

**LAW OF UKRAINE  
ON PROTECTION OF RIGHTS  
TO INDICATIONS OF ORIGIN OF GOODS**

**As amended by  
Law of Ukraine # 2188-III, dated 21 December 2000  
(the word “Agency” is replaced  
with the word “Institution” in applicable cases  
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)**

This Law shall establish a legal basis for the protection of rights to indications of origin of goods in Ukraine and shall regulate matters and issues arising out or in connection with their acquisition, use and protection.

**CHAPTER I  
GENERAL PROVISIONS**

**ARTICLE 1. DEFINITION OF TERMS**

The terms used herein shall have the following meanings:

"Institution" shall mean a central agency of executive power in charge of legal protection of intellectual property;

(Paragraph 2 of Article 1 as restated by  
Law of Ukraine # 2188-III, dated 21 December 2000)

"Appellate Chamber" shall mean a body of the Institution that will review objections against decisions of the Institution with regard to the acquisition of rights to intellectual property, including rights to indications of origin of goods;

(Paragraph 3 of Article 1 as restated by  
Law of Ukraine # 2188-III, dated 21 December 2000)

"Indication of origin of goods" shall mean a term, which encompasses the following terms:

- simple indication of origin of goods;
- qualified indication of origin of goods;

"Simple indication of origin of goods" shall mean any verbal or pictorial (graphical) indication, which points, directly or indirectly, to the geographical location of origin of goods;

"Qualified indication of origin of goods" shall mean a term, which encompasses the following terms:

- name of the place of origin of goods;
- geographical indication of origin of goods;

"Name of the place of origin of goods" (hereinafter referred to as, the “NPO”) shall mean the name of a geographical location used as an indication in the name of a product originating from the specified geographical place and having specific features, which are exclusively or mainly attributed to natural conditions characteristic of this

particular geographical location or to combinations of these natural conditions with the human factor characteristic of this particular geographical location;

"Geographical indication of origin of goods" (hereinafter referred to as, the "GMO") shall mean the name of a geographical location used as an indication in the name of a product originating from the specified geographical location and having certain qualities, reputation or other characteristics, which are mainly attributed to natural conditions or the human factor characteristic of the particular geographical location, or to combinations of such natural conditions and the human factor;

"Geographical location" shall mean any geographical area with officially delineated boundaries, namely: a country, a region as part of a country, a settlement, a locality, etc.;

"Generic name of a product" shall mean the name of a geographical location used in the name of a product, wherein such product was initially manufactured, which name thereafter has become generally used in Ukraine as an indication (name) of a certain type of goods, irrespective of their specific place of origin;

"Specially authorized body" shall mean a governmental authority selected by the Cabinet of Ministers of Ukraine and authorized to determine and control specific properties, certain qualities or other characteristics of goods, for which marking the NPO or the GMO is used, and to determine boundaries of geographical locations, with which specific properties, certain qualities and other characteristics are associated, as well as to identify manufacturers of such goods within the boundaries of such geographical locations;

"Person" shall mean a natural person or a legal entity;

"Application" shall mean the totality of documents required to register a qualified indication of origin of goods and/or a right to use a qualified indication of origin of goods;

"Applicant" shall mean a person or a group of persons who have filed an application;

"Certificate" shall mean a document confirming the right to a qualified indication of origin of goods and/or a person's right to use the registered name of a place of origin of goods or the registered geographical indication of origin of goods;

"Registration" shall mean state registration of the name of a place of origin or the geographical indication of origin of goods and/or of the right to use a qualified indication of origin of goods;

"Register" shall mean the National Register of Places of Origin and Geographical Indications of Origin of Goods and Rights to Use of Registered Qualified Indications of Origin of Goods in Ukraine;

"Expert institution" shall mean a state organization (enterprise, organization) authorized by the Institution to review and expertly assess applications;

(Article 1 supplemented with Paragraph 22  
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

“State system of protection of intellectual property” shall mean the Institution and the entirety of expert, scientific, educational, informational and other respectively specialized state organizations that are under the jurisdiction of the Institution.

(Article 1 as supplemented with Paragraph 23 pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

## **ARTICLE 2. UKRAINIAN LAW ON PROTECTION OF RIGHTS TO INDICATIONS OF ORIGIN OF GOODS**

Ukrainian law on the protection of rights to indications of origin of goods shall consist of this Law, the Laws of Ukraine "On Protection from Unfair Competition", "On Protection of Rights to Trademarks for Goods and Services, "On Protection of Consumer Rights", "On Advertising", and other regulatory and legislative acts.

