

LIECHTENSTEIN
Trade Marks Law

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I. Trade Marks

A. General Stipulations

1. Protection for Trade Marks

Article 1 Definition

1) A trademark is a sign which appropriately distinguishes goods or services provided by a company from those of other companies.

2) Trade marks can be in particular words, letters, figures, illustrated representations, three-dimensional shapes or a combinations of these elements or in colour.

Article 2 Absolute prohibiting reasons

The following are barred from trade mark protection:

- a) marks which are common property unless they have been accepted as trade marks for goods or services for which they are required;
- b) shapes which are the essence of the goods and shapes of goods or packing which are necessary from the technical point of view;
- c) misleading signs;
- d) signs which breach public order, violate good habits or infringe valid Law.

Article 3 Relative prohibiting reasons

1) Furthermore, those trade marks are barred from protection which:

- a) are identical to an older trade mark and intended for the same goods or services as that one;
- b) are identical to an older trade mark and intended for equivalent goods or services so that a risk of confusion exists.

2) The following are regarded as older trade marks:

- a) lodged or registered trade marks which enjoy priority in accordance with this Law (Articles 6 to 8).
- b) trade marks which are reputedly known in Liechtenstein at the time of registration while Para. 1 applies to the mark within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property (Paris Convention).

3) Only the proprietor of the older trade mark may refer to the prohibiting reasons according to this Article.

Article 4 Registration for the benefit of those with authority to use

Nor is protection enjoyed by trade marks registered in the name of agents,

representatives or other persons or bodies without the proprietor's consent or any which are left on the register after cancellation of the consent.

2. Accrual of rights to a trade mark; priority

Article 5 Accrual of rights to a trade mark

The right to a trade mark accrues with its being entered in the register.

Article 6 Declaration of priority

The right to a trade mark is acquired by those who are first to apply for it.

Article 7 Priority according to the Paris Convention

1) If a trade mark has been registered for the first time in another Paris Convention member country or has been registered in accordance with regulations and being effective for such a country, the registering party or its legal successor can only claim priority, arising from the first registration, for applying for the same trade mark in Liechtenstein if the registration is lodged in Liechtenstein within six months after the first registration.

2) First registration in a country where reciprocal rights for Liechtenstein apply has the same effect as the first registration in a Paris Convention member country.

Article 8 Exhibition priority

A person who displays goods or services with a trade mark at an official or officially approved exhibition within the meaning of the Agreement dated 22 November 1928 concerning international exhibitions in a Paris Convention member country or at another exhibition approved by the government, can claim in his application the date on which the exhibition opened provided the trade mark is applied for within six months from that date and this is authenticated by the exhibition management.

Article 9 Declaration of priority

1) A person who claims priority in accordance with the terms of the Paris Convention or exhibition priority must submit with the application a priority declaration and a priority document.

2) The claim shall lapse if the requirements in respect of dates and form are not complied with.

3) Registration of a priority merely supports the assumption of the proprietor of the trade mark benefiting.

3. Existence of a right to the trade mark

Article 10 Life and renewal of registration

1) Registration is valid for a period of ten years from the date of its application.

2) Registration shall be extended by ten years each time subject to an appropriate application being lodged and the payment of the renewal fee and, if applicable, the classification fee (Article 29, Para. 4) having been paid.

3) An application for renewal must be submitted to the Office of National Economy (Amt für Volkswirtschaft) within the last twelve months before the end of validity but not later than within six months after its end.

4) An additional fee shall be due if renewal of protection is submitted after the period of validity has expired.

Article 11 Use of the Trade Mark

1) The trade mark is protected when it is used in conjunction with the goods and services for which it is claimed.

2) The use of a trade mark is also regarded as protected when it is used in a slightly different form and for export.

3) The use of a trade mark with its proprietor's consent is regarded as use by himself.

4) The use of a trade mark is also regarded as protected when it is used within the area of the European Economic Community or in Switzerland.

Article 12 Consequences of non-use

1) If the proprietor of a trade mark fails to use it in conjunction with the goods or services for which it is claimed for a continuous period of five years from the date of its registration, he shall not be able to reassert its continued use unless there are valid reasons why it has not been used.

2) If the use of a trade mark is used for the first time or its use taken up again after more than five years, the right to use it shall be restored under the original priority, provided no other person has claimed the use of the trade mark in question as in Para. 1.

