



Law of Ukraine on the Protection of Rights to Indication of Origin of Goods

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(This Law is issued with consideration of the amendments that were introduced according to the following Laws:

No. 2188–III of December 21, 2000, OJU, 2001, No. 8, Art. 37

No. 2921–III of January 10, 2002, OJU, 2002, No. 16, Art. 114

No. 850–IV of May 22, 2003, OJU, 2003, No. 35, Art. 271)

This Law determines the basis for the protection of rights to indication of origin of goods in Ukraine and regulates relations arising in connection with their acquisition, use and protection.

Chapter I General Provisions

Definitions

1. For the purposes of this Law:

“**Office**” means the central body of executive power on the legal protection of intellectual property;

“**Appellate Chamber**” means a collegial body of the Office for the examination of objections to decisions of the Office on the acquisition of rights to intellectual property objects and on other matters referred to its competence by this Law;

“**Indication of Origin of Goods**” means the term covering (incorporating) such terms:

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



“**Simple Indication of Origin of Goods**” means any wording or image (graphical) designation that directly or indirectly points to geographical place of origin of goods. This can be a name of geographical place used for marking goods or as a part of such designation;

“**Qualified Indication of Origin of Goods**” means the term covering (incorporating) such terms:

- appellation of origin of goods;
- geographical indication of origin of goods;

“**Appellation of Origin (hereinafter AOG) of Goods**” means a geographical place name used for marking of goods originating from the indicated geographical place and having particular properties that are exclusively or essentially due to the natural conditions specific for that geographical place or to the combination of these natural conditions with human factor specific for this geographical place;

“**Geographical Indication of Origin (hereinafter – GIO) of Goods**” means geographical place name used for marking of goods originating from that geographical place and having certain properties, reputation or other characteristic features that are essentially due to natural conditions specific for that geographical place or to the human factor or to the combination of these natural conditions with human factor;

“**Geographical Place**” means any geographical object with officially defined boundaries, in particular: a country, a region as a part of a country, settlement, location, etc.;

“**Generic Name of Goods**” means a name of geographical place used in the name of goods, where the goods of that species were initially manufactured and which with time have become commonly used in Ukraine as indication (name) of a species of goods irrespectively of its particular place of origin;

“**Specially Authorized Body**” means the State body defined by the Cabinet of Ministers of Ukraine vested with authority as for determining and control of particular properties, certain qualities or other characteristics of goods for indication of which the HMI or the ГЗП are used, and also for determining of the boundaries of the geographical places to which those particular properties, certain qualities or other characteristics are related, and for determining manufacturers of the indicated goods within the boundaries of these geographical places;

“**Person**” means a natural or legal person;

“**Application**” means a package of documents required for registration of the qualified indication of origin of goods and/or of the right to use the qualified indication of origin of goods;

“**Applicant**” means a person or group of persons who has filed an application;

“**Certificate**” means a document that confirms the right to the qualified indication of origin of goods and/or the right of a person to use registered appellation of origin of goods or of the registered geographical indication of origin of goods;



“**Registration**” means the State registration of the appellation of origin or of the geographical indication of origin of goods and/or of the right to use that qualified indication of origin of goods;

“**Register**” means The State Register of Ukraine for appellation of origin and geographical indication of origin of goods and of the rights to use the registered qualified indication of origin of goods;

“**Examination Institute**” means the state institution (enterprise or organization) authorized by the Office for consideration and examination of applications;

“**The State System of the Legal Protection of Intellectual Property**” means the Office and a number of expertise, scientific, educational, informational and other state institutions of relevant specialization, included in the sphere of management of the Office.

*Legislation of Ukraine on the Protection of Rights to
Indication of Origin of Goods*

2. Legislation of Ukraine on the protection of right to indication of origin of goods consists of this Law, the Laws of Ukraine “On the protection against unfair competition”, “On the protection of rights to marks for goods and services”, “On the protection of the consumers rights”, “On the advertising” and of other normative and legal acts.

