

Amended by:

- Law No. (16) of 2006

As per this Law, the following were substituted:

- "the concerned department at the Ministry of Commerce" by "the concerned department with industrial property"; and

- "Minister of Commerce" by "Minister concerned with Industrial Property".

## **LAW NO. (16) OF 2004**

### **ON THE PROTECTION OF GEOGRAPHICAL INDICATIONS**

**We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain**

- Having reviewed the Constitution;
- The Civil and Commercial Proceedings Law enacted by the legislative decree No. (12) of 1971 and its amendments;
- The Trade Law enacted by the legislative decree No. (7) of 1987 and its amendments;
- The Trademark Law enacted by the legislative decree No. (10) of 1991;
- Legislative decree No. (7) of 1994, ratifying the document of the establishment of the World Trade Organization;
- Legislative decree No. (31) of 1996 approving the Kingdom's accession to the Paris Convention for the Protection of Industrial Property;
- Legislative decree No. (1) of 1987 on some provisions pertaining the sale and lease of commercial stores;
- The Civil Law enacted by the legislative law No. (19) of 2001;
- The Criminal Procedures Law enacted by the legislative decree No. (46) of 2002;
- Decree No. (1) of 1995 on the Kingdom's accession to the Convention of the Creation of the World Intellectual Property Organization (WIPO);
- The Shura Council and the Council of Representatives have approved the following law which we have endorsed and enacted:

#### Article 1

"As amended by Law No. (16) of 2006"

On the strength of the law provisions herein stipulated, geographical indications shall mean any sign that may have originated in the territories of a WTO member-state, or in a region or area or location of that region thereof wherein the product quality, good will or other characteristics essentially attributed to its geographical origin.

The geographical indication may be a sign or a group of signs in any form like words -including geographical and proper names- alphabets, numbers, miniature elements, color or colors.

#### Article 2

"As amended by Law No. (16) of 2006"

It is not permissible for any natural or legal person to undertake the following:

1. The utilization of any instrument to designate or display any product that may suggest a geographical origin contrary to its authentic one, and by doing so misleading the public thereof.

2. The use of a geographical indication constituting unfair competition pursuant to provisions of Article no (10 bis) of the Paris Convention for Protecting Industrial Property.

To this effect, the use of a geographical indication in a manner that may form public delusion in terms of the source of the product, even if the indication is literally correct in respect of country, region or territory where the said product was produced.

### Article 3

The geographical indications, pursuant to this law, shall enjoy due protection prescribed in this law provided such indications are protected in the country of origin.

### Article 4

All geographical indications of identical names shall enjoy protection under this law, provided equal and just treatment is rendered to the producers thereof, and they are not lead to public delusion. As such, the protection is rendered as per the rules and regulations included in a resolution by the Minister concerned with industrial property to distinguish such indications.

### Article 5

"As amended by Law No. (16) of 2006"

The concerned department with industrial property shall set up a register called "Geographical Indications Register" in which it shall record the accepted geographical indications, data pertaining thereto, and all acts affected thereon subject to the provisions of this law, executive by-laws and the implementing regulations.

### Article 5 bis

"Added by Law No. (16) of 2006"

The geographical indication shall not be registered nor enjoy the protection as per the following:

1. If the geographical indication bona fide most probably cause delusion with a trademark that is subject-matter of a registration application or a pending registration application.
2. If the geographical indication would most probably constitute public delusion with an already existing trademark of which rights were acquired by use, bona fide, in the Kingdom.
3. If the registration of a geographical indication as a trademark was not permissible pursuant to provisions of the Trademarks Law.

### Article 6

"Added by Law No. (16) of 2006"

Without detriment to provisions of the bilateral and international agreements enacted in the Kingdom of Bahrain, the provisions stipulated in Trademarks Law shall apply to geographical indications pertaining the following:

1. Filing a registration application.
2. Examination of registration application, accept or reject the application.
3. Opposition to registration.
4. Registration cancellation or strike-off.
5. Transfer of the geographical indication ownership, licensing its exploitation and imposing seizure.
6. Compensating for any infringement on the rights prescribed in the provisions of this law.

All of which without detriment to provisions of this Law; and to undertake the necessary amendments.

## Article 7

Any person may request to view the geographical indications register and to obtain copies, photographs, or data thereof, as per the rules and procedures prescribed in the resolution to be issued by the Minister concerned with industrial property, and after payment of all due fees.

## Article 8

A resolution shall be issued by the Minister concerned with industrial property after the approval of the Cabinet to stipulate the categories of fees prescribed in this law and the rules, rates of increase and decrease and exemption thereof.