3) A person who claims non-use of a trade mark must prove it; the proprietor of the trade mark is then obliged to prove its use.

4. Substance of trade mark rights

Article 13 Exclusive rights, principle of exhausting legal remedies

1) The Trade Mark Law grants the proprietor exclusive right to use a trade mark for marking the goods or services for which it has been taken out, and to dispose freely of it.

2) The proprietor of a trade mark can forbid others to use a mark which is barred from protection according to Article 3, Para. 1, in particular:

a) to append a trade mark to goods or their wrapping or packing;

b) to offer, to put on the market or warehouse goods for this purpose under this trade mark;

c) to offer or provide services under this trade mark;

d) to import or export goods under this trade mark;

e) to use the trade mark on business documents, in advertising or in any business dealings.

3) These rights are vested in the proprietor of the trade mark, also towards those who are entitled to use it in accordance with Article 4.

4) The proprietor of a trade mark does not have the right to refuse a third party use of it for goods which are marketed under that same trade mark by him or with his approval in the home country or any other member state of the European Economic area.

5) Para. 4 does not apply if the proprietor of the trade mark opposes for valid reasons further marketing of the goods, in particular when the condition of the goods is changed or has deteriorated after they have been brought on to the market.

6) The proprietor of a trade mark has the right to refuse its use to third parties for goods which have been marketed by him or with his agreement in a country outside the European Economic area if the risk of deception results from such use for buyers at home.

Article 14 Limitations in favour of prior use trade marks

1) The proprietor of a trade mark cannot prohibit any other person from continuing to use to the present extent a trade mark which had already been used before the application was lodged.

2) This right to continued use can only be assigned together with the company.

Article 15 Known trade mark

1) The proprietor of a known trade mark can forbid others to use it for any type of goods or services if such use jeopardizes the distinctive character of the trade mark, takes advantage of its reputation or affects

it adversely.

2) The rights acquired before the trade mark became well known remain unaffected.

Article 16 Reproduction of trade marks in dictionaries and other reference books

If a registered trade mark is reproduced in a dictionary, another reference book or any other similar book without reference to its registration, the proprietor of such a trade mark can demand from the publisher, editor or distributor of the book to reinstitute the appropriate reference at least in the next edition.

5. Changes to trade mark rights

Article 17 Assignment

1) The proprietor of a trade mark can assign wholly or partly the trade mark for the goods or services for which it was applied.

2) Only written assignments shall be valid. They must be entered in the register to be effective in relation to bona fide third parties.

3) Claims in accordance with this Law can be addressed against the current proprietor until an assignment is registered.

4) Trade marks shall be assigned together with the company, unless agreed otherwise.

Article 18 Splitting an entry application or an entry

1) The proprietor of a trade mark may ask in writing for the entry or the entry application to be split.

2) The goods and services shall be split into part applications or part entries.

3) Part applications or part entries retain their registration and priority date of the original application or the original entry.

Article 19 Licence

1) The proprietor of a trade mark can cede the trade mark for the goods or services for which it was applied wholly or partly for use to another person.

2) The licence shall be entered in the register on application from an interested party. It thus becomes effective over rights in the trade mark acquired earlier.

Article 20 Usufruct and right of lien; enforcement

- 1) A trademark can be the subject of usufruct, a right of lien and enforcement measures.
- 2) Usufruct and pledging take only effect for the benefit of bona fide third parties when it is entered in the register.

6. International Law contracts

Article 21

- 1) International Law contracts are reserved.
- 2) If international Law contracts grant in Liechtenstein more extensive rights than this Law, these rights shall then also apply to the citizens of Liechtenstein.

B Guarantee mark and collective mark

Article 22 Guarantee mark

- 1) The guarantee mark is a mark used under the control of mark proprietors from various companies and is intended to guarantee quality, geographic origin, method of manufacture or any other common features of goods or services supplied by them.
- 2) The guarantee mark must not be used for goods or services of the mark proprietor or a company closely connected with him by economic ties.
- 3) The mark proprietor must allow any person against appropriate payment to use the guarantee mark for goods or services which display the common features guaranteed by the mark regulations.

Article 23 Collective mark

A collective mark indicates an association of manufacturing, trading or service companies and serves the purpose of distinguishing the goods or services provided by the members of such associated companies from those originating from other suppliers.