*Authorities of the Office in the Sphere of the Protection of
Rights to Indication of Origin of Goods*

3.—(1) The Office provides the state policy implementation in the sphere of the protection of rights to indication of origin of goods, to that end it:

organizes the receiving of applications and their examination, makes decisions on them;
grants certificates, provides the state registration of indication of origin of goods and/or right to use them;

provides publication of official data on indication of origin of goods;

implements international cooperation in the sphere of the legal protection of intellectual property and represents interests of Ukraine on the matters of the protection of rights to indication of origin of goods in the international organizations according to the current legislation;

adopts normative and legislative acts within its authorities under the determined procedure;

organizes an information and publishing activity in the sphere of the legal protection of intellectual property;

organizes research works on the improvement of the legislation and on the organization of activity in the sphere of the legal protection of intellectual property;



organizes the work on the retraining of the personnel of the state system of intellectual property legal protection;

authorizes institutions included into the state system of the legal protection of intellectual property, in accordance with their specialization, to fulfill individual tasks defined by this Law, by the Statute of the Office and other normative and legislative acts in the sphere of the legal protection of intellectual property;

performs other functions according to its Statute, approved under the determined procedure.

(2) The activity of the Office shall be financed by funds of the State Budget of Ukraine.

International Treaties

4. If the international treaty of Ukraine for which the approval of being mandatory is issued by the Verkhovna Rada of Ukraine, has set rules other than those provided by this Law, the regulations of the international treaty are applied.

Rights and Obligations of Foreign and Stateless Persons

5.—(1) Foreign and stateless persons shall have equal rights and obligations with the citizens of Ukraine provided by this Law in accordance with international treaties of Ukraine for which the approval of being mandatory is issued by the Verkhovna Rada of Ukraine.

(2) Foreign and stateless persons in the relations with the Office, exercise their rights through representatives in the matters of intellectual property (patent attorney).

Chapter II Legal Protection to Indication of Origin of Goods

Granting the Legal Protection to Indication of Origin of Goods

6.—(1) The legal protection of the simple indication of origin of goods is provided on the grounds of its use.

The legal protection of the simple indication of origin of goods includes non-admission of use of the indications that are not true (false) or which mislead consumers as to the real geographical place of origin of goods.

The simple indication of origin of goods shall not to be registered.

(2) This Law grants the legal protection to qualified indication of origin of goods on the basis of their registration, the action of which is termless from the date of registration.

Conditions for Granting the Legal Protection

7.—(1) The legal protection is granted for the qualified indication of origin of goods indicating specific geographical place from which goods originate, to which the grounds for refusal in granting of the legal protection, specified by this Law, do not apply.

(3) The legal protection is provided for appeal of origin of goods, for which the following conditions are performed:

(a) it is the name of the geographical place from which goods originate;

(b) it is used as a name of goods or as a component part of that name;

(c) in the geographical place specified by that name the specific natural conditions or the combination of the natural conditions and human factor providing particular properties to the goods in comparison with similar goods from the other geographical places exist objectively;

(d) the goods marked with that name have respective properties that are exclusively, or essentially, due to the natural conditions specific for that geographical place or the combination of these conditions and human factor specific for that geographical place;

(e) production (extraction) and processing of goods marked with this name are performed within the designated geographical place.

(4) The legal protection is provided for geographical indication of origin of goods for which the following conditions are performed:

(a) it is the name of the geographical place from which that goods originate;

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

(c) in the geographical place specified by that name there are the specific conditions and/or human factor providing the good with the certain properties or other characteristics;

(d) the goods marked with that name have certain properties, reputation or other characteristics that are mostly due to the natural conditions and/or human factor specific for that geographical place;

(e) at least the main component of the goods marked with that name is produced and/or processed within the boundaries of the designated geographical place.

(5) The legal protection can be provided by the identical indication of origin of goods used for indication of similar goods different by their properties under the condition of the granting of the differences sufficient for the prevention of misleading of consumers as for real identification of goods.

(6) The legal protection is provided by the homonymic indication of origin of goods under the condition of prevention of consumers' mislead as for real identification of goods, geographical place of origin of goods or its boundaries.



