

COMMISSION REGULATION (EC) No 1172/2007

of 5 October 2007

amending Commission Regulation (EC) No 1891/2004 of 21 October 2004 laying down provisions for the implementation of Council Regulation (EC) No 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights ⁽¹⁾, and in particular Article 20 thereof,

Whereas:

(1) Regulation (EC) No 1383/2003 provides for action by the customs authorities in respect of goods suspected of infringing certain intellectual property rights.

(2) Commission Regulation (EC) No 1891/2004 ⁽²⁾ lays down provisions for the implementation of Regulation (EC) No 1383/2003, in particular as regards the application for action forms. Annexes I and II to that Regulation contain the models showing the required format of such application forms.

(3) Annexes I-C and II-C to Regulation (EC) No 1891/2004 contain the list of competent authorities to which applications for national and Community action respectively must be submitted. Article 8 of the Regulation provides that the Commission must publish the list of departments within the customs authority, as referred to in Article 5(2) of Regulation (EC) No 1383/2003, in the C series of the *Official Journal of the European Union*. As the lists in Annexes I-C and II-C contain information that is subject to change and needs to be regularly updated, it is more appropriate to publish them in the C series of the *Official Journal of the European Union*. Annexes I-C and II-C to Regulation (EC) No 1891/2004 should therefore be deleted.

(4) On 1 January 2007 Bulgaria and Romania acceded to the European Union. Regulation (EC) No 1891/2004 should therefore be adapted to include reference to these countries in the Community application for action form which it contains.

(5) The Community application for action form should have been adapted by Commission Regulation (EC) No 1792/2006 of 23 October 2006 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement of persons, competition policy, agriculture (veterinary and phytosanitary legislation), fisheries, transport policy, taxation, statistics, social policy and employment, environment, customs union and external relations by reason of the accession of Bulgaria and Romania ⁽³⁾, which entered into force on the date of the entry into force of the Treaty of Accession of these countries.

(6) In the interests of consistency, the Community application for action form should be adapted from the date of accession of Bulgaria and Romania.

(7) Regulation (EC) No 1891/2004 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1891/2004 is hereby amended as follows:

1. In Annex I, in box 2 of the national application for action (AA) form, the words 'see Annex I-C for details' are deleted.

2. Annex I-C is deleted.

3. Annex II is replaced by the text in the Annex to this Regulation.

4. In Annex IIA, in the final sentence, the words 'listed in Annex II-C' are deleted.

5. Annex II-C is deleted.

⁽¹⁾ OJ L 196, 2.8.2003, p. 7.

⁽²⁾ OJ L 328, 30.10.2004, p. 16.

⁽³⁾ OJ L 362, 20.12.2006, p. 1.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

However, Article 1(3) shall apply from 1 January 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 October 2007.