## **ARTICLE 3. AUTHORITIES OF THE INSTITUTION IN THE FIELD OF PROTECTION OF RIGHTS TO INDICATIONS OF ORIGIN OF GOODS**

1. The Institution shall ensure implementation of state policies in the field of protection of rights to indications of origin of goods in Ukraine, and to that effect shall:

organize receipt of applications and performance of expert examinations thereof, and adopt decisions on such applications;

issue certificates, register indications of origin of goods and/or rights to use them;

ensure publication of official information on indications of origin of goods;

engage in international cooperation in the field of legal protection of intellectual property and shall represent interests of Ukraine in matters of protection of rights to indications of origin of goods in international organizations pursuant to applicable law;

issue regulatory rules [normative acts] according to the prescribed procedures, within the limits of its authority;

organize informational and publishing activities in the field of legal protection of intellectual property;

organize research concerned with improvements of legislation and the structure of activities in the in the field of legal protection of intellectual property;

organize activities concerned with personnel retraining within the state system of legal protection of intellectual property;

assign institutions within the state system of legal protection of intellectual property to carry out, according to their specialization, certain tasks as are specified by this Law, the Enabling Rules on the Institution, other regulatory rules in the field of legal protection of intellectual property;

discharge other functions pursuant to its Enabling Rules approved in accordance with the prescribed procedure.

2. Activities of the Institution shall be financed with funds of the State Budget of Ukraine.

(Article 3 as restated  
by Law of Ukraine # 2188-III, dated 21 December 2000)

#### **ARTICLE 4. INTERNATIONAL TREATIES**

If an international treaty of Ukraine, to which binding force the Supreme Rada of Ukraine has given its consent, contains rules other than those that are set fourth in this Law, the rules of the international treaty shall apply.

#### **ARTICLE 5. RIGHTS AND OBLIGATIONS OF FOREIGN NATIONALS AND STATELESS PERSONS**

1. Foreign nationals and stateless persons shall have rights and obligations equal with rights and obligations of Ukrainian citizens under this Law, except those that are specified by international treaties of Ukraine.

2. Foreign nationals and stateless persons shall realize their rights in relations with the Institution through intellectual property representatives (patent attorneys).

### **CHAPTER II**

#### **LEGAL PROTECTION OF INDICATIONS OF ORIGIN OF GOODS**

##### **ARTICLE 6. PROVISION OF LEGAL PROTECTION OF INDICATIONS OF ORIGIN OF GOODS**

1. Legal protections of simple indications of origin of goods shall be granted on the basis of use of such indications.

Legal protections of a simple indication of origin of goods shall consist in the banning of use of markings, which either are untrue (false) or misleading for customers as regards the actual geographical location of origin of goods.

Simple indications of origin of goods shall not be subject to registration.

2. This Law shall grant legal protections to qualified indications of origin of goods on the basis of their registration, which registration shall be valid for an indefinite time period from the date of registration.

##### **ARTICLE 7. CONDITIONS OF PROVISION OF LEGAL PROTECTION**

1. Legal protection shall be granted to a qualified indication of origin of goods, which indicates the specific geographical location, wherein such goods originate from and which is not covered by grounds, as specified herein, for refusal of legal protection.

2. A simple indication of origin shall be any verbal or pictorial (graphical) marking, which indicates, directly or indirectly, the specific geographical location of origin of goods. The name of the geographical location used as a name or component of the name of goods may be such indication.

3. Legal protections shall be granted to the name of a place of origin of goods, when such name meets the following conditions:

a) it is the name of the geographical location such goods originate from;

b) it is used as a name or component of the name of goods;

c) in the geographical location indicated by such name there objectively exist characteristic natural conditions or combinations of characteristic natural conditions and the human factor, which attribute to the particular properties of a product in comparison with similar products from other geographical locations;

d) the product marked with such name has applicable properties, which are exclusively or mainly attributed to natural conditions characteristic of the given geographical location or to combinations of such conditions with the human factor characteristic of the given geographical location;

e) production (extraction) and processing of goods marked with this name are carried out within the boundaries of the specified geographical location.

4. Legal protections shall be granted to a geographical indication of origin of goods, when such indication meets the following conditions:

a) it is the name of the geographical location such goods originate from;

b) it is used as a name or component of the name of such goods;

c) in the location indicated by this indication there exist characteristic conditions and/or the human factor, which attribute to certain properties of a product or its other characteristics;

d) the product marked with such indication has certain properties, reputation or other characteristics, which are mainly attributed to natural conditions and/or the human factor characteristic of the given geographical location;

e) at least the main component of the product marked with such indication is manufactured and/or processed within the boundaries of the specified geographical location.