## Article 9

"As amended by Law No. (16) of 2006"

The following do not constitute a violation to the Law:

1. Third party use of a geographical indication that was previously bona fide used before granting protection to the indication in the country of origin.
2. The use of a geographical indication, in any way, if it was identical to a familiar description of a circulated name of a product or service in the Kingdom of Bahrain.
3. The use by a person to his name or that of a predecessor in a commercial activity which does not confuse the public.
4. The use of a geographical indication that is not protected, which protection in the country of origin expired, or no longer in use in that country.

## Article 10

The employees appointed by the Minister to verify the application of the provisions of this law and the resolutions issued for the implementation thereof shall have access to relevant stores.

The employees authorized by the Minister of Justice in agreement with the Minister concerned with industrial property shall have the capacity of Judicial Control Commissioners concerning the offenses taking place within their own jurisdiction and that pertain to their functions. The written minutes concerning these offenses shall be transferred to the Attorney General by virtue of a resolution by the Minister concerned with industrial property or the one he delegates for this purpose.

## Article 11

Any concerned person may appeal to the Minister any final resolution issued in accordance with the provisions of this law within thirty days of the date of being informed of the resolution. The appeal shall be decided by a grounded decision and the concerned person shall be informed in writing within thirty days of the date of his appeal.

The petitioner may appeal the rejection decision before the competent Court within sixty days of being informed of the rejection of his appeal

A decision may not be appealed before a grievance thereto submitted regarding the decision, and a decision rejecting the appeal is made, or the Minister does not reply to the appeal within the prescribed period.

## Article 12

1. In the case of a violation prescribed hereinabove in Article (2) of this law or to prevent threats, any interested person may request an order in a petition from the chief of the court competent with the dispute

source to take one preventive measure or more as appropriate including the following:

1. Make a detailed description of the goods including the imported ones upon importation thereof, materials, machinery and equipment used or that have been used in the violation act and keeping the pertinent evidence.
  2. Effecting precautionary seizure on the items mentioned hereinabove paragraph.
  3. Stoppage of the violation.
2. The petition shall be accompanied with an official certificate proving registration of the geographical indication in the Kingdom of Bahrain, and that the said violation occurred or that the indication is subject or vulnerable to violation. The chief of the court may request the applicant to submit necessary information to help the competent authority to carry out the precautionary measure in identifying the products, materials, machinery or tools in question
  3. The chief of the court, when necessary, may issue the aforementioned order on an urgent basis without summoning the other party- should there be a likelihood that any delay in issuing the order would lead to an inescapable damage on the part of the adjudicator or that it would lead to the destruction of the evidence- provided that the adjudicated party shall be informed of the decision upon issuance thereof.

The issued order for taking any of the aforementioned measures may include delegating one expert or more to assist the execution of the order or impose the deposit of the adjudicator of a banking or monetary guarantee appropriate to compensate for any damage that may unlawfully result out of this measure. The adjudicated may appeal the decision before the competent authority within the ten days following the issuance of the decision or from the date of notifying him, as applicable, in the case of which the court may support the decision or abrogate it wholly or partially.

The lawsuit concerning the dispute source shall be raised within fifteen days as of the date of issuance of the order or otherwise the effects of the taken measure shall be rendered void and null.

#### Article 13

Without detriment to any severer punishment prescribed by another law, he shall be punished with imprisonment of no less than three months and no more than a year or with a fine of no less than five hundred Dinars and no more than two thousand Dinars or with both penalties the person who violates the terms stated hereinabove in Article (2) of this law, if the geographical indication was registered in the Kingdom of Bahrain. The court may issue an order to publish the ruling once or more in a daily newspaper, at the expense of the adjudicated.

In the case of repetition of the offense, the imprisonment term shall be no less than six months and no more than two years, and the fine no less than one thousand Dinars and no more than four thousand Dinars or with both penalties with the closure of the commercial store or project or stopping of the activity –as applicable- for a period of no less than fifteen days and no more than six months. The ruling thereof shall be published one time or more in a daily newspaper at the expense of the adjudicated.

The court may, when a conviction ruling is issued, order to confiscate or destroy the things accruing from the offense including the goods imported from abroad upon importation along with the tools and equipment used for that purpose.

It may, when ruling acquaintance, order to confiscate or destroy the things mentioned hereinabove should it have resulted in injuries or have been used to infringe the patented rights.

#### Article 14

Provisions of this law do not violate any additional protection or better established privileges in another legislation or agreement enacted in the Kingdom of Bahrain.

#### Article 15

The Minister concerned with industrial property shall issue, within six months as of the date of publishing this law in the Official Gazette, the necessary resolutions to implement its provisions.

#### Article 16

The Ministers, each in his own capacity, shall implement this law, which shall come into effect as of the next day following the publication thereof in the Official Gazette.

**The King of the Kingdom of Bahrain**  
**Hamad bin Isa Al Khalifa**

Issued in Al-Rifa' Palace  
On 28th Jumada Al-Akhir 1425 A.H  
August 14th, 2004