

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NUMBER 51 YEAR 2007
REGARDING
GEOGRAPHICAL INDICATIONS

BY THE MERCY OF GOD ALMIGHTY

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering : that in order to implement the provisions of Article 56 paragraph (9) of Law number 15 of 2001 regarding Marks, it is necessary to provide a Government Regulation regarding Geographical Indications.
- In view of : 1. Article 5 paragraph (2) of the Indonesian Constitution of 1945;
2. Law No.15 of 2001 regarding Marks (State Gazette of 2001 No.110, Supplementary State Gazette No. 4131);

DECIDES

- To enact : GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA REGARDING GEOGRAPHICAL INDICATIONS

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Government Regulation

1. A Geographical Indication shall mean a sign which indicates the place of origin of a good, which due to its geographical environment factors the nature, the people, or the combination thereof gives specific characteristics and quality on the goods produced therein.
2. Application shall mean an application for registration of a Geographical Indication submitted in writing to the Directorate General.
3. Applicant shall mean a party who files an Application.
4. Producer shall mean a party who produces goods.
5. Consultant of Intellectual Property Rights shall mean a person who has expertise in the field of intellectual property rights and specifically provides services in filing and handling applications of patents, marks, design industry and other fields of intellectual property rights including Geographical Indication and shall be registered as a Consultant of Intellectual Property Rights at the Directorate General.
6. Proxy shall mean Consultant of Intellectual Property Rights.
7. Filing date shall mean the date of receipt of an Application, which has fulfilled the administrative requirements.

8. Day shall mean working day.
9. Book of Requirements shall mean a document containing information on the description concerning the quality and specific characteristics of a good which can be used to differentiate one good from other goods of the same category.
10. User of Geographical Indication shall mean the producers of goods in accordance with the Book of Requirements and registered at the Directorate General.
11. Directorate General shall mean the Directorate General of Intellectual Property Rights under the Department presided over by the Minister.
12. Minister shall mean the Minister, whose scope of duties and responsibilities includes the guidance in the field of intellectual property rights, including Geographical Indication.

CHAPTER II SCOPE OF GEOGRAPHICAL INDICATIONS

Part One General

Article 2

- (1) A sign as referred to in Article 1 paragraph (1) shall be a name of place or region, or any other particular signs which indicates the place of origin where a good is produced that is protected by Geographical Indication.
- (2) The good as referred to in paragraph (1) may be agricultural products, foodstuffs, handicrafts, or any other goods complying with the provision of Article 1 paragraph (1).
- (3) A sign as referred to in paragraph (1) shall be protected as a Geographical Indication after having registered in the General Register of Geographical Indication at the Directorate General.
- (4) A registered Geographical Indication cannot fall into the public domain.
- (5) A sign as referred to paragraph (1) shall only be used on goods which comply with the Book of Requirements.

Part Two Geographical Indication which cannot be registered

Article 3

A Geographical Indication shall not be registered if the sign which is being applied for registration

- a. Contradicts with laws and regulations, religious moral values, ethics or public order;
- b. Misleads or deceives the public as to the characteristics, natures, quality, place of origin, production process of the good and/or its use.
- c. Constitutes the name of local geography that has been used as the name of a plant variety, and used for the same plant variety;

- d. Has become generic.

Part Three
Period of Protection of Geographical Indication

Article 4

A registered Geographical Indication shall be protected as far as the specific characteristics and quality which have been the basis of the grant of the protection still exist.

CHAPTER III
PROCEDURE OF APPLICATION

Article 5

- (1) An application shall be filed in writing in the Indonesian language by the applicant or through his proxy at the Directorate General by filling a form in 3 (three) copies to the Directorate General.
- (2) The format and content of the form as referred to in paragraph (1) shall be decided by the Directorate General.
- (3) The applicant as referred to in paragraph (1) shall consist of:
 - a. an institution that represents the community in the area where the good is produced, which consist of:
 - 1. parties who undertake business on goods of natural products, or natural resources;
 - 2. producers of agricultural products;
 - 3. persons who make handicrafts, or industrial products; or
 - 4. trades who sale the goods;
 - b. an institution that is given the authority to do so; or
 - c. A group of consumers of the goods.

Article 6

- (1) The application as referred to in Article 5 shall contain the following administrative requirements:
 - a. Day, month, year;
 - b. Complete name, nationality, and address of applicant;
 - c. Complete name and address of proxy, if the application is filed through a proxy.
- (2) The application as referred to paragraph (1) shall be accompanied by:
 - a. A special power of attorney, if the application is filed through a proxy; and
 - b. Receipt of payment of fee.