5. Legal protections may be granted to the same indications of origin, which are used to mark similar goods with different properties, provided that differences in use of such indications are ensured, such differences being sufficient to avoid misleading customers as regards the actual identification of goods.

6. Legal protections shall be granted to homonymic indications of origin of goods, provided that it will prevented that customers are mislead as regards the actual identification of goods, the geographical location of their origin, or its boundaries.

## **ARTICLE 8. GROUNDS FOR REFUSAL TO GRANT LEGAL PROTECTIONS TO QUALIFIED INDICATIONS OF ORIGIN OF GOODS**

1. This Law shall not grant legal protections to a qualified indication of origin of goods, which:

a) fails to comply with the conditions specified in Article 7 hereof;

b) contradicts public interests and the principles of humanity and morals;

c) is a generic product name ;

d) correctly indicates the geographical location of production of goods, but confuses customers so that they have an erroneous idea that goods have been produced in some other geographical location;

e) is a name of a plant variety or an animal breed and, therefore, may mislead customers with regard to the actual origin of goods.

2. This Law shall not grant legal protections to a qualified indication of origin of goods associated with a geographical location in a foreign country, if:

a) Ukraine has not concluded a relevant agreement with the foreign country regarding reciprocal protection of this type of indications of origin o;

b) this indication is not protected in the applicable foreign country.

3. Legal protections of an applied-for name of a place of origin or an applied-for geographical indication of origin may not be refused on grounds that in Ukraine there has been registered a trademark, which consists only of such indication or contains therein the applied-for indication as an element.

### **CHAPTER III**

#### **PROCEDURES OF REGISTRATION OF QUALIFIED INDICATIONS OF ORIGIN OF GOODS AND/OR THE RIGHT TO USE THE SAME**

##### **ARTICLE 9. THE RIGHT TO REGISTER QUALIFIED INDICATIONS OF ORIGIN OF GOODS AND/OR THE RIGHT TO USE REGISTERED QUALIFIED INDICATIONS OF ORIGIN OF GOODS**

1. The right to register a qualified indication of origin of goods shall be enjoyed by:

a) a person or a group of persons, who produce goods in the geographical location specified in an application, which goods' specific properties, certain qualities, reputation or other characteristics are associated with this geographical location;

b) associations of consumers;

c) institutions that are directly related to production or research of relevant products, goods, technological processes or geographical locations.

2. Subject to its registration, the right to use the registered place of origin of goods or the registered geographic indication of origin shall be enjoyed by manufacturers that produce goods in the geographical location specified in the Register, which goods' specific properties, certain qualities or other characteristics correspond with those entered in the Register.

**ARTICLE 10. APPLICATION FOR REGISTRATION OF A QUALIFIED INDICATION OF ORIGIN OF GOODS AND/OR A RIGHT TO USE THE REGISTERED QUALIFIED INDICATION OF ORIGIN OF GOODS**

1. Persons, who enjoy the right of registration under Paragraph 1 of Article 9 hereof, shall file applications for registration of qualified indications of origin with the Institution.

An application for registration of a right to use the already registered qualified indication of origin of goods shall be filed with the Institution by persons, who enjoy the right to such use under Paragraph 2 of Article 9 hereof.

If an application for registration of a qualified indication of origin is filed with the Institution by persons who manufacture goods an indication is applied for, the application shall be deemed simultaneously to be an application for registration of the right to use such indication.

2. An application must relate only to one indication of origin of goods.

3. As assigned by an applicant, an application may be filed through an intellectual property representative (patent attorney) or any other agent.

4. The application shall be drawn up in the Ukrainian language, and shall contain:

a) statement for registration of the name of a place of origin of goods or the geographical indication of origin of goods and/or the right to use the applicable registered qualified indication of origin, together with the information about the applicant and his(its) address;

b) applied-for name of the place of origin or geographical indication of origin of goods;

c) name of a product, for which the applicant requests to register the said indication of origin and/or the right to use the applicable registered qualified indication of origin;

d) name and boundaries of the geographical location, wherein goods are manufactured and with which specific properties, certain qualities, reputation or other characteristics such goods are associated;

e) description of specific properties of goods, certain qualities, reputation or other characteristics of goods;

f) data on the use of the applied-for qualified indication of origin on the label and markings of goods;

g) data on a relationship of specific properties, certain qualities, reputation or other characteristics of goods with natural conditions and/or the human factor of the specified geographical location.

5. The application shall be filed together with the following documents:

a) document confirming that the applicant manufactures goods, for which it requests to register the name of the place of their origin or the geographical indication of their origin, and/or the right to use the applicable registered qualified indication of origin;

b) opinion from the specially authorized body stating that specific properties, certain qualities and other characteristics of a product specified in the application are objectively attributed to or associated with natural conditions and/or the human factor of the specified geographical location of production of such product;

c) opinion from the specially authorized body with regard to the boundaries of the geographical location, with which specific properties, certain qualities or other characteristics of the product are associated.