Article 24 Controlling the mark

- 1) The registering party of a guarantee or a collective mark must submit to the Department of National Economy the rules governing the use of this mark.
- 2) The rules governing the use of the mark shall state the joint features of the goods or services which the mark is intended to guarantee; it must also provide for an effective control of the use of the mark and appropriate sanctions applied in the case of its misuse.

3) The rules governing the use of the mark name the group of companies which have the right to use it.

4) The rule of use must not violate public regulations, offend public morality or contravene the established Law.

Article 25 Approval of the rules of use

The rules of use must be approved by the Department of National Economy. Approval is given subject to the provisions of Article 24.

Article 26 Use contrary to the rules

If the proprietor of a guarantee or a collective mark suffers its repeated use whereby the main stipulations of the rules of use are infringed and fails to obtain redress within a time prescribed by the Provincial Court, the registration of the mark shall be null and void at the end of that time.

Article 27 Use contrary to regulations

If the proprietor of a trade mark tolerates repeated use of a guarantee or a collective mark which infringes the regulations, and fails to take recourse to remedies within a period of time set by the Provincial Court, registration of that trade mark shall lapse at the end of that period.

Article 28 Assignment and licence

Assigning of guarantee or collective marks and granting of licences for collective marks shall only be valid if recorded in the register.

C. Registering a trade mark

1. Registration procedure

Article 29 Registering the mark

1) Any person can register a mark.

2) The following must be lodged with the Department of National Economy for the purpose of registering a mark:

a) registration application stating the name of the person or the company wishing to register the mark;

b) reproduction of the mark;

c) a list of the goods or services for which the mark is required.

3) A registration fee prescribed by the Government by ordinance must be paid for each registration.

4) The Government can also prescribe an additional fee related to the

size of the list of goods and services (classification fee).

5) The Government make provisions by ordinance on any specific formalities of the registration procedure. They specify in particular which documents must be submitted, which time limits observed and how the marks must be published.

Article 30 Registration date

1) A mark shall be deemed as registered as soon as the documents listed in Article 29, Para. 2, are submitted.

2) If the mark is replaced or its major features modified or the list of goods or services extended, the registration date is the date on which such alterations are submitted.

Article 31 Decision and registration

1) The Department of National Economy shall not support the registration application if it fails to comply with the requirements stated in Article 29, Para. 2.

2) It will reject the application of registration if

a) the registration fails to comply with the stipulations of this Law or the formal requirements of the ordinances issued in this connection;

b) the stipulated fees have not been paid;

c) reasons for absolute prohibition exist;

d) the guarantee or collective mark fails to comply with the requirements of Articles 22 to 24.

3) It will register the mark if no reasons for rejection exist.

2. Cancellation of registration

Article 32 Cancellation

The Department of National Economy shall cancel a mark registration wholly or in part if:

a) its proprietor requests that it be cancelled;

b) its registration is not extended;

c) the registration is declared null and void by a legislative decision.

3. Remedies

Article 33 Appeal

1) An appeal against an order of the Department of National Economy can be submitted to the Government within 30 days from the date on which the order is served.

2) Any representations against a decision of the Government can be submitted to the administrative complaints department within 30 days from the date on which the decision is served.

4. Register, Publications

Article 34 Keeping the register

The mark register is kept by the Department of National Economy.

Article 35 Publications

1) The Department of National Economy publishes:

- a) trade mark registrations (Article 31, Para. 3);
- b) registration renewals (Article 10, Para. 3);
- c) trade mark cancellations (Article 32).

2) The Government decide by ordinance which other registrations are to be published and the publications in which they are to appear.

Article 36 Availability of the register to public inspection; inspection of records

1) Any person can inspect the register, obtain information on it and request extract from it.

2) Any person also has the right to inspect the trade marks registered in the document file.

3) The Government provide the rules governing cases in which access to document files is granted before registration or in which parts of document files are excluded from inspection to protect the trade marks or the indication of origin.

Article 37 Searches

The Department of National Economy searches, using its own staff or with the assistance of third parties, for trade marks which have been filed or registered for Liechtenstein and which are identical or similar to a specific trade mark. No liability is accepted for correctness or completeness of the results.

5. Further action in the case of non-observance of time limit

Article 38

1) If the Department of National Economy rejects an application concerning a trade mark due to non-observance of a time limit, the applicant can ask, in a written submission, for the case to be given further consideration,

subject to the provisions of Article 104 of the National Administration Regulations.