*Grounds for Refusal in Granting of Legal Protection for the
Qualified Indication of Origin of Goods*

8.—(1) This Law does not grant the legal protection for the qualified indication of origin of goods which:

- (a) does not correspond to the conditions provided by the Article 7 of this Law;
- (b) contradicts to the public order, principles of humanity and morals;
- (c) is the generic name of goods;

(d) correctly indicates geographical place of production of goods, though forms at customers a wrong idea on the fact that the goods are produced in an other geographical place;

(e) is the name of variety of a plant or an animal breed, thus being able to mislead consumers as for real origin of goods.

(2) This Law does not grant the legal protection to the qualified indication of origin of goods related to a geographical place in a foreign State, if:

(a) Ukraine has no relevant treaty with a foreign State on mutual protection of this type of indication of origin of goods;

(b) this indication is not protected in the relevant foreign State.

(3) A mark for goods and services registered in Ukraine and comprising only of that indication or of the claimed indication as an element, can not be considered a ground for refusal in granting of legal protection for the claimed appellation of origin or the claimed geographical indication of origin of goods.

Chapter III

Procedure of Registration of Qualified Indication of Origin of Goods and/or of the Right to Use it

*The Right to Register of the Qualified Indication of Origin of Goods and/or
to Use the Registered Qualified Indication of Origin of Goods*

9.—(1) The right to register of the qualified indication of origin of goods is vested in:

(a) a person or a group of persons that in the claimed geographical place manufacture goods, the particular properties, certain qualities, reputation or other characteristics of which are related to that geographical place;

(b) the consumer associations;

(c) the institutions being directly related to production or investigation of relevant products, articles, technological processes or geographical places.



(2) The right to use the registered appellation of origin of goods or the registered geographical indication of origin of goods is vested, subject to the registration of that right, in manufacturers which at the geographical place designated in the Register produce goods, the particular properties, certain qualities or other characteristics of which correspond with those included in the Register.

An Application for Registration of Qualified Indication of Origin of Goods and/or of the Right to Use the Registered Qualified Indication of Origin of Goods

10.—(1) An application for registration of the qualified indication of origin of goods is filed to the Office by persons having right to registration according to the Paragraph one of the Article 9 of this Law.

The application for registration of the right to use the registered qualified indication of origin of goods is filed to the Office by persons having right to such use according to the Paragraph two of the Article 9 of this Law.

If an application for registration of the qualified indication of origin of goods is filed to the Office by persons manufacturing goods for which the indication is claimed, the application is considered at the same time as the application for registration of the right to use that indication.

(2) The application shall relate only to one indication of origin of goods.

(3) On behalf of an applicant, the application can be filed through a representative in matters of intellectual property (patent attorney) or another authorized agent.

(4) The application shall be made in the Ukrainian language and shall contain:

(a) a request for registration of the appellation of origin of goods or the geographical indication of origin of goods and/or the right to use the registered relevant qualified indication of origin of goods with information about an applicant and his/her address;

(b) the claimed appellation of origin of goods or the claimed geographical indication of origin of goods;

(c) a name of goods for which an applicant requests registration of the specified indication of origin of goods; and/or the right to use registered relevant qualified indication of origin of goods.

(d) a name and boundaries of the geographical place where the goods is manufactured and to which the particular properties, certain qualities, reputation or other characteristics of goods are related;

(e) the description of the particular properties, certain qualities, reputation or other characteristics of goods;

(f) the data on the use of the claimed qualified indication of origin of goods on the label and at marking goods;



(g) the data on interconnection of the particular properties, certain qualities, reputation or other characteristics of goods to the natural conditions and/or human factor of the specified geographical place.

(5) Along with the application are filed:

(a) the document confirming the fact that the applicant manufactures goods for which he/she/it claims registration of the appellation of origin or the geographical indication of origin of goods and/or the right to use the registered relevant qualified indication of origin of goods;

(b) the conclusion of a Specially Authorized Body on the fact that the particular properties, certain qualities or other characteristics of goods identified in the application are objectively due to or related to the natural conditions and/or human factor of the named geographical place of production of goods;

(c) the conclusion of a Specially Authorized Body on the boundaries of the geographical place to which particular properties, certain qualities or other characteristics of goods are related.

