

**CUSTOMS CODE OF
THE REPUBLIC OF ARMENIA
January 1, 2001, amended to July 1, 2003**

**SECTION 14.
SUPPORT OF THE CUSTOMS AUTHORITIES IN
PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

**CHAPTER 39.
PROCEDURES OF PROTECTION OF THE INTELLECTUAL
PROPERTY RIGHTS OF THE PERSONS**

**Article 227. Applying to the Customs Authorities on Protection of Intellectual
Property Rights**

1. The legal owner of the right on the intellectual property objects, in compliance with the laws of the Republic of Armenia, or any other person having the right, in accordance with the laws of the Republic of Armenia, to dispose that object as well as the successor or representative of the latter (hereinafter right holder), who has valid grounds to suspect that through the Customs border of the Republic of Armenia can be transported goods that may infringe intellectual property rights, may submit an application (hereinafter suspension request) to the Ministry of State Revenue of the Republic of Armenia on preventing the registration of the intellectual property object and its release under any Customs regime.

2. Paragraphs 1 of this Article shall not concern:

- a. the goods transported through the Customs border of the Republic of Armenia under customs regime of transit shipment;
- b. the transportation of goods through the Customs border of the Republic of Armenia by natural persons for private purposes;
- c. those goods, being transported through the Customs border, which have been put into commodity market for circulation by the right holder or at the assent of the latter in due course of law.

3. The suspension request shall include:

- a. a minute description of the intellectual property object, as well as a sample of it if possible, so that to make it recognizable for the Customs Authorities;
- b. the list of those commodities, which may contain the intellectual property object under registration;
- c. the means (marking the given goods by the trademark of the right holder, etc.) of implementing the goods of the intellectual property object under registration mentioned in point (b) of this paragraph by the right holder or by any other person by the assent of the latter;
- d. the period of time, not exceeding two years, during which is expected support from the Customs Authorities;

- e. the obligation of the declarant to indemnify the Customs Authorities for the costs (costs for minute inspection and storage of suspended goods in the temporary warehouse of storage) for suspension of release of the goods, including all the possible costs and damages of the transporter (transporters), if in future the intellectual property rights of the declarant prove not to have been infringed by transporting goods through the Customs border.
- f. Obligation to assure within a three-day period the execution of the transporter's duties referred to in subparagraph (e) of this Article by pawn or an equivalent assurance in the relevant value, after being informed by the Customs Authorities about suspension of goods based on his request;
- g. the name and the address of the transporter.

4. On producing the request referred to in paragraph 3 of the present Article, the right holder shall:

- a. Along with the application submit documents assuring his rights to the present intellectual property object and payment of the state duty;
- b. Provide the Customs Authorities with all other relevant information available, which will enable the latter to make a decision on the application. Though submitting the aforementioned information shall not serve grounds for accepting the application.

5. The application mentioned in paragraph 3 of the present article can be of specific or general character. The application of specific character shall be granted when the applicant is aware of some illegal goods to be transported through the Customs border of the Republic of Armenia or their location in some Customs Body, and awaits one time support from the Customs Authorities. Such applications should be submitted within a ten-day period preceding the moment when awaiting support from the Customs Authorities. Cases not mentioned in this paragraph shall be granted an application of general character.

6. In case of giving satisfaction by the Customs Authorities to the application of the right holder, the latter, in compliance with the present section, shall be granted with support with the time limit mentioned in the application, if within the period of effectiveness of the application the right holder has not applied with a request for canceling the decision or if the rights of the right holder have not been terminated, about which the right holder is obliged to inform the Customs Authorities no later than the next working day after learning about the fact. In the result of not informing the Customs Authorities about the rights termination of the right holder, the latter shall be responsible for the actions undertaken on the basis of the application.

7. For the application, referred to in paragraph 1 of the present Article, to be accepted by the superior Customs Body, shall be levied duty in due course of law.

8. The form of the application referred to in paragraph 1 of the present Article and the procedure of submitting and discussing it shall be established by the superior Customs Body.