2) The application must be submitted within two months from the date on which the applicant is notified of default but not later than within six months following default; in addition, all omitted details and actions must be completely updated and the appropriate fee for further processing paid.

3) If the request is accepted, this will restore the position to the level at which it would have been had all the action been taken at the right time.

4) Further action shall be excluded in the case of failure to observe

a) time limits prescribed for applications for further action

b) time limits for claiming priorities in accordance with Articles 7 and 8.

6. Representation

Article 39

The proprietor of a trademark who neither has his residence nor a registered office nor a branch in Liechtenstein can only participate in administrative and legal proceedings governed by this Law by appointing a lawyer or a patent agent to act as an agent in Liechtenstein.

7. Fees

Article 40

1) Except for the cases described in this Law, fees are payable for work performed by the office resulting from a special application.

2) The Government stipulates fees by ordinance to cover the cost.

D. International Trade Mark Registration

Article 41 Applicable Law

1) This chapter applies to international registrations in accordance with the Madrid Trade Marks Agreement dated 14 April 1891 and the protocol on the Madrid Trade Marks Agreement concerning international registration of trade marks dated 28 June 1989 (Madrid Protocol) arranged with the mediation of the Department of National Economy or valid for Liechtenstein.

2) The other stipulations contained in this Law apply unless otherwise stated in the Madrid Trade Mark Agreement or the Madrid Protocol and Part I.

Article 42 Applications for registration in the international register

1) The following can be arranged through the Department of National Economy:

a) international registration of a trade mark if Liechtenstein is the country of origin within the meaning of Article 1, Para. 3 of the Madrid Trade Mark Agreement or Article 2 of the Madrid Protocol;

b) alterations to an international registration if Liechtenstein is the country of the proprietor of the trade mark within the meaning of the Madrid Trade Mark Agreement or the Madrid Protocol;

c) international registration of an application for registration if Liechtenstein is the country of origin within the meaning of Article 2, Para. 1 of the Madrid Protocol.

2) The appropriate fees stipulated in the Madrid Trade Mark Agreement, in the Madrid Protocol and by ordinance are payable for international registration of a trade mark or an application for registration or for amending an international registration.

Article 43 Effect of international registration in Liechtenstein

1) International registration providing protection for Liechtenstein has the same effect as a registration of an application with the Department of National Economy and registration in the Liechtenstein register.

2) This effect is deemed not to arise if and insofar as protection of the internationally registered trade mark is refused for Liechtenstein.

Article 44 Changing an international registration into a national application for registration

An international registration can be changed into a national application for registration provided:

a) an application is submitted to the Department of National Economy within three months after cancellation of the international registration;

b) the international registration and the national application for registration relate to the same trade mark;

c) protection for Liechtenstein of the goods and services referred to on the application has in fact been covered by the international registration;

d) this national application for registration complies with all other regulations contained in this Law.

II. Indications of Origin

Article 45 Principle

- 1) Indications of origin are direct or indirect references to the geographical origin of goods or services, including references to the quality or properties related to their origin.
- 2) Geographical names and marks which are not understood by the relevant commercial circles to be an indication of a specific origin of the goods or services are not deemed to be indications of origin within the meaning of Para. 1.
- 3) Use of the following is inadmissible:
 - a) inappropriate indications of origin;
 - b) designations which can be confused with an inappropriate indication of origin;
 - c) a name, address or a mark connected with goods or services of foreign origin if this creates a risk of deception.
- 4) Regional or local indications of origin of services are considered appropriate when these services fulfil the criteria of origin for the respective country as a whole.

Article 46 Origin of goods

- 1) The origin of any particular goods is determined by the place of their manufacture or by the origin of the starting materials and components from which they are made.
- 2) Other prerequisites may also have to be satisfied, such as compliance with the manufacturing principles and the quality requirements usual for the place of manufacture or specified there.
- 3) Such criteria must be determined in individual cases in relation to the effect which they have on the reputation of the goods in question; if an indication of origin matches the nuances, it is assumed to be correct.

Article 47 Origin of services

- 1) The origin of any particular service is determined by:
 - a) the place of residence of the person who provides it;
 - b) the nationality of those who exercise actual control over the business policy and management; or
 - c) the place of residence of those who exercise actual control over the business policy and management.
- 2) Other prerequisites may also have to be satisfied, such as compliance with the principles relating to the provision of the service or the bond with the country of origin of those people who provide the service.