For the Commission

László KOVÁCS

Member of the Commission

ANNEX

‘ANNEX II

COMMUNITY APPLICATION FOR ACTION		
COPY FOR THE MEMBER STATE	<div><div>1. Date of receipt of the application for action by the designated customs department (within the meaning of Article 5(2) of the Regulation (EC) No 1383/2003) DD/MM/YY: .../.../...</div><div>3. Details of applicant (i.e. right-holder within meaning of Article 2(2) of Regulation (EC) No 1383/2003) (*): NAME: FUNCTION: ADDRESS: TOWN: POSTCODE: COUNTRY: VAT No: TEL.: MOBILE: FAX: E-MAIL: INTERNET ADDRESS:</div></div>	<div>INTELLECTUAL PROPERTY RIGHTS</div> <div>APPLICATION FOR ACTION BY CUSTOMS AUTHORITIES</div> <div>under Article 5(4) of Regulation (EC) No 1383/2003</div>
		<div>2. Name and address of competent authority to which application is made:</div>
	<div>4. Status of applicant (within the meaning of Article 2(2) of Regulation (EC) No 1383/2003) ⁽¹⁾: <div><div><input type="checkbox"/> Right-holder (*)</div><div><input type="checkbox"/> Right-holder's representative (*)</div></div><div><input type="checkbox"/> Authorised user of the right (*)</div><div><input type="checkbox"/> Representative of authorised user (*)</div></div>	
	<div>5. Type of right to which application refers: <div><div><input type="checkbox"/> Community trademark ⁽²⁾</div><div><input type="checkbox"/> Community design right ⁽³⁾</div></div><div><input type="checkbox"/> Supplementary protection certificate ⁽⁴⁾</div><div><input type="checkbox"/> Geographical indication protected by the Community ⁽⁵⁾</div><div><input type="checkbox"/> Designation of origin protected by the Community ⁽⁵⁾</div><div><input type="checkbox"/> Community protected plant variety right ⁽⁶⁾</div><div><input type="checkbox"/> Geographical designations for spirit drinks ⁽⁷⁾</div></div>	
<div>6. Member State(s) in which action by customs authorities is requested: <div><div><div><input type="checkbox"/> BE<input type="checkbox"/> BG<input type="checkbox"/> CZ<input type="checkbox"/> DK<input type="checkbox"/> DE</div><div><input type="checkbox"/> EE<input type="checkbox"/> IE<input type="checkbox"/> EL<input type="checkbox"/> ES<input type="checkbox"/> FR</div><div><input type="checkbox"/> IT<input type="checkbox"/> CY<input type="checkbox"/> LV<input type="checkbox"/> LT<input type="checkbox"/> LU</div><div><input type="checkbox"/> HU<input type="checkbox"/> MT<input type="checkbox"/> NL<input type="checkbox"/> AT<input type="checkbox"/> PL</div><div><input type="checkbox"/> PT<input type="checkbox"/> RO<input type="checkbox"/> SI<input type="checkbox"/> SK<input type="checkbox"/> FI</div><div><input type="checkbox"/> SE<input type="checkbox"/> UK</div></div></div></div>		
<div>7. I attach essential technical data on the authentic goods: <div><div><input type="checkbox"/> Number of documents attached ⁽⁸⁾</div><div><input type="checkbox"/> Number of photos attached ⁽⁸⁾</div></div></div>		
<div>8. I attach specific information concerning the type or pattern of fraud: <div><div><input type="checkbox"/> Number of documents attached ⁽⁸⁾</div><div><input type="checkbox"/> Number of photos attached ⁽⁸⁾</div></div></div>		

9. I attach document(s) attesting to the fact that the applicant holds the right for the goods in question within the meaning of Article 2(2) of Regulation (EC) No 1383/2003 (*):

☐ Number of documents attached ⁽⁸⁾

10. I attach the undertaking laid down in Article 6 of Regulation (EC) No 1383/2003, assuming liability in the situations outlined in that Article (*):

Undertaking attached: ☐

11. Right-holder's contact person in the other Member States where action is requested ⁽¹⁾:

ADMINISTRATIVE QUESTIONS (lawyer, for example)

<input type="checkbox"/> BE Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> BG Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> CZ Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> DK Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list
<input type="checkbox"/> DE Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> EE Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> IE Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> EL Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list
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13. Any other information in the right-holder's possession, e.g.:

- | | |
|---|--|
| — Country or countries of production | Number of documents attached ⁽⁸⁾ <input type="checkbox"/> |
| — Routes used by traffickers | Number of documents attached ⁽⁸⁾ <input type="checkbox"/> |
| — Technical differences between the authentic and the suspect goods | Number of documents attached ⁽⁸⁾ <input type="checkbox"/> |
| — CN tariff heading | |
| — Other useful information | Number of documents attached ⁽⁸⁾ <input type="checkbox"/> |

14. Date of filing application:

Date on which drawn up

Place

Applicant's signature (**)

DD/MM/YY: .../.../...

15. Decision by customs authorities (within the meaning of Article 5(7) and (8) of Regulation (EC) No 1383/2003):

☐ The application is approved

Registration number of AA:

Date

Place

Signature and stamp

DD/MM/YY

☐ The application is valid until: .../.../.... Any request for extension of the validity period should be sent to the competent authority of Box 2, at the latest 30 working days before the validity of the application expires.

☐ The application has been refused

A reasoned decision stating the grounds for refusal and information concerning the appeal procedure are attached.

Date

Place

Signature and stamp

DD/MM/YY

16. Acknowledgement of receipt:

Concerning application made by (name of the applicant)

☐ BE ☐ BG ☐ CZ ☐ DK ☐ DE
☐ EE ☐ IE ☐ EL ☐ ES ☐ FR
☐ IT ☐ CY ☐ LV ☐ LT ☐ LU
☐ HU ☐ MT ☐ NL ☐ AT ☐ PL
☐ PT ☐ RO ☐ SI ☐ SK ☐ FI
☐ SE ☐ UK

NAME:

PLACE AND DATE OF RECEIPT:

SIGNATURE AND STAMP:

(*) See box 9 (for further information see "Notes on completion", Annex II-A).