Article 228. Registration of the Intellectual Property Object in the Superior Customs Authority, Management of the Register and Discussion of Suspension Request

1. The superior Customs Authority shall manage the register of intellectual property object. After registering the intellectual property object the superior Customs Authority shall take measures to prevent release of goods infringing intellectual property rights under any customs regime.
2. The superior Customs Authority shall determine the procedures of management and publication of registry, and types of intellectual property objects that can be included into the register.
3. The superior Customs Authority having discussed within five day period the request on suspension, shall inform (Customs Bodies in the case of necessity) in written form within 2 days about the decision made. The superior Customs Authority shall define the period when the Customs Bodies should make relevant arrangements if a decision has been made to satisfy the request. The superior Customs Authority according to the applicant's substantial request may extend that period. Any rejection to satisfy the request shall be substantiated and can be appealed in legal form.

Article 229. Suspension of Release of Goods Infringing Intellectual Property Right Transported through the RA border

1. While presenting goods to Customs Bodies containing intellectual property objects that are registered in registry, and if Customs Bodies reveal that these goods infringe proprietor's rights, such goods shall be subject to transportation to the warehouse of temporary preservation.
2. The decision on suspension of release of goods shall be made by the Head of the Customs Body or his Deputy within ten days, with an opportunity to extend this period by no more than ten days, according to the case stipulated in paragraph a) of article 232 of this Code.
3. The Customs Body shall inform the conveyor about reasons of suspension right the next day after the decision was adopted; he also tells him the name and address of the proprietor, and to the proprietor himself – name and address of conveyor.
4. The Customs Body shall note the customs value of goods subject to suspension and the amount of mortgage or mentioned in Article 227.
5. Adoption of the decision on suspension of goods release, informing proprietor and conveyor about decision made and the superior Customs Authority shall determine procedure of extension of terms on suspension of goods release.

Article 230. Procedure of reimbursement (compensation) of expenses related to suspension of the goods.

1. After being informed about suspension of goods release proprietor within 3 day period must provide through mortgage or guarantee the Customs expenditures in connection with release suspension and in the amount, which is sufficient to disburse expenses and losses carried out by the conveyor or carrier of the goods. That the RA Customs official who adopted the decision on suspension of goods release shall determine the amount and that amount shall be equal to 5% of Customs value of suspended goods.
2. The procedure of compensation of losses and expenses defined in this Article shall be carried out by the order defined in law.

Article 231. Information Provided by the RA Customs Body.

1. Without violation of secrecy requirements of state, labour, trade legislation and other laws, Customs Body shall have the right to provide proprietor and conveyor with information necessary for resolution of issue on protection of right to intellectual property.
2. Mentioned information cannot be passed to third person by the proprietor or conveyor, except the cases stipulated by law and must be used only with the purpose it was disclosed for.
3. The proprietor and conveyor shall have the right to take samples and specimens of release suspended goods with permission of Customs Body and in the presence of its official and present them for testing.

Article 232. Invalidation of Decision on Suspension of Release

The decision on release suspension shall be subject of invalidation and the goods shall be released by procedure defined in this Code if:

- a) within ten days after informing proprietor about the decision on suspension of goods release, the Customs Body who made the decision on suspension of goods release is not informed that the case has been submitted to the court with the purpose to make a decision and the court has undertaken measure ensuring (temporary measure) the claim delaying the suspension of goods release. The date of suspension applied primary can be delayed by the Customs Bodies for no more then 10 days by the applicant's request, if he proves the facts of appealing to the court and not receiving the writ of execution;
- b) within the period of effectiveness of the decision on the suspension of the release of goods, the proprietor applies to the superior Customs Body with the request to invalidate the decision on the suspension and/or to exclude the intellectual property object from the registry, or does not guarantee the obligations specified in the Article 227 of the present Code within the established time and amount.

Article 233. Relieve of Responsibility of Customs Bodies

Regardless the circumstance of receiving or not receiving of application according to the Article 227 the Customs Bodies shall not bear responsibility for:

- a) any mischance to disclose goods infringing proprietor's right;
- b) making and implementing lawful decisions on suspension of release of goods mentioned in paragraph a) of this article;
- c) release of goods containing articles subject to proprietor right that are not registered in registry mentioned in Article 228 of this Code
- d) release of goods in case of not carrying out the obligations by proprietor according to this Section.