(6) Foreigners instead of the documents listed in the Paragraph five of this Article shall file along with the application documents confirming:

(a) the legal protection of the claimed qualified indication of origin of goods in the relevant foreign State;

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

The documents provided by this Paragraph can be filed in foreign language and their translation into Ukrainian shall be filed to the Office not later than three months from the filing date of the application.

(7) The date of filing an application shall be the date on which the Office receives the application on registration of the qualified indication of origin and/or the right to use the registered qualified indication of origin of goods.

(8) A fee shall be paid for filing an application. In case the fee is not paid within two months from the filing date of the application, the application is considered to be not filed.

Examination of an Application

11.—(1) The examination of an application has the status of the scientific and technical examination and shall be held by the Examination Institute under this Law and according to regulations established by the Office on its basis.

The Examination Institute shall carry out an information activity required for performance of examination of applications and shall be the center of an international exchange of publications according to the Convention on International Exchange of



Publications adopted on December 3, 1958 by the United Nation General Conference for Education, Science and Culture.

(2) An applicant has the right to take part in prescribed order, personally or through his/her/its representative, in consideration of problems arising in the course of the examination.

(3) During examination holding, on initiative of the applicant, corrections of obvious errors and adjustment of description of the main characteristics of goods or the boundaries of the geographical place of origin of goods can be included to the application.

(4) The examination of an application for registration of the qualified indication of origin of goods and/or of the right to use the registered qualified indication of origin of goods determines correspondence of the data given in the application to the provisions of the Articles 7, 8 and 9 of this Law.

(5) In the course of examination of an application for registration of the qualified indication of origin of goods examination of that indication is performed with respect to the generic names included to the List of the generic names of goods.

The list of the generic names of goods is formed by the Office on the basis of the Regulations on the List of the generic names of goods approved by the Cabinet of Ministers of Ukraine.

In the case of the appellation of origin of the goods claimed for registration, or the geographical indication of origin of goods claimed for registration are included to the List of the generic names of goods, the decision on refusal in registration is sent to the applicant.

(6) In the course of the examination the Examination Institute has the right to request from the applicant additional materials without which the examination is impossible.

The additional materials on request by the experts shall be submitted within three months from the date of having received the request. During that term the applicant can submit a petition for prolongation of the term for response or for the renewal of the term for response to the request missed due to reasonable excuse. A fee is paid for submission of the petition for prolongation of the term and for renewal of the missed term.

In the case of infringement by the applicant of the prescribed term or his leaving the request without reply, the application is considered withdrawn.

(7) In case on the results of examination it is found that the claimed indication does not correspond to the conditions of provision of the legal protection to the appeal of origin of the goods, or the geographical indication of origin of goods, or that the applicant can not be given the right to use the previously registered appellation of origin of goods, or the previously registered geographical indication of origin of goods, the Office makes decision on refusal in registration.

The decision on the refusal in registration is sent to the applicant.



(8) If after the results of the examination it is determined that the application meets the requirements provided by the Articles 7, 8 and 9 of this Law, information on the application is published in the Official Gazette of the Office.

The publication shall include:

information on the applicant (applicants);

the name of goods, including the claimed for registration appellation of origin of the goods or geographical indication of origin of goods;

the boundaries of the geographical place to which the particular properties, certain qualities or other characteristics of goods are related;

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

the conditions of use of the qualified indication of origin of goods on the label and at marking goods.

The publication can also include other information identified in prescribed order.

(9) After the publication of official data on the application for registration of qualified indication of origin of goods and/or the right to use the registered qualified indication of origin of goods any person has the right to familiarize in prescribed order with the materials of the application. A fee is paid for familiarizing with the materials of the application.

(10) Within six months from the date of the publication of official data on the application any person can submit to the Office an objection against registration of the claimed appellation of origin of goods or the claimed geographical indication of origin of goods and/or right to use the registered relevant qualified indication of origin of goods.

A fee is paid for the submission of objection. In case the fee is not paid, the objection is considered to be not submitted.