6. Instead of the documents specified in Paragraph 5 of this Article, foreign nationals shall file, together with the application, documents which confirm:

a) legal protection of the applied-for qualified indication of origin of goods in the applicable foreign country;

b) the right of the foreign applicant to use the applicable qualified indication of origin of goods.

The documents specified in this Paragraph may be filed in a foreign language, and the translation of such documents must be provided to the Institution not later than three months following the filing of the application.

7. The date of filing of an application shall be deemed the date of receipt by the Institution of the application for registration of the qualified indication of origin and/or the right to use the already registered qualified indication of origin of goods.

8. Fees shall be paid for filing applications. An application shall be deemed not to have been filed in the event that the fee has not been paid within two months after the date of filing the application.

## **ARTICLE 11. EXPERT ASSESSMENT OF APPLICATIONS**

1. Expert assessment of an application shall be carried out by an expert institution in compliance herewith and the rules prescribed pursuant to this Law.

The expert institution shall send notices, requests and conclusions to the applicant in the course of expert assessment. Conclusions of the expert institution shall acquire the status of decisions of the Institution upon their approval by the Institution.

2. The applicant shall be entitled to participate, personally or through its representative, and according to the prescribed procedure, in the consideration of issues arising during expert assessment.

3. In the course of expert assessment, upon initiative of the applicant, corrections of evident mistakes and more precise descriptions of the basic characteristics of a product or of boundaries of the geographical place of origin may be introduced to the application.

4. Expert assessment of the application for registration of a qualified indication of origin and/or the right to use the already registered qualified indication of origin of



goods shall verify compliance of the data contained in the application with the provisions of Articles 7, 8 and 9 hereof.

5. In the course of expert assessment of the application for registration of the qualified indication of origin of goods, such indication shall be verified with respect to generic names included in the List of Generic Names of Goods.

The List of Generic Names of Goods shall be prepared by the Institution on the basis of the Regulation on the List of Generic Names of Goods approved by the Cabinet of Ministers of Ukraine.

If it is applied for registration of the name of a place of origin or the geographical indication of origin of goods that has been included in the List of Generic Names of Goods, the applicant shall be sent a decision denying the registration.

6. In the course of carrying out the expert assessment, the expert institution shall be entitled to request the applicant to provide additional materials, without which the expert assessment may not be possibly accomplished.

Additional materials requested by the expert institution must be provided within three months upon receipt of such a request. During the specified period, the applicant may file an application requesting extension of the time period for response, or renewal of the time period for response to the request that has been missed for serious cause.

Fees shall be paid for filing applications to extend time periods and renew missed time periods.

Should an applicant fail to comply with the specified time period, or leave the request without response, the application shall be deemed to have been recalled.

7. If it is determined, according to the results of the expert assessment, that the applied-for indication does not meet the conditions, under which legal protections may be granted to the name of the place of origin or geographical indication of origin of goods, or the applicant may not be granted a right to use the earlier registered name of the place of origin or the earlier registered geographical indication of origin of goods, the Institution shall pass a decision to deny registration.

The decision to deny registration shall be provided to the applicant.

8. If it is determined, according to the results of the expert assessment, that the application meets the requirements specified in Articles 7, 8 and 9 hereof, the information about the application shall be published in the Official Bulletin of the Institution.

The publication shall contain:

information about the applicant (applicants);

name of goods that contains the name of the place of origin of goods or the geographical indication of origin of goods applied for registration;

boundaries of the geographical location, with which specific properties, certain qualities or other characteristics of goods are associated;

description of the basic specific properties, certain qualities, reputation or other characteristics of goods;

conditions of use of the qualified indication of origin on the label and in markings of goods.

The publication may also contain other data specified according to the prescribed procedures.

9. Upon publication of the official information about the application for registration of a qualified indication of origin and/or the right to use a registered qualified indication of origin of goods, any person shall be entitled to review the materials of the application according to the prescribed procedures.

10. Within six months upon publication of the official information about the application, any person may file with the Institution its(his) objections against the registration of the applied-for name of the place of origin of goods or the applied-for geographical indication of origin of goods and/or the right to use the applicable registered qualified indication of origin of goods.

Fees shall be paid for filing objections. If the fee is not paid, the objection shall be deemed not to have been filed.