3) Such criteria must be determined in individual cases in relation to the effect which they have on the reputation of the services in question; if an indication of origin matches the nuances, it is assumed to be correct.

Article 48 Special provisions

The Government can define by ordinance those prerequisites under which a Liechtenstein indication of origin for specific goods or services can be used if this is of general interest to the industry or to any specific branches of trade or industry. It will first hear the interested professional and industrial associations.

Article 49 Manufacturers' marks

The Government can make provision by ordinance for a manufacturer's mark having to appear on goods from a particular branch of industry if the requirement for such a mark is in the interest of that branch of industry.

III. Legal Protection

A. Protection under Civil Law

Article 50 Action for a declaratory judgement

Any person who shows interest in judicial matters can have it confirmed by the Provincial Court whether a right or a legal relationship does or does not exist according to this Law.

Article 51 Action for assigning a trade mark

- 1) Instead of declaring the trade mark as null and void, the plaintiff can plead for the trade mark to be assigned if the defendant considers that it is suitable for him.
- 2) The claim lapses two years after the publication of the registration or the lapse of the trade mark proprietor's agreement in accordance with Article 4.

Article 52 Communication of decisions

Judicial decisions which have the effect of changing an entry in the register shall be communicated to the Department of National Economy.

Article 53 Action for a benefit

- 1) Any person whose rights in respect of a brand trade mark or indications of origin are infringed or threatened, can demand of the Regional Court that:
 - a) the threatened infringement be prohibited;
 - b) the existing infringement be eliminated;
 - c) the accused be committed to state the correct origin of the goods in his possession which have been unlawfully provided with the trade mark or an indication of origin.
- 2) Civil court actions for compensation, satisfaction and recovery of profits in accordance with the stipulations on management without mandate.
- 3) Infringement of trade mark rights is also deemed to be the use of a guarantee or collective mark against regulations.

Article 54 Entitlement of interested associations and organizations to take action

- 1) The following are also entitled to take action concerning the protection of indications of origin in accordance with Articles 50 and 53, Para. 1.
 - a) professional and industrial associations which have the power to protect

the economic interests of its members;

b) organizations which, according to their statutes, are dedicated to consumer protection.

2) All such associations and organizations are authorized to take action in matters of guarantee or collective marks in accordance with Article 50.

Article 55 Confiscation in a civil action

1) The Provincial Court can order the confiscation of objects which unlawfully bear a mark or an indication of origin and are in the defendant's possession.

2) The Provincial Court decides on whether the mark or the indication of origin is to be obliterated, the objects rendered unusable, destroyed or used in a specific way.

Article 56 Jurisdiction

1) The Provincial Court has jurisdiction over actions envisaged in this Law provided the place of residence of the defendant, the place where the act has been committed or the place where the success occurred is in Liechtenstein.

2) The Provincial Court is in any case competent to deal with actions concerning infringements of Liechtenstein marks.

Article 57 Temporary injunctions

1) Temporary injunctions can be ordered if a person proves that an infringement of his rights in a mark or an indication of origin exists, such an infringement is to be feared and that the infringement threatens to create disadvantages which will not be easy to make good.

2) He can in particular demand that the Provincial Court orders measures to preserve evidence, establish the origin of the objects bearing a mark or an indication of origin, to preserve the existing condition or for the purpose of preliminary execution of injunctive and remedial relief.

3) The Provincial Court is competent to issue temporary injunctions.

Article 58 Publishing the decisions

Following an application from the successful party, the Provincial Court can order that the decision be published at the expense of the other party. The Court shall decide on the type and details of the published information.

B. Penal Provisions

Article 59 Infringements of trade mark rights

1) If required by the injured party, the Provincial Court shall impose upon a person who commits an offence of intentionally infringing another party's trade mark rights, a prison sentence of up to one year or a monetary fine of up to 360 daily rated fines if:

a) he lays a claim to a trade mark which belongs to another party, copies or imitates it;

b) markets goods or provides services, offers such goods or services or advertises them bearing the wrongly claimed, copied or imitated trade mark.

2) Any person who refuses to state the origin of objects provided with a wrongly claimed, copied or imitated trade mark, and in his possession, shall also be punished at the injured party's request.