(11) The copy of the objection submitted and information on the person having filed that objection are sent to the applicant. Within two months from the date of having received the copy of the objection the applicant shall send to the Office a substantiated reply to the objection or submit a petition for prolongation of the prescribed term for reply. A fee is paid for submission of the request for prolongation of the term. In case the fee is not paid, the term for giving response is not prolonged.

In case response to objections from the applicant does not come to the Office, the objection is considered in prescribed order on the basis of the available materials.

(12) Objection and response on it are examined by the institution within two months from the day of the expiration of the term established for the response.

The applicant and the person having submitted the objection have the right to take part in its examination.

(13) On the results of the examination of the objection a notification is sent to the person having submitted the objection.

(14) In case of no objections been available or their recognition as not substantial, the Office decides on registration of that qualified indication of origin of goods and/or of the right to use the registered qualified indication of origin of goods and informs the applicant of it.

In case the objections examined are found substantial, the Office decides on refusal in registration and informs the applicant of it.

A decision on refusal in registration is published in the Official Gazette of the Office.

(15) The applicant has the right to familiarize with all the materials identified in the request from the Examination Institute or in the decision of the Office. Copies of materials are sent to the applicant within a month from the day of receipt of the request.

Withdrawal of an Application

12. The applicant has the right to withdraw the application at any time before the day of registration of the qualified indication of origin of goods and/or of right to use the qualified indication of origin of goods.

Appellation Against Decision on an Application

13.—(1) An applicant may appeal to the court or to the Appellate Chamber against the Office decision on an application within two months from the date of receiving the Office decision.

(2) If the Office decision on the application has been appealed to the court after the registration of qualified indication of origin of goods and/or the right to use the qualified indication of origin of goods, the court also decides the validity of the relevant registration.

(3) The right to appeal the Office decision in the Appellate Chamber would be lost after the payment of the state fee for the issue of the certificate.

(4) The appeal against the Office decision in the Appellate Chamber shall be accomplished by submitting an objection against the decision under the procedure determined by this Law and on its basis by the Regulations of the Appellate Chamber approved by the Office. A fee is paid for the submitting of the objection. If the fee has not been paid within the period fixed in Paragraph one of this Article, the objection shall be considered as not submitted, of which a notification is sent to the applicant.

(5) In case when the Appellate Chamber has received an objection and a document for payment of the fee for submitting the objection, the processing on the application shall be suspended until the approval of the decision by the Appellate Chamber.

(6) An objection against the Office decision on an application shall be considered according the Appellate Chamber regulations within two months from the date of receiving the objection and the document on the payment of the fee for submitting the objection, within

the framework of the grounds presented in the objection by the applicant and during the discussion of the objection. The period of consideration of the objection shall be extended on the initiative of the applicant, but for not more than two months, provided that the relevant request has been submitted and the fee has been paid with respect to the request.

(7) On results of consideration of an objection, the Appellate Chamber shall make a grounded decision which shall be approved by the order of the Office and be sent to the applicant.

If an objection has been fully or partially satisfied, the fee for submitting the objection shall be returned to an applicant.

(8) Before approving of the Appellate Chamber decision, within a month from the date of making the decision, the Head of the Office may present a grounded written protest against this decision, which shall be considered within a month. The decision of the Appellate Chamber made on the protest shall be final and may be cancelled only by the court.

(9) An applicant may appeal to the court against the Appellate Chamber approved by the Office within two months from the date of receiving the decision.

*Registration of the Qualified Indication of Origin of Goods and/or
of the Right to Use the Registered Qualified Indication of Origin of Goods*

14.—(1) On the grounds of the decision made by the Office on registration of the qualified indication of origin of goods and/or right to use the registered qualified indication of origin of goods the relevant registration is performed.

(2) The registration is performed through including to the Register required data on the qualified indication of origin of goods and/or of persons having right to use the registered qualified indication of origin of goods. The following data is included in the Register:

the claimed indication of origin of goods;

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

the name of goods, description of particular properties, certain qualities, reputation or other characteristics;

the date of taking decision on registration of the appellation of origin of goods or geographical indication of origin of goods;

data on the persons in whom the right to use the registered qualified indication of origin of goods, is vested and the date of the decision to give that right.