11. A copy of the filed objection and information about the person who has filed such objection shall be provided to the applicant. Within two months from the date of receipt of the copy of the objection, the applicant must provide to the Institution a reasoned response to the objection or file an application for extension of the specified time period for response. Fees shall be paid filing applications for extension of the time period for response. If the fee is not paid, the time period for response shall not be extended.

If the applicant's response to the objection is not received by the Institution within the specified time period, the objection shall be reviewed according to the prescribed procedures on the basis of available materials.

12. The expert institution shall review the objection and the response thereto within two months following the expiration of the time period specified for response.

The applicant and the person who has filed an objection shall be entitled to take part in the consideration of the objection.

13. A notice informing of the results of considering the objection shall be provided to the person who has filed such objection.

14. In the event of absence of objections or recognition of such objection as groundless, the Institution shall pass a decision to register the given qualified indication of origin and/or the right to use such registered qualified indication of origin of goods, and shall notify the applicant thereof.

In the event that the reviewed objections have been founded to be grounded, the Institution shall take a decision to deny registration and shall notify the applicant thereof.

The decision to deny registration shall be published in the Official Bulletin of the Institution.

15. An applicant shall be entitled to look through and review all materials specified in a request of the expert institution or a decision by the Institution. Copies of materials shall be provided to the applicant within one month from the date of receipt of the request.

(Article 11 as restated  
by Law of Ukraine # 2188-III, dated 21 December 2000)

## **ARTICLE 12. RECALL OF THE APPLICATION**

The applicant shall be entitled to recall its application at any moment prior to registration of the qualified indication of origin of goods and/or the right to use the qualified indication of origin of goods.

## **ARTICLE 13. CHALLENGE OF DECISIONS OF THE INSTITUTION ON APPLICATIONS**

1. An applicant shall be entitled to challenge a decision of the Institution regarding its application in court.

2. Within three months upon receipt of the decision of the Institution, the applicant shall be entitled to challenge such decision with the Appellate Chamber.

3. The claim challenging the decision of the Institution in respect of the application shall be adjudicated by the Appellate Chamber not later than three months from the date of receipt of the claim.

(Paragraph 3 of Article 13 as amended  
by Law of Ukraine # 2188-III, dated 21 December 2000)

The Appellate Chamber shall pass a decision based on the results of adjudication of the challenge, which decision shall be approved by order of the Institution and provided to the applicant.

(Paragraph 3 of Article 13 is supplemented clause 2  
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

Prior to approval of a decision of the Appellate Chamber, within one month from the date of such decision, the Head of the Institution may bring a protest against this decision, which protest shall be considered within one month. The decision of the Appellate Chamber adopted under the protest shall be final and may be cancelled only by the court.

(Paragraph 3 of Article 13 is supplemented clause 3  
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

4. Fees shall be paid for filing challenges. If the fee has not been paid, a challenge shall be deemed not to have been filed.

5. Decisions of the Appellate Chamber may be challenged by applicants in court.

**ARTICLE 14. REGISTRATION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS AND/OR THE RIGHT TO USE THE REGISTERED QUALIFIED INDICATION OF ORIGIN OF GOODS**

1. On the basis of a decision passed by the Institution to register a qualified indication of origin of goods and/or a right to use the registered qualified indication of origin of goods, an appropriate registration shall be effected.

2. The registration shall be effected by means of entering in the Register the necessary information about the qualified indication of origin of goods and/or persons who have the right to use the registered qualified indication of origin of goods. The following information shall be entered in the Register:

applied-for indication of origin of goods;

qualification of the indication: the name of the place of origin or the geographical indication of origin of goods;

name of the product, the description of its specific properties, certain qualities, reputation or other characteristics;

date of adoption of the decision to register the name of the place of origin or geographic indication of origin of goods;

information about persons who are vested with the right to use the registered qualified indication of origin of goods, and the date of adoption of the decision to grant this right.

3. The form of the Register and Register maintenance procedures shall be specified by the Institution.

4. The applicant shall be entitled to file an application requesting introduction of changes and amendments to the Register. Procedures for the introduction of changes and clarifications to the Register shall be established by the Institution.

Fees shall be paid for introducing changes and amendments to the Register or correcting obvious errors committed through the fault of applicants according to the prescribed procedures.

5. Any person shall be entitled to familiarize himself with information entered in the Register, and to obtain an extract from the Register for a fee. Procedures for accomplishing these actions shall be specified by the Institution.

6. Information on the registration of a qualified indication of origin of goods and/or the right to use the registered qualified indication of origin of goods shall be published in the Official Bulletin of the Institution.

7. Registration of a qualified indication of origin may constitute a ground for invalidating the registration of an earlier registered trademark consisting of only such an indication of origin or containing the said indication as an element, unless the owner of such trademark is a person who has the right to use this indication, and such indication belongs to the trademark as an unprotected element.