3) Any person who infringes trade mark rights for the purpose of trade (Article 70 of the Penal Code) shall be given a prison sentence of up to 3 years. He shall be prosecuted by the public prosecutor.

Article 60 Fraudulent use of a trade mark

1) Any person who

a) unlawfully marks goods or services with a trade mark owned by third party with the intention of deceiving and making it appear that the goods and services in question are the original goods or services;

b) unlawfully offers or brings out on to the market goods or services bearing a trade mark owned by another party vends or offers them for sale as original goods or services,

shall be punished by the Provincial Court, if an action be requested by the injured party, with a term of imprisonment of up to three years.

2) Any person who infringes the stipulations in Para. 1 for business purposes, shall be punished by imprisonment for a term of up to 5 years. He shall be prosecuted by the public prosecutor.

3) Any person who imports, exports or warehouses goods for trading which, whilst being aware that they are calculated to mislead in trading, shall be punished by the Provincial Court for contravening the Law, if an action be requested by the injured party, by a fine of up to 20,000 Francs, or, if this amount is not collectable, by imprisonment for a term of up to three months.

Article 61 Use of a guarantee or collective marking contrary to regulations

1) Any person who intentionally marks goods with a guarantee or collective

mark contrary to regulations, shall be punished by the Provincial Court for contravening the regulations, on a plea from the injured party, by imprisonment for a term of up to one year or a monetary fine of up to 360 daily rated fines.

2) Equally, any person who refuses to display the origin of objects marked with a guarantee or a collective mark against regulations and being in his possession, shall be punished for contravening the regulations, on a plea from the injured party, by a fine of up to 20,000 Francs or, if this amount is not collectable, by a term of imprisonment of up to three months.

3) Punishment can be waived if an infringement only affects minor stipulations of the regulations.

4) Any person who infringes the stipulations of Para. 1 in the course of trade, shall be punished by imprisonment for a term of up to three years. He shall be prosecuted by the public prosecutor.

Article 62 Use of inappropriate indication of origin

1) At a plea from the injured party, the Provincial Court shall impose the punishment of imprisonment for a term of up to one year or a monetary fine of up to 360 daily rated fines on any person who intentionally:

a) uses an inappropriate indication of origin;

b) uses a designation which can be confused with an inappropriate indication of origin;

c) creates a risk of deception by using a name, address or a mark in conjunction with goods or services of foreign origin.

2) Any person who infringes the stipulations of Para. 1 in the course of trade, shall be punished by imprisonment for a term of up to three years. He shall be prosecuted by the public prosecutor.

Article 63 Contravention of regulations concerning manufacturers' marks

Any person in the course of trade intentionally infringing manufacturers' marks regulations, shall be punished by the Provincial Court for their contravention by a fine of up to 20,000 Francs or, if the fine is not collectable, by imprisonment for a term of up to three months.

Article 64 Suspension of proceedings

1) The Provincial Court can suspend penal proceedings if the accused proves invalidity of the trade mark registration in a civil suit.

2) If the accused pleads in penal proceedings invalidity of the trade mark registration, the Provincial Court can allow him a reasonable period of time for asserting it in civil proceedings.

3) The time limit is suspended during the suspension.

Article 65 Responsibility

If acts of contravention are committed in the course of business of a legal entity, a collective or a limited partnership or a single company, the penalty provisions apply to those persons who have acted or should have acted for them but with joint liability for the fines and costs of the legal entity, the association/partnership or the single company.

Article 66 Confiscation of goods in penal proceedings

1) In cases of contravention of regulations,
a) goods which are the subject of the relevant proceedings and
b) objects which are used in or are intended to be used in the act of contravention
can be confiscated. Provisions of Article 26 of the Penal Code apply.
2) The proceedings are governed by the stipulations of Articles 353 to 357 of the Penal Code.

Article 67 Forfeiture of proceeds

1) Proceeds from acts of contravention, regardless of to whom they belong, can be declared as forfeited for the benefit of the State. Article 20 of the Penal Code applies.
2) The proceedings are governed by the stipulations of Articles 353 to 357 of the Penal Code.