(3) The form of the Register and the order of keeping it are determined by the Office.

(4) The applicant has the right to file a request for inclusion of changes and adjustments to the Register. An order of inclusion changes and adjustments to the Register are defined by the Office.



For inclusion of changes and adjustments to the Register, or for correction of an obvious error made through the fault of the applicant, a fee is paid in established order.

(5) Any person has the right to familiarize with the data included to the Register and to get an extraction from the Register for a certain fee. A procedure of performance of these actions is determined by the Office.

(6) Data on registration of the qualified indication of origin of goods and/or the right to use the registered qualified indication of origin of goods is published in Official Gazette of the Office.

Granting a Certificate on the Right to Use the Registered Qualified Indication of Origin of Goods

15.—(1) The certificate of registration of the right to use the qualified indication of origin of goods is granted by the Office within a month from the date of registration of that indication or from the date of data being entered in the Register about the persons to whom the right to use the registered before that qualified indication of origin of goods is given, subject to payment of the state fee at the rate and in order established by legislation.

The term of payment of state fee is prolonged, though not more than for the six months, in case a respective petition is filed before the expiration of that term and application fee for its submission is paid. This term, missed because of a reasonable excuse, is renewed, in the case of a respective petition being filed within six months after the expiration of the term and fee for its submission is paid.

(2) The form and content of the certificate are determined in established order.

(3) To the granted certificate on requirement of its owner the Office makes correction of obvious errors with the following notification on this in the Official Gazette of the Office.

(4) The certificate being evidence of registration of the right to use the qualified indication of origin of goods is valid during 10 years from the date of filing the application.

The term of validity of the certificate is prolonged by the Office for the following 10 years on the grounds of the request submitted by the owner of the certificate within the last year of the term of validity of the certificate subject to approval by a Special Authorized Body of the fact that the owner of the certificate manufactures goods in the geographical place indicated in the Register and the characteristics of goods correspond to the characteristics recorded in the Register. A fee is paid for prolongation of the term of validity of the certificate.

A request of the owner of the certificate on prolongation of the term of validity can be submitted within the six months after expiration of the term of validity of the certificate subject to payment within that term of a fee increased by 50 percent.

The term of validity of the certificate is terminated before the appointed time under the conditions provided by this Law.



(5) In the case of a loss or damage of the certificate its owner is given a duplicate of the certificate in order established by the Office. A fee is paid for granting duplicate of the certificate.

Registration of the Qualified Indication of Origin of Goods in Foreign States

16. An application for the registration of the qualified indication of origin of goods related to a geographical place at the territory of Ukraine in a foreign State, can be filed only after its registration in Ukraine.

Chapter IV
Rights and Obligations Deriving From Registration of the Qualified Indication of Origin of Goods and/or the Right to Use it

Rights Deriving from Registration of the Qualified Indication of Origin of Goods and/or the Right to Use It

17.—(1) The rights deriving from registration of the qualified indication of origin of goods and/or the right to use it are valid from the date of its registration.

(2) Registration of the right to use the qualified indication of origin of goods does not restrict the rights of the other persons to register their rights to use it.

(3) The scope of the legal protection provided by registration of the right to use the qualified indication of origin of goods is determined by included to the Register and fixed in the certificate characteristics of the goods and the boundaries of a geographical place.

(4) The owner of the certificate has the right to:

(a) use the registered qualified indication of origin of goods;

(b) take measures for prohibition of use of the qualified indication of origin of goods by persons not entitled to it;

(c) require from persons having infringed his/her rights to terminate those infringements and to reimburse the material and the moral damage in order established by Law.

(5) The following acts shall be considered as the use of the registered qualified indication of origin of goods:

(a) marking the indication on the goods or to a label;

(b) marking the indication on the package of goods, use in advertising;

(c) records in forms, bills and other documents accompanying goods.

(6) The owner of the certificate has the right to apply along with the qualified indication of origin of goods a warning marking to inform of the fact that indication is registered in Ukraine.