**ARTICLE 15. ISSUANCE OF THE CERTIFICATE EVIDENCING THE RIGHT TO USE THE REGISTERED QUALIFIED INDICATION OF ORIGIN OF GOODS**

1. A certificate evidencing the registration of the right to use a qualified indication of origin of goods shall be issued by the Institution within one month following the date of registration of such indication or the date of entry in the Register of information about persons who are vested with the right to use such earlier registered qualified indication of origin, provided that the state fee has been paid in the amount and according to the procedure specified by law.

(Paragraph 1 of Article 15 as amended  
by Law of Ukraine # 2188-III, dated 21 December 2000)

2. The form and contents of certificates shall be specified according to the prescribed procedures.

(Paragraph 2 of Article 15 as amended  
by Law of Ukraine # 2188-III, dated 21 December 2000)

3. At the request of the holder of a certificate, the Institution shall make corrections of evident errors in the certificate, with subsequent notification thereof in the Official Bulletin of the Institution.

4. The certificate, which confirms the registration of the right to use a qualified indication of origin of goods, shall be valid for 10 years from the date of filing the application.

The term of a certificate shall be extended by the Institution for next 10 years on the basis of an application filed by the holder of the certificate during the last year of effect of the certificate subject to confirmation by the specially authorized body that the holder of the certificate manufactures goods in the geographical location specified in the Register and that the characteristics of goods comply with those that are entered in the Register. Fees shall be paid for extending the term of the certificate.

The holder of a certificate may file an application requesting extension of the term of the certificate within six months upon expiration of the term of the certificate, if the fee, increased by 50 per cent, has been paid for such a period.

The effect of a certificate shall terminate prior to expiration of its term under conditions provided in this Law.

## **ARTICLE 16. REGISTRATION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS IN FOREIGN COUNTRIES**

An application for registration in a foreign country of a qualified indication of origin of goods associated with a geographical location within the territory of Ukraine may be filed only after the registration of such indication in Ukraine.

## **CHAPTER IV**

### **RIGHTS AND OBLIGATIONS RESULTING FROM THE REGISTRATION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS AND/OR THE RIGHT TO USE IT**

#### **ARTICLE 17. RIGHTS RESULTING FROM THE REGISTRATION OF THE QUALIFIED INDICATION OF THE ORIGIN OF GOODS AND/OR THE RIGHT TO USE IT**

1. Rights resulting from the registration of a qualified indication of origin of goods and/or rights to use it shall be effective from the date of registration thereof.

2. Registration of the right to use a qualified indication of origin of goods shall not restrict the rights of other persons to register their rights to use the same.

3. The extent of legal protection granted by the registration of the right to use the qualified indication of origin shall be determined by the characteristics of a product and the boundaries of the geographical location entered in the Register and specified in the certificate.

4. The holder of the certificate shall be entitled:

- a) to use the registered qualified indication of origin of goods;
- b) to take action aimed at prohibiting illegitimate use of the qualified indication of origin by unauthorized persons;
- c) to require from persons, who have violated its(his) rights, to stop such violations and reimburse losses and moral damages according to the procedure established by law.

5. The following shall be recognized as the use of a registered qualified indication of origin:

- a) marking thereof onto the product or its label;
- b) marking thereof onto packaging of the product, or use thereof in advertising;
- c) inscription thereof on letterheads, invoices and other documents accompanying the product.

6. The holder of a certificate shall be entitled to mark, along with the qualified indication of origin of goods, a warning marking to the effect that such indication has been registered in Ukraine.

For purposes of warning markings indicating names of places of origin of goods, the abbreviation (НІІ) (NPO) enclosed in an oval shall be used. The text "Name of the place of origin is registered in Ukraine" may be used instead of or together with such marking.

For the purposes of warning markings indicating geographical indications of origin of goods, the abbreviation (ГІІ) (GMO) enclosed in an oval shall be used. The text "Geographical indication of origin is registered in Ukraine" may be used instead of or together with such marking.

7. The holder of the certificate shall not have the right:

a) to grant a license to use the qualified indication of origin of goods;

b) to prohibit (hinder) specially authorized bodies to control the availability of specific properties or other characteristics in the product, on which basis the qualified indication of origin of goods and/or the right to use the same have been registered.

#### **ARTICLE 18. OBLIGATIONS OF THE HOLDER OF THE CERTIFICATE**

The holder of a certificate shall be obligated to ensure compliance of quality, specific properties and characteristics of manufactured goods with their description in the Register.