(**) If the applicant is a representative of the right-holder, he must provide proof that he is empowered to represent the right-holder.

(1) Tick the appropriate box(es).

(2) Council Regulation (EC) No 40/94 (OJ L 11, 14.11.1994, p. 1).

(3) Council Regulation (EC) No 6/2002 (OJ L 3, 5.1.2002, p. 1).

(4) Council Regulation (EEC) No 1768/92 or Regulation (EC) No 1610/96 of the European Parliament and of the Council (OJ L 198, 8.8.1996, p. 30).

(5) Council Regulation (EEC) No 2081/92 and (EC) No 1493/99 (OJ L 179, 14.7.1999, p. 1).

(6) Council Regulation (EC) No 2100/94 (OJ L 227, 1.9.1994, p. 1).

(7) Council Regulation (EEC) No 1576/89 (OJ L 160, 12.6.1989, p. 1).

(8) Insert the relevant number; if none are attached, insert 0.

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ADMINISTRATIVE QUESTIONS (lawyer, for example)

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<input type="checkbox"/> PT Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> RO Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> SI Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> SK Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list
<input type="checkbox"/> FI Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> SE Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	<input type="checkbox"/> UK Name: Address: Tel.: Mobile: Fax: E-mail: <input type="checkbox"/> See attached list	

13. Any other information in the right-holder's possession, e.g.:

- Country or countries of production
- Routes used by traffickers
- Technical differences between the authentic and the suspect goods
- CN tariff heading
- Other useful information

Number of documents attached ⁽⁸⁾ ☐

Number of documents attached ⁽⁸⁾ ☐

Number of documents attached ⁽⁸⁾ ☐

Number of documents attached ⁽⁸⁾ ☐
14. Date of filing application:

Date on which drawn up

Place

Applicant's signature (**)

DD/MM/YY: .../.../...

.....

15. Decision by customs authorities (within the meaning of Article 5(7) and (8) of Regulation (EC) No 1383/2003):
☐ The application is approved

Registration number of AA:

Date

Place

Signature and stamp

DD/MM/YY

☐ The application is valid until: .../.../.... Any request for extension of the validity period should be sent to the competent authority of Box 2, at the latest 30 working days before the validity of the application expires.

☐ The application has been refused

A reasoned decision stating the grounds for refusal and information concerning the appeal procedure are attached.

Date

Place

Signature and stamp

DD/MM/YY

16. Acknowledgement of receipt:

Concerning application made by (name of the applicant)

☐ BE ☐ BG ☐ CZ ☐ DK ☐ DE
☐ EE ☐ IE ☐ EL ☐ ES ☐ FR
☐ IT ☐ CY ☐ LV ☐ LT ☐ LU
☐ HU ☐ MT ☐ NL ☐ AT ☐ PL
☐ PT ☐ RO ☐ SI ☐ SK ☐ FI
☐ SE ☐ UK

NAME:

PLACE AND DATE OF RECEIPT:

SIGNATURE AND STAMP:

(*) See box 9 (for further information see "Notes on completion", Annex II-A).

(**) If the applicant is a representative of the right-holder, he must provide proof that he is empowered to represent the right-holder.

(1) Tick the appropriate box(es).

(2) Council Regulation (EC) No 40/94 (OJ L 11, 14.11.1994, p. 1).

(3) Council Regulation (EC) No 6/2002 (OJ L 3, 5.1.2002, p. 1).

(4) Council Regulation (EEC) No 1768/92 or Regulation (EC) No 1610/96 of the European Parliament and of the Council (OJ L 198, 8.8.1996, p. 30).

(5) Council Regulation (EEC) No 2081/92 and (EC) No 1493/99 (OJ L 179, 14.7.1999, p. 1).

(6) Council Regulation (EC) No 2100/94 (OJ L 227, 1.9.1994, p. 1).

(7) Council Regulation (EEC) No 1576/89 (OJ L 160, 12.6.1989, p. 1).

(8) Insert the relevant number; if none are attached, insert 0.