For the warning marking of the appellation of origin of goods the abbreviation (AOG) ringed by an oval is used. Instead of that marking, or together with it, the text can be used: “The appellation of origin of goods registered in Ukraine”.

For the warning marking of geographical indication of origin of goods the abbreviation (GIO) ringed by an oval is used. Instead of that marking, or together with it, the text can be used: “Geographical indication of origin of goods registered in Ukraine”.

(7) The owner of the certificate does not have the right to:

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

(b) prohibit (prevent) the Specially Authorized Bodies from performing control of presence in goods of particular properties and other characteristics, on the grounds of which the qualified indication of origin of goods and/or the right to use it is registered.

Obligations of the Owner of the Certificate

18. The owner of the certificate is obligated to provide the correspondence of quality, particular properties and characteristics of goods which is manufactured to their description in the Register.

Chapter V

Procedure of Declaring Invalid and of Termination of the Legal Protection of the Qualified Indication of Origin of Goods and/or the Right to Use that Indication

The Grounds for Declaring Invalid and for Termination of the Legal Protection of the Qualified Indication of Origin of Goods and/or the Right to Use That Indication

19.—(1) Legal protection of the qualified indication of origin of goods is declared invalid on the grounds of registration of that indication being declared invalid.

(2) Legal protection of the qualified indication of origin of goods is terminated on the grounds of termination of registration of that indication.

Declaring Invalid the Registration of the Qualified Indication of Origin of Goods and/or the Right to Use that Indication

20.—(1) The registration of the qualified indication of origin of goods can be declared invalid by the court in the case of non-conformity to the conditions of provision of the legal protection provided by the Article 7 of this Law.

The registration of the qualified indication of origin of goods or the right to use that indication declared invalid are considered as not having come into force.

(2) The registration of the right to use the qualified indication of origin of goods and the certificate being evidence of the right to use the qualified indication of origin of goods can be declared invalid by court in the case of registration was performed with infringement of requirements provided by the Articles 7, 8 and 9 of this Law.

Declared invalid registration of the right to use the qualified indication of origin of goods and the certificate being evidence of this right are considered as not having come into force.

*Termination of Registration of the Qualified Indication of Origin of Goods
and the Right to Use it*

21.—(1) Validity of the registration of the qualified indication of origin of goods can be terminated by court in the case of loss of specific for the given geographical place conditions and possibilities of production of goods described in the Register, as well as recognition of that indication as a generic name of goods.

(2) Validity of the registration of the qualified indication of origin of goods related to a geographical place in a foreign State is also terminated in connection with the termination of the legal protection of that indication in the State of origin.

(3) The right to use the registered qualified indication of origin of goods can be terminated:

(a) by decision of the court due to the fact that goods loose particular properties or other characteristics described in the Register, from the date fixed by the court;

(b) in the case of liquidation of a juridical person or of the death of a physical person being the holder of the certificate;

(c) in case the owner of the certificate submits a request to the Office on renunciation of the right to use that indication. The right is terminated from the day of the official publication of data on it;

(d) in the case of non-payment of the fee for prolongation of the term of validity of the certificate. The right is terminated from the first day of the following term for which the fee is not paid.

*Procedure of Declaring Invalid and Terminating the Registration of
the Qualified Indication of the Origin of Goods and/or the Right to Use it*

22.—(1) The registration and the relevant certificate are declared invalid in the court procedure.

(2) Any person has the right to refer to the court with a suit on declaring invalid the registration and the certificate or on termination of their validity, on adjustment of the characteristics of the goods described in the Register, or on adjustment of correspondence of

the qualified indication of origin of goods to its geographical place, and on recognition of the registered qualified indication of origin of goods as its generic name.

(3) On the grounds of the decision of the court the Office includes relevant changes to the Register or the List of the generic names of goods with publication in the Official Gazette of the Office.

Chapter VI **Protection of Right to Use the Indication of Origin of Goods**

Infringement of Rights to Use the Indication of Origin of Goods

23.—(1) The infringement of rights to use the indication of origin of goods is the use of indication which is not true (false), or a indication causing consumers misleading as to the real appellation of origin of goods.