### **CHAPTER V**

#### **PROCEDURES OF INVALIDATION AND TERMINATION OF LEGAL PROTECTION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS AND/OR THE RIGHT TO USE SUCH INDICATION**

#### **ARTICLE 19. GROUNDS OF INVALIDATION AND TERMINATION OF LEGAL PROTECTION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS**

1. Legal protections of a qualified indication of origin of goods shall be declared invalid on the basis of invalidation of the registration of such indication.

2. Legal protections of the qualified indication of origin of goods shall be terminated on the basis of termination of effect of the registration of such indication.

#### **ARTICLE 20. INVALIDATION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS AND/OR THE RIGHT TO USE IT**

1. Registration of a qualified indication of origin of goods may be declared invalid by a court in the event that such indication fails to meet the conditions as are stipulated by Article 7 hereof, under which legal protections are granted.

Invalidated registrations of qualified indications of origin of goods or the right to use the same shall be deemed not to have become effective.

2. The Registration of a right to use a qualified indication of origin of goods may be declared invalid by the court, if such registration has been effected in violation of the requirements of Articles 7, 8 and 9 of the Law.

Invalidation of the registration of the right to use a qualified indication of origin and the certificate confirming this right shall be deemed not to have become effective.

**ARTICLE 21. TERMINATION OF EFFECT OF THE REGISTRATION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS AND OF PROTECTION OF THE RIGHT TO USE IT**

1. Effect of the registration of a qualified indication of origin may be terminated by the court in the event that geographical location-specific conditions and opportunities described in the Register have been lost in the production of goods, as well as in the event of declaring such indication as a generic product name.

2. Effect of the registration of a qualified indication of origin associated with a geographical location in a foreign country shall be terminated also in connection with the termination of legal protection of the said indication in the country of origin.

3. The right to use a registered qualified indication of origin of goods may be terminated:

a) by decision of a court to terminate the right due to the loss by the product of specific properties or other characteristics described in the Register. In this case, the right shall be terminated from the date of the adopted court decision. Pursuant to the decision of the court to terminate the registration, the right shall terminate from the date of termination of the registration;

b) in the event of liquidation of the legal entity or death of the natural person who is the holder of the certificate;

c) in the event that the holder of the certificate has filed an application with the Institution, informing of renunciation of the right to use such indication. The right shall terminate from the date of official publication of notification thereof;

d) in the event of failure to pay a fee for the extension of the certificate's term. The right shall be terminate from the first day of the subsequent term, for which the fee has not been paid.

**ARTICLE 22. PROCEDURES OF INVALIDATION AND TERMINATION OF THE REGISTRATION OF THE QUALIFIED INDICATION OF ORIGIN OF GOODS AND/OR THE RIGHT TO USE IT**

1. The registration and the applicable certificate shall be invalidated in court.

(Paragraph 1 of Article 22 as amended  
by Law of Ukraine # 2188-III, dated 21 December 2000)

2. Any person shall be entitled to bring action in court, seeking invalidation of the registration and certificate, termination of their effect, or more precise definitions of characteristics of the product described in the Register, or precise definitions of compliance of the qualified indication of origin with its geographical location, as well as declaration, as a generic product name, of the registered qualified indication of origin.

3. Pursuant to the decision of the court, the Institution shall make appropriate changes to the Register or the List of Generic Names of Goods, whereof a notification shall be published in the Official Bulletin of the Institution.



## **CHAPTER VI**

### **PROTECTION OF RIGHTS TO USE INDICATIONS OF ORIGIN OF GOODS**

#### **ARTICLE 23. VIOLATION OF RIGHTS TO USE INDICATIONS OF ORIGIN OF GOODS**

1. Use of an untrue (false) indication or an indication misleading customers with regard to the true place of origin of goods shall constitute a violation of rights to use indications of origin of goods.

2. Any infringement on the rights of the holder of a certificate to use the registered qualified indication of origin shall be subject to sanctions pursuant to laws.

3. The following shall be violations of rights of the holder of the certificate to use the registered qualified indication of origin:

a) use of the registered qualified indication of origin by a person who does not have a certificate confirming the right to use it;

b) use of the registered geographical indication of origin of goods, if such goods do not originate from the geographical location as registered for such indication, even if the true place of origin or the geographical indication of origin of goods is used in the translation or is accompanied by the words: "kind", "type", "style", "make", "imitation", etc.;

c) use of the registered qualified indication of origin of goods or another similar indication for similar goods differing from those described in the Register, if such use misleads consumers with regard to the origin of goods and their specific qualities or other characteristics, as well as use for dissimilar goods, if such use harms the reputation of the registered indication or constitutes the illegitimate use of its reputation;

d) use of the registered qualified indication of origin as a generic name.