C. Measures in the case of import and export

Article 68 Notice of suspect consignments

The appropriate body has the right to make the proprietor of a trade mark, a person/body authorized to mark goods with an indication of the origin of goods or a professional or industrial association which has the power to take legal action in accordance with Article 54, aware of some consignments when reasons exist to believe that goods illegally bearing a trade mark or indication of origin are to be imported or exported.

Article 69 Application for assistance

1) If the proprietor of a trade mark, a person/body authorized to mark goods with an indication of the origin of goods or a professional or industrial association which has the power to take legal action in accordance with Article 54 has reason to believe that goods illegally provided with a trade mark or an indication of origin are to be imported

or exported, he/it can apply in writing to the appropriate body that the release of such goods be refused.

2) The applicant must provide all information available to him which may be required for a decision of the appropriate body; this includes a full description of the goods.

3) The appropriate body makes a decision on the application. It may raise a fee to cover the administrative costs.

Article 70 Withholding the goods

1) If, following an application submitted as in Article 69, the appropriate body has justified reasons for believing that specific goods intended for import or export are illegally provided with a trademark or an indication of origin, it will advise the applicant of this accordingly.

2) The appropriate body shall withhold the goods in question for a period of up to ten working days from the date of communication as in Para. 1, to allow the applicant to obtain an interim injunction.

3) In justified cases, the appropriate body can withhold the goods in question for no more than ten further working days.

4) The appropriate body can make the withholding of goods dependent on the applicant furnishing collateral if it is to be feared that damage may be caused to the goods by withholding them.

5) The applicant must provide compensation for damage suffered by the goods due to their being withheld if interim injunctions are not ordered or prove to be unfounded.

Article 71 Jurisdiction; agreements under international Law

1) The appropriate body within the meaning of Articles 68 to 70 shall be named by the Government by ordinance.

2) a) specific provincial administration offices;

b) third parties

can be instructed to attend to measures connected with the import and export of goods.

3) Agreements under international Law are reserved.

IV. Transitional and Final Provisions

Article 72 Execution

The Government issues appropriate decrees to implement this Law.

Article 73 Annulment of existing Law

The following is hereby annulled:

- a) Law dated 26 October 1928 concerning the protection of factory, trade and service marks, indications of origin of goods and industrial distinguishing marks, LGBL. 1928, No. 13;
- b) Law dated 7 August 1952 dealing with the alterations to the Law concerning the protection of factory, trade and service marks, indications of origin of goods and industrial distinguishing marks, LGBL. 1952, No. 21.
- c) Law dated 9 January 1964 dealing with the alteration to the Law dated 26 October 1928 concerning the protection of factory, trade and service marks, indications of origin of goods and industrial distinguishing marks, LGBL. 1964, No. 12.
- d) Law dated 19 December 1985 dealing with the alteration to the Law concerning the protection of factory, trade and service marks, indications of origin of goods and industrial distinguishing marks, LGBL. 1986, No. 19.

Article 74 Deposited or registered marks

- 1) Marks deposited or registered on this Act coming into force are subject to the new Law from this point in time.
- 2) However, departing from Para. 1, the following provisions apply:
 - a) Priority is governed by the old law.
 - b) The reasons for rejecting applications for registration, except for absolute reasons, apply in accordance with the old Law.
 - c) The validity of a registration ends with the expiration of the period applying in accordance with the old Law; it can be extended any time until then.
 - d) The first renewal of registration of collective marks is subject to the same formal requirements as registration.

Article 75 Marks not previously registerable

If any applications for registration are pending for marks which are barred from registration under the provisions of the old but not the new law, the registration date shall be the date of coming into force.

Article 76 Utility priority

Any person who was first to use a specific mark on goods or their wrapping or packing or for distinguishing services before this Act comes into force has greater entitlement to it than the first person registering it provided he registers the mark within two years after this decree comes into force whilst stating the time at which the mark went into use.

Article 77 Terminology

The expression "Factory and Trade Marks" is replaced in all decrees by the term "Marks".

Article 78 Coming into force

- 1) This Act comes into force on 31 March 1997, subject to the provisions of Para. 2.
- 2) Articles 18 and 42, Para. 1c and Article 44, Articles 41 and 42, Para. 1a and b and Article 2 with reference to the Madrid Protocol shall come into force after the ratification of the Trade Mark Law Agreement dated 27 October 1994 and the Protocol dated 28 June 1989 to the Arrangement of Madrid on the international registration of marks in the Duchy of Liechtenstein.