(2) Any encroachment on the rights of the owner of the certificate of registration of the right to use the registered qualified indication of origin of goods involves accountability in accordance with the laws.

(3) The infringement of the rights of the owner of the certificate of registration of the right to use the registered qualified indication of origin of goods is:

(a) use of the registered qualified indication of origin of goods by a person having no certificate of registration of right to use it;

(b) use of the registered indication of geographical origin of goods in case of that goods not originating from the registered for that indication geographical place, even in the case of the real appellation of origin of goods or geographical indication of its origin being used in the translation, or being followed by the words “kind”, “type”, “style”, “brand”, “imitation”, etc.;

(c) use of the registered qualified indication of origin of goods or an indication similar to it for the similar goods different from those described in the Register in case of such use causing consumers misleading on the origin of goods and the particular properties or other characteristics of them and for the non-similar goods in case such use causes a damage to the reputation of the registered indication or is the illegal use of its reputation;

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

(4) The following is considered as infringement of the right of the owner of the certificate:

(a) use of the registered qualified indication of origin of goods provided by the items “b” and “c” of the Paragraph five of the Article 17 of this Law by any person having purchased on the legal basis the goods indicated by that qualified indication of origin from the owner of the certificate and putting them into circulation one more time;



(b) use of the qualified indication of origin of goods by a person having no certificate of registration of the right to use it though having used it in good faith before the date of registration. In case such person within the twelve months from the date of registration of the qualified indication of origin of goods does not file to the Office an application to get the right to use that indication, the following use of it is considered to be infringement of the rights of the owner of the certificate.

(The article 24 is excluded on the grounds of the Law No. 850-IV of 22.05.2003)

Remedy for Protection of Rights

25.—(1) The protection of rights to indication of origin of goods is performed in the court and other procedures prescribed by Law.

(2) Jurisdiction of the court applies to all the legal relationships arising in relation to application of this Law.

The courts, according to their competence, resolve, in particular, the disputes on:

- legitimacy of registration of the qualified indication of origin of goods;
- ascertainment of the fact of use of the qualified indication of origin of goods;
- infringement of the rights of the owner of the certificate of registration of the right to use the qualified indication of origin of goods;
- compensation.

Fees

26. An amount and procedure of payment of the state fee for the granting certificate are determined under the legislation.

Costs obtained from the payments of the state fee for the granting certificates shall be included to the State Budget of Ukraine.

The amount of fees provided by this Law, terms and procedure of their payment are determined by the Cabinet of Ministers of Ukraine.

The fees provided by this law are paid to the current accounts of the institutions authorized by the Office, which are included into the state system of the legal protection of intellectual property and fulfill individual tasks, defined by this Law, in accordance with their specialization.

The earning from fees provided by this Law are purpose-oriented and, in accordance with the orders of the Office, are used exclusively for the development and functioning of the state system of the legal protection of intellectual property, in particular for the implementing of tasks defined by this Law and other normative and legal acts in the sphere of intellectual property.



Chapter VII Concluding Regulations

(1) This Law shall enter into force in six months from the day of publication.

Till the other laws are brought in correspondence with the regulations of this Law they are in force in part which does not contradict to this Law.

(2) The Cabinet of Ministers of Ukraine within the three months from the day this Law comes into force, shall:

submit to the Verkhovna Rada of Ukraine of Ukraine the propositions on amending the laws of Ukraine resulting from this Law;

determine and publish the list of specially Authorized Bodies obliged to determine and to control particular properties and other characteristics of goods, determine the boundaries of the geographical places and assign manufacturers of goods;

elaborate the Regulations for the List of the generic names of goods;

establish the procedures and rate of payment of application fee, the fee for granting certificate and for prolongation of the term of validity of the certificate, for prolongation of the terms for submission of objections and appeals, etc., in accordance with this Law;

bring its normative and legal acts in correspondence with this Law;

provide revision and cancellation by Ministries and the other central executive authorities of their normative and legal acts in contradiction with this Law.

President of Ukraine
Kyiv, June 16, 1999
No. 752–XIV

L. KUCHMA