

## COMMISSION REGULATION (EC) No 2549/1999

of 2 December 1999

**amending Regulation (EC) No 1367/95 laying down provisions for the implementation of Council Regulation (EC) No 3295/94 laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3295/94 of 22 December 1994 laying down measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights <sup>(1)</sup>, as amended by Regulation (EC) No 241/1999 <sup>(2)</sup>,

Whereas:

- (1) In order to ensure a uniform form for applications for action related to a Community trade mark as defined in Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark <sup>(3)</sup>, as amended by Regulation (EC) No 3288/94 <sup>(4)</sup>, it is necessary to determine the conditions of establishment, issue and use, required in order for the form to be easily recognised and used throughout the Community. It is appropriate for this purpose to establish the model to which that form must conform.
- (2) The form should be drawn up in one of the official languages of the Community.
- (3) Commission Regulation (EC) No 1367/95 <sup>(5)</sup> should be amended accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee established by Article 247 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(6)</sup>, as last amended by Regulation (EC) No 955/1999 of the European Parliament and of the Council <sup>(7)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1367/95 is amended as follows:

1. The title is replaced by the following:

'Commission Regulation (EC) No 1367/95 of 16 June 1995 laying down provisions for the implementation of Council Regulation (EC) No 3295/94 laying down measures

concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights.'

2. In Article 1, 'For the purposes of Article 1(2)(c) of Regulation (EC) No 3295/94' is replaced by 'For the purposes of Article 1(2)(b) of Regulation (EC) No 3295/94'.
3. Article 2 is replaced by the following:

*'Article 2*

The evidence that the applicant holds an intellectual property right referred to in Article 1(2)(a) of the basic Regulation, which must be submitted when applying for action in accordance with the second indent of the first subparagraph of Article 3(2) of that Regulation, shall be as follows:

- (a) where the holder of the right makes himself the application:
  - in the case of a right that is registered or for which an application has been lodged, proof of registration with the relevant office or lodging of the application,
  - in the case of a copyright, neighbouring right or design right which is not registered or for which an application has not been lodged, any evidence of authorship or of his status as original holder;
- (b) where the application is made by any other person authorised to use one of the rights referred to in Article 1(2)(a) of the basic Regulation, in addition to the proof required under point (a) of this Article, the document by virtue of which the person is authorised to use the right in question;
- (c) where a representative of the holder or of any other person authorised to use one of the rights referred to in Article 1(2)(a) of the basic Regulation applies, in addition to the proof required under points (a) and (b) of this Article, proof of authorisation to act.'

4. The following Article 2a is inserted:

*'Article 2a*

1. The form on which the application for action referred to in Article 3(1), second subparagraph, of the basic Regulation, as well as the Decision granting the application referred to in Article 3(5) of the basic Regulation, shall conform to the specimen shown in the Annex to this Regulation.

<sup>(1)</sup> OJ L 341, 30.12.1994, p. 8.

<sup>(2)</sup> OJ L 27, 2.2.1999, p. 1.

<sup>(3)</sup> OJ L 11, 14.1.1994, p. 1.

<sup>(4)</sup> OJ L 349, 31.12.1994, p. 83.

<sup>(5)</sup> OJ L 133, 17.6.1995, p. 2.

<sup>(6)</sup> OJ L 302, 19.10.1992, p. 1.

<sup>(7)</sup> OJ L 119, 7.5.1999, p. 1.

Where additional pages are to be used, as referred to in the second subparagraph of paragraph 8, they shall be considered to be an integral part of the form.

The form shall be used in accordance with the provisions of the basic Regulation and of this implementing Regulation.

2. (a) the form shall be printed on white paper, without mechanical pulp, dressed for writing purposes and weighing not less than 55 g/m<sup>2</sup>;

(b) the forms shall measure 210 millimetres × 297 millimetres, with a maximum tolerance as to length of 5 mm less and 8 mm more.

3. Without prejudice to the implementation of the provisions set out in Article 3(1), third subparagraph, of the basic Regulation, Member States shall print or have printed forms which bear an indication of the name and address of the printer or a sign allowing its identification.

