America, and therefore, containers coming mainly from Asia enter through the Port of Montevideo to access the rest of the region, either by land or continuing by sea.

The Uruguayan Customs Code provides that goods entering the Customs territory may be included in any of the legally established Customs regimes, including transit. Article 119 of the aforementioned Code defines Customs transit as "(...) the common import and export regime by which goods move through the Customs territory, under Customs control, from a Customs office of origin to another of destination, without having to pay taxes, created or to be created, with the exception of duties, and without the application of restrictions of an economic kind."

Information provided as of December 2023



According to the above, being the goods in Uruguayan territory under transit regime, it is clear and evident the application of national laws in all matters not related to tax issues. Therefore, Intellectual Property protection laws are applicable and, consequently, if the circulation of infringing merchandise is found, the National Customs Directorate may withhold the merchandise, the right holder may file the corresponding criminal complaint, and once the apocryphal quality is found, proceed to its destruction and sentence those responsible.

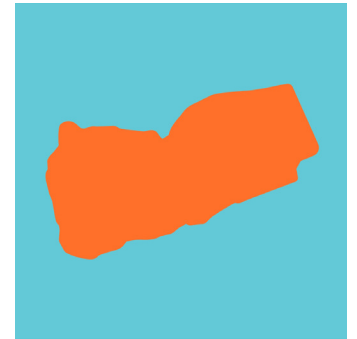
STORAGE PRACTICES AND FEES

Regarding the costs related to the stopping, seizure, handling and storage of merchandise in alleged trademark infringement, the trademark holder does not assume them, but, by court order, the merchandise is seized and deposited in the Customs premises until its final destination is established by court order.

On some occasions, in the absence of physical space by the DNA, the Judge may appoint the offender himself as depositary, being subject to the obligations that the legislation in force imposes on him/her as depositary.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

In order to constantly and efficiently fight against piracy, it is important: Greater communication between the public-private sector, particularly between the authorities that have the power to control the entry, transit and marketing of counterfeit goods. In the case of the DNA, the new digital Customs registration system aims to decentralize the information collected by the Risk Control and Management Area and make it digitally accessible to the other Divisions of the Administration, allowing better access and knowledge of the subject. Regarding the police authority, there is no similar system, so it would be positive to implement it.; Continuous training for the authorities, so that they are informed about the legislation and the main challenges and issues that trademark owners face in the protection of their rights.; Lack of specialized authorities: there are no specialized Courts or Prosecutors on the matter, instead the authority to deal with this type of crimes is currently granted to agencies with jurisdiction over other crimes.



SUSTAINABILITY OF DESTRUCTION METHODS

It is usually decided in accordance with the court decision.

STORAGE PRACTICES AND FEES

Warehouses and the expenses will be paid by the plaintiff. However, in some cases, the court will issue an order to force the defendant to bear the storage fees.

BEST PRACTICES ON CUSTOMS ENFORCEMENT

In spite of the lack of customs recordation systems, the possible enforcement actions available in Yemen are ensuring injunction orders and filing lawsuit in front of civil courts against the infringing importer confirming the seizure procedures before the first instance commercial court based on law asking for the legal destruction of seized product.. On the other hand, In addition, it is possible to issue a protection letter from the trademark office and such letter will be directed to customs confirming that the TM is protected. The Custom Authority will issue a circular to be directed to all borders. Although the efficiency of such letter is less, it is recommended to issue such kind of letters.

INTA MEMBERS RECOMMENDATIONS ON HOW TO IMPROVE THE EFFICIENCY OF CUSTOMS SEIZURES MANAGEMENT AND COOPERATION

It is highly advisable to record trademarks with customs authority and implement training sessions to increase brand awareness of the customs inspectors and provide them with the necessary information that would enable them to identify counterfeit products.



International
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