4. The following shall not be deemed to be violations of rights of the holder of the certificate:

a) use of the registered qualified indication of origin of goods specified in clauses 'b' and 'c', Paragraph 5 of Article 17 hereof by any person who has legally acquired a product marked with such qualified indication from the holder of the certificate, and again introduces the product into circulation;

b) use of the qualified indication of origin of goods by a person who does not have a certificate confirming the right to use it, but has used it in the bona fide manner till the registration date. If such person does not file an application with the Institution, requesting the grant of a right to use this indication, within twelve months after the date of registration of this qualified indication of origin, then the subsequent use of such indication shall be deemed to be a violation of the rights of the certificate holder.

## **ARTICLE 24. LIABILITY FOR VIOLATIONS OF THE RIGHT TO USE THE QUALIFIED INDICATION OF ORIGIN OF GOODS**

1. Violations of rights to use qualified indications of origin of goods shall be subject to civil, administrative or criminal sanctions pursuant to law.

2. At the time of importation into Ukraine's customs territory of goods marked in violation of the rights of legitimate users of (holders of the certificate for) the right to use the indication of origin, such goods may be temporarily detained according to the procedures provided by law.

3. The holder of a certificate for the use of indications of origin shall be entitled to require from the perpetrator:

- a) to terminate actions, which violate the right or create a threat of violation;
- b) to withdraw goods with illegitimate use of the indication of origin thereon from circulation;
- c) to remove from goods or their packaging the illegitimately placed indications of origin and, if such is impossible to accomplish, to destroy such goods;
- d) to reimburse for losses, including lost income;
- e) to reimburse for losses in the amount not exceeding the profit received by the perpetrator;
- f) to take other action as provided by laws concerned with the protection of rights to indications of origin of goods.

4. The holder of a certificate shall be entitled to bring action in court, seeking discontinuance of the violation and reimbursement of incurred damages.

## **ARTICLE 25. DISPUTES THAT ARE SETTLED BY COURTS**

1. According to their competence, courts shall consider disputes involving:

legality of the registration of a qualified indication of origin of goods;

illegitimate use of a qualified indication of origin of goods;

importation into the customs territory of Ukraine of goods illegally marked with qualified indications of origin of goods.

2. Courts may pass decisions:

to remove from goods or their packaging the illegally placed indication of origin of goods;

to confiscate goods illegally marked with indications of origin of goods;

to withdraw goods illegally marked with indications of origin of goods from circulation;

to reimburse for damages caused to a person who enjoys the right to use the qualified indication of origin of goods;

to declare the qualified indication of origin of goods as a generic name, or to cancel the previously recognized generic name of a product.

#### **ARTICLE 26. STATE DUTIES AND FEES**

Amounts of state duties and procedures of duty payment for the issuance of certificates shall be specified by law.

Monies received as a result of payment of state duties for the issuance of certificates shall be transferred to the State Budget of Ukraine.

Amounts of fees provided by this Law, time periods and procedures of duty payment shall be specified by the Cabinet of Ministers of Ukraine.

Amounts of fees provided by this Law shall be paid into settlement accounts of institutions authorized by the Institution which are part of the state system of legal protection of intellectual property and fulfill, according to their specialization, certain tasks specified in this Law.

Monies as a result of payment of fees provided by this Law shall be deemed to be special-purpose funds and shall be, by order of the Institution, used exclusively for ensuring the development and functioning of the state system of legal protection of intellectual property, specifically for accomplishing tasks specified in this Law and other regulatory and legal acts in the field of intellectual property.

(the Law is supplemented with Article 26  
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

## **CHAPTER VII**

### **FINAL PROVISIONS**

1. This Law shall come into force in six months after the date of its publication.

Until other laws are brought in compliance with the provisions hereof, they shall be valid as long as they are not in conflict herewith.

2. The Cabinet of Ministers of Ukraine shall carry out the following within three months following the entry into force of this Law:

to submit proposals with regard to amendments to laws of Ukraine arising from this Law to the Supreme Rada of Ukraine;

to determine and publish a list of specially authorized bodies obligated to determine and control specific properties and other characteristics of goods, to determine the boundaries of geographical locations, and to identify manufacturers of products;

to draft the Regulation on the List of Generic Names of Goods;

to specify fee payment procedures and amounts of fees for the filing of applications, issuance of certificates and the extension thereof, the extension of time periods for filing objections and claims, etc. pursuant to this Law;

to bring its rules and regulations in compliance herewith;

to ensure that rules and regulations inconsistent herewith are revised and repealed by ministries and other central agencies of executive power.

L. Kuchma,  
President of Ukraine

Kyiv  
June 16, 1999  
# 752-XIV