4. Forms shall be printed and filled out in an official language of the Community designated by the competent authorities of the Member State in which the application for action is submitted.

5. Except in the case where the form is made available to the applicant in an electronic format, at one or more publicly available sites directly accessible via a computer, the application for action form shall be provided, on request, by the appropriate service of the customs authority referred to in Article 3(1) of the basic Regulation.

6. Forms shall be filled in by mechanical means or legibly by hand; in the latter case, they shall be filled in using ink and in block capitals. Whatever the process used, forms shall not contain erasures, overwritten words or other alterations.

Should the form be completed by computer, it may subsequently be reproduced by private printing methods.

7. The form shall be composed of two copies:

- one copy, marked number 1, for the Member State to which the application for action is submitted, and
- one copy, marked number 2, for the holder of the Community trade mark.

8. The applicant shall complete boxes 1 to 9 of the form, sign both copies and attach to it the justification and other relevant information referred to in Article 3(2) of the basic Regulation.

Should the space in box 4 of the form be insufficient, the applicant may provide, on additional pages, further details to assist in the identification of the goods. In this case, the applicant shall indicate the number of additional pages used in the space provided in box 4 of the form.

9. The duly completed and signed form, accompanied by a number of extracts corresponding to the number of Member States indicated in box 8 of the form, as well as the evidence and information referred to in paragraph 8, shall be submitted to the appropriate service of the customs authority referred to in Article 3(1) of the basic Regulation.

10. When the appropriate service of the customs authority referred to in Article 3(1) of the basic Regulation approves an application for action, it shall indicate the final date of validity of the decision and affix its signature and stamp. The copy for the holder of the Community trade mark as well as the validated extracts shall then be returned to the applicant.

When the request for assistance is rejected by the appropriate service of the customs authority referred to in Article 3(1) of the basic Regulation, it shall indicate not only the reasons for the refusal, but also the contact details of the authority to which an appeal can be made and shall affix its stamp and signature. The copy for the holder of the Community trade mark shall then be returned to the interested party.

In all cases, the copy of the form for the Member State in which the application for action is submitted shall be retained and preserved in its files for at least two years from the date of issue.

11. Only in cases where the extract of a decision granting the application is addressed to the Member State(s) where the applicant has requested that action be taken in accordance with Article 5(2), second subparagraph, second sentence, the Member State which receives this extract shall complete without delay the part "acknowledgement of receipt" of the form by indicating the date of receipt, and return a photocopy of this extract to the relevant authority indicated in box 3.'

5. In Article 5, the following paragraph 5 shall be added:

'5. The Commission shall publish in the "C" series of the *Official Journal of the European Communities* the list of the services within the customs authority which are referred to in Article 3(8) of the basic Regulation.'

6. The text in the Annex to this Regulation is added as an Annex.

## Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities*.

It shall apply as from 1 July 1999.

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

Done at Brussels, 2 December 1999.

*For the Commission*  
Frederik BOLKESTEIN  
*Member of the Commission*

---

ANNEX

ANNEX

Standard form for an application for action in respect of a Community trade mark

COPY FOR THE INITIAL MEMBER STATE	<b>1</b>	<p><b>1. Name, capacity and address of applicant</b>                  [Holder of a Community trade mark within the meaning of Article 1(2)(b) of Regulation (EC) n° 3295/94]</p> <p>Name:</p> <p>Function:</p> <p>Address:</p> <p>Postal code:                      Town:</p> <p>Country:</p> <p>Phone:</p> <p>Fax:</p> <p>E-mail:</p>	<p><b>APPLICATION FOR ACTION                  BY                  CUSTOMS AUTHORITIES</b></p> <p>under the second subparagraph of Article 3(1) of Regulation (EC) No 3295/94</p>																		
	<b>1</b>	<p><b>2. Status of applicant <sup>(1)</sup></b></p> <p><input type="checkbox"/> holder of Community trade mark</p> <p><input type="checkbox"/> person authorised to use Community trade mark</p> <p><input type="checkbox"/> representative of Community trade mark holder</p> <p><input type="checkbox"/> representative of person authorised to use Community trade mark</p>	<p><b>3. Competent authority to which application is made</b></p>																		
		<p><b>4. Essential information regarding the goods (type, CN code <sup>(2)</sup> marks, packing, etc.</b></p> <p><input type="checkbox"/> See also attached additional page(s), the number of pages being: <sup>(1)</sup> <input type="text"/></p>																			
		<p><b>5. Member States in which action by customs authorities is requested <sup>(1)</sup></b></p> <table style="width: 100%; border: none;"> <tr> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> AT</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> DK</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> FR</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> LU</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> FI</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> XX</td> </tr> <tr> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> BE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> EL</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> IE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> NL</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> SE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> YY</td> </tr> <tr> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> DE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> ES</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> IT</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> PT</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> GB</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> ZZ</td> </tr> </table>	<input type="checkbox"/> AT	<input type="checkbox"/> DK	<input type="checkbox"/> FR	<input type="checkbox"/> LU	<input type="checkbox"/> FI	<input type="checkbox"/> XX	<input type="checkbox"/> BE	<input type="checkbox"/> EL	<input type="checkbox"/> IE	<input type="checkbox"/> NL	<input type="checkbox"/> SE	<input type="checkbox"/> YY	<input type="checkbox"/> DE	<input type="checkbox"/> ES	<input type="checkbox"/> IT	<input type="checkbox"/> PT	<input type="checkbox"/> GB	<input type="checkbox"/> ZZ	
<input type="checkbox"/> AT	<input type="checkbox"/> DK	<input type="checkbox"/> FR	<input type="checkbox"/> LU	<input type="checkbox"/> FI	<input type="checkbox"/> XX																
<input type="checkbox"/> BE	<input type="checkbox"/> EL	<input type="checkbox"/> IE	<input type="checkbox"/> NL	<input type="checkbox"/> SE	<input type="checkbox"/> YY																
<input type="checkbox"/> DE	<input type="checkbox"/> ES	<input type="checkbox"/> IT	<input type="checkbox"/> PT	<input type="checkbox"/> GB	<input type="checkbox"/> ZZ																
		<p><b>6. Contact person:</b></p> <p>Phone:</p> <p>Fax:</p> <p>E-mail:</p>	<p><b>7. Place:</b></p> <p><b>Date:</b></p> <p><b>Signature:</b></p>																		

<b>8. Person to contact in other Member State(s) where action is requested <sup>(1)</sup>:</b>					
<input type="checkbox"/> <b>BE</b>	<input type="checkbox"/> <b>DK</b>	<input type="checkbox"/> <b>DE</b>	<input type="checkbox"/> <b>EL</b>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<input type="checkbox"/> <b>ES</b>	<input type="checkbox"/> <b>FI</b>	<input type="checkbox"/> <b>FR</b>	<input type="checkbox"/> <b>IE</b>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<input type="checkbox"/> <b>IT</b>	<input type="checkbox"/> <b>LU</b>	<input type="checkbox"/> <b>AT</b>	<input type="checkbox"/> <b>NL</b>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<input type="checkbox"/> <b>PT</b>	<input type="checkbox"/> <b>SE</b>	<input type="checkbox"/> <b>GB</b>	<input type="checkbox"/>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<b>9. Attached documentation indicating ownership of a Community trade mark for the purposes of Article 1(2)(b) of Regulation (EC) No 3295/94</b>					
DECISION BY CUSTOMS AUTHORITY					
<input type="checkbox"/> <b>This application has been approved <sup>(1)</sup> <sup>(3)</sup></b>			Place and date <sup>(3)</sup> :		
Decision valid until <sup>(3)</sup> :			Signature and stamp <sup>(3)</sup> :		
<input type="checkbox"/> <b>This application has been rejected. The grounds for refusal and the appeal procedure are explained in the annex to this document <sup>(1)</sup> <sup>(3)</sup></b>			Place and date <sup>(3)</sup> :		
			Signature and stamp <sup>(3)</sup> :		
ACKNOWLEDGEMENT OF RECEIPT <sup>(1)</sup>					
<input type="checkbox"/> AT	<input type="checkbox"/> DK	<input type="checkbox"/> FR	<input type="checkbox"/> LU	<input type="checkbox"/> FI	Authority's name:
<input type="checkbox"/> BE	<input type="checkbox"/> EL	<input type="checkbox"/> IE	<input type="checkbox"/> NL	<input type="checkbox"/> SE	Place and date received <sup>(4)</sup> :
<input type="checkbox"/> DE	<input type="checkbox"/> ES	<input type="checkbox"/> IT	<input type="checkbox"/> PT	<input type="checkbox"/> GB	Signature and stamp <sup>(4)</sup> :

(1) Tick the appropriate box.

(2) Optional data.

(3) To be completed by the customs authority indicated in box 3.

(4) To be completed, where appropriate, by the competent authority of the Member State in which action has been requested in accordance with Article 5(2), second subparagraph, second sentence of Regulation (EC) No 3295/95.

<b>2</b>	<p><b>1. Name, capacity and address of applicant</b>                  [Holder of a Community trade mark within the meaning of Article 1(2)(b) of Regulation (EC) No 3295/94]</p> <p>Name:</p> <p>Function:</p> <p>Address:</p> <p>Postal code:                      Town:</p> <p>Country:</p> <p>Phone:</p> <p>Fax:</p> <p>E-mail:</p>	<p><b>APPLICATION FOR ACTION                  BY                  CUSTOMS AUTHORITIES</b></p> <p>under the second subparagraph of Article 3(1) of Regulation (EC) No 3295/94</p>																			
	<p><b>2. Status of applicant <sup>(1)</sup></b></p> <p><input type="checkbox"/> holder of Community trade mark</p> <p><input type="checkbox"/> person authorised to use Community trade mark</p> <p><input type="checkbox"/> representative of Community trade mark holder</p> <p><input type="checkbox"/> representative of person authorised to use Community trade mark</p>	<p><b>3. Competent authority to which application is made</b></p>																			
<b>2</b>	<p><b>4. Essential information regarding the goods (type, CN code <sup>(2)</sup>, marks, packing, etc.</b></p> <p><input type="checkbox"/> See also attached additional page(s), the number of pages being: <sup>(1)</sup> <input style="width: 20px; height: 15px;" type="text"/></p>																				
<p><b>5. Member States in which action by customs authorities is requested <sup>(1)</sup></b></p> <table style="width: 100%; border: none;"> <tr> <td style="border: 1px solid black; padding: 5px; width: 15%;"><input type="checkbox"/> AT</td> <td style="border: 1px solid black; padding: 5px; width: 15%;"><input type="checkbox"/> DK</td> <td style="border: 1px solid black; padding: 5px; width: 15%;"><input type="checkbox"/> FR</td> <td style="border: 1px solid black; padding: 5px; width: 15%;"><input type="checkbox"/> LU</td> <td style="border: 1px solid black; padding: 5px; width: 15%;"><input type="checkbox"/> FI</td> <td style="border: 1px solid black; padding: 5px; width: 15%;"><input type="checkbox"/> XX</td> </tr> <tr> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> BE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> EL</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> IE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> NL</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> SE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> YY</td> </tr> <tr> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> DE</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> ES</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> IT</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> PT</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> GB</td> <td style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> ZZ</td> </tr> </table>				<input type="checkbox"/> AT	<input type="checkbox"/> DK	<input type="checkbox"/> FR	<input type="checkbox"/> LU	<input type="checkbox"/> FI	<input type="checkbox"/> XX	<input type="checkbox"/> BE	<input type="checkbox"/> EL	<input type="checkbox"/> IE	<input type="checkbox"/> NL	<input type="checkbox"/> SE	<input type="checkbox"/> YY	<input type="checkbox"/> DE	<input type="checkbox"/> ES	<input type="checkbox"/> IT	<input type="checkbox"/> PT	<input type="checkbox"/> GB	<input type="checkbox"/> ZZ
<input type="checkbox"/> AT	<input type="checkbox"/> DK	<input type="checkbox"/> FR	<input type="checkbox"/> LU	<input type="checkbox"/> FI	<input type="checkbox"/> XX																
<input type="checkbox"/> BE	<input type="checkbox"/> EL	<input type="checkbox"/> IE	<input type="checkbox"/> NL	<input type="checkbox"/> SE	<input type="checkbox"/> YY																
<input type="checkbox"/> DE	<input type="checkbox"/> ES	<input type="checkbox"/> IT	<input type="checkbox"/> PT	<input type="checkbox"/> GB	<input type="checkbox"/> ZZ																
<p><b>6. Contact person:</b></p> <p>Phone:</p> <p>Fax:</p> <p>E-mail:</p>			<p><b>7. Place:</b></p> <p><b>Date:</b></p> <p><b>Signature:</b></p>																		

COPY FOR THE HOLDER OF THE COMMUNITY TRADE MARK

<b>8. Representative of the holder of the trade mark in other Member State(s) where action is requested <sup>(1)</sup>:</b>					
<input type="checkbox"/> <b>BE</b>	<input type="checkbox"/> <b>DK</b>	<input type="checkbox"/> <b>DE</b>	<input type="checkbox"/> <b>EL</b>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<input type="checkbox"/> <b>ES</b>	<input type="checkbox"/> <b>FI</b>	<input type="checkbox"/> <b>FR</b>	<input type="checkbox"/> <b>IE</b>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<input type="checkbox"/> <b>IT</b>	<input type="checkbox"/> <b>LU</b>	<input type="checkbox"/> <b>AT</b>	<input type="checkbox"/> <b>NL</b>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<input type="checkbox"/> <b>PT</b>	<input type="checkbox"/> <b>SE</b>	<input type="checkbox"/> <b>GB</b>	<input type="checkbox"/>		
Name:	Name:	Name:	Name:		
Address:	Address:	Address:	Address:		
Phone:	Phone:	Phone:	Phone:		
Fax:	Fax:	Fax:	Fax:		
<b>9. Attached documentation indicating ownership of a Community trade mark for the purposes of Article 1(2)(b) of Regulation (EC) n° 3295/94</b>					
DECISION BY CUSTOMS AUTHORITY					
<input type="checkbox"/> <b>This application has been rejected <sup>(1)</sup> <sup>(3)</sup></b>			Place and date <sup>(3)</sup> :		
Decision valid until <sup>(3)</sup>			Signature and stamp <sup>(3)</sup> :		
<input type="checkbox"/> <b>This application has been rejected. The grounds for refusal and the appeal procedure are explained in the annex to this document <sup>(1)</sup> <sup>(3)</sup></b>			Place and date <sup>(3)</sup> :		
			Signature and stamp <sup>(3)</sup> :		
ACKNOWLEDGEMENT OF RECEIPT <sup>(1)</sup>					
<input type="checkbox"/> AT	<input type="checkbox"/> DK	<input type="checkbox"/> FR	<input type="checkbox"/> LU	<input type="checkbox"/> FI	Authority's name:
<input type="checkbox"/> BE	<input type="checkbox"/> EL	<input type="checkbox"/> IE	<input type="checkbox"/> NL	<input type="checkbox"/> SE	Place and date received <sup>(4)</sup> :
<input type="checkbox"/> DE	<input type="checkbox"/> ES	<input type="checkbox"/> IT	<input type="checkbox"/> PT	<input type="checkbox"/> GB	Signature and stamp <sup>(4)</sup> :

(1) Tick the appropriate box.

(2) Optional data.

(3) To be completed by the customs authority indicated in box 3

(4) To be completed, where appropriate, by the competent authority of the Member State in which action has been requested in accordance with Article 5(2), second subparagraph, second sentence of Regulation (EC) n° 3295/94.