- (3) The application as referred to paragraph (1) shall be furnished with a Book of Requirements consisting of:
 - a. Name of the Geographical Indication being filed for registration;
 - b. Name of good covered by the Geographical Indication;
 - c. Description of the specific characteristics and quality which differentiate the particular good from other goods of the same category, and explain the relation with the place by origin where the good is produced;
 - d. Description of the geographical environment and the natural and human factors which as a unity give effect on the on quality or characteristics of the good produced;
 - e. Description of the boundaries of region and/or map of the area that is covered by the Geographical Indication;
 - f. Description of the history and tradition in relation to the use of Geographical Indication to designate the good in that area including a description of the recognition by the relevant public of the Geographical Indication;
 - g. Description of the production process, processing, and process of making which is used as to allow as to allow any producer within the region to produce the relevant good;
 - h. Description of the method used to examine the quality of good produced; and
 - i. Label which is used on the good and contains the Geographical Indication.
- (4) The description concerning boundaries of region and/or map of the area which is covered by the Geographical Indication as referred to in paragraph (3) letter e shall have a recommendation from by the relevant authority.

CHAPTER IV PROCEDURE OF EXAMINATION

Part One Administrative Examination

Article 7

- (1) The Directorate General shall conduct an administrative examination on the completeness of application requirements as referred to in Article 5 and Article 6 within a period of 14 (fourteen) days from the date of receipt of the application.
- (2) Where an Application has fulfilled the requirements as referred to in Article 5, Article 6 paragraph (1), Article 6 paragraph (2) point (b), and Article 6 paragraph (3) the Directorate General shall allocate a Filing Date.
- (3) Where there are deficiencies on the completeness of requirements as referred to in paragraph (2), the Directorate General shall notify in writing the Applicant that such deficiencies be remedied within a period of 3 (three) months at the latest from the date of receipt of notification.
- (4) In case of such deficiencies have not been fulfilled within the period as referred to in paragraph (3), the Directorate General shall notify in writing the Applicant or through his

proxy that the Application is deemed withdrawn, and publish it in the Official Gazette of Geographical Indication.

- (5) In case of the Application is deemed withdrawn as referred to in paragraph (4), all fees that have been paid to the Directorate General cannot be reimbursed.

Part Two Substantive Examination

Article 8

- (1) Within the period of 1 (one) month at the latest from the date of the completion of requirements as referred to in Article 7 paragraph (2), the Directorate General shall transmit the application to the Geographical Indication Experts Team.
- (2) The Geographical Indication Experts Team shall conduct a substantive examination on the Application within a period of 2 (two) years at the latest from the date of receipt of Application as referred to in paragraph (1).
- (3) The substantive examination as referred to in paragraph (2) shall be conducted in accordance with the provisions as referred to in Article 1 paragraph 1, and Article 3 and Article 6 paragraph (3).
- (4) In the case of the Geographical Indication Experts Team considers that the Application has complied with the registration requirements as referred to in paragraph (3), the Geographical Indication Experts Team shall propose to the Directorate General that the Geographical Indication be registered in the General Register of Geographical Indication;
- (5) The substantive examination as referred to in paragraph (2) shall be subject to the payment of fee.
- (6) The fee for substantive examination as referred to in paragraph (5) shall be made before the end of publication period of the Application.
- (7) In case the fee for substantive examination is not paid within the period as referred to in paragraph (6), the Application shall be deemed withdrawn.

Article 9

- (1) In case the Geographical Indication Experts Team approves that a Geographical Indication can be registered as referred to in Article 8 paragraph (4), the Geographical Indication Experts Team proposes to the Directorate General to publish the relevant information of the Geographical Indication, including the Book of Requirements in the Official Gazette of Geographical Indication within a period of at the latest 30 (thirty) days at the latest from the date of receipt of the proposal from the Geographical Indications Experts Team.
- (2) In case the Geographical Indication Experts Team considers that an Application shall be refused, the Directorate General shall within 30 (thirty) days at the latest from the date of receipt off the proposal from the Geographical Indication Experts Team notify in writing the Applicant or through his proxy stating the reasons thereof.

- (3) The applicant or his proxy may respond to the refusal by stating his reasons within a period of 3 (three) months at the latest from the date of receipt of the notification of refusal as referred to in paragraph (2).
- (4) In case of the applicant or his proxy does not respond to the refusal as referred to in paragraph (3), the Directorate General shall decide the refusal of the Application and notify this decision to the Applicant or through his proxy.
- (5) In case of the Applicant or his proxy responds to the refusal as referred to in paragraph (3), the Directorate General shall within 30 (thirty) days at the latest from the receipt of such response forward the response to the Geographical Indication Experts Team.

Article 10

- (1) The Geographical Indication Experts Team shall conduct re-examination and propose a decision within 3 (three) months at the latest from the receipt of response as referred to Article 9 paragraph (5).
- (2) In case of the Geographical Indication Experts Team approves the response as referred to Article 9 paragraph (3), the Directorate General shall publish the Geographical Indication and the Book of Requirements, based on the proposed decision as referred to in paragraph (1), in the Official Gazette of Geographical Indication.
- (3) In case of the Geographical Indication Experts Team disagrees with the response as referred to Article 9 paragraph (3), the Directorate General shall decide the refusal of the Application.
- (4) The Directorate General shall within a period of at 30 (thirty) days at the latest notify in writing the decision of refusal as referred to Article 9 paragraph (4) and Article 10 paragraph (3) to the Applicant or through his proxy by stating the reasons thereof.
- (5) In case of an Application is refused, all fees that have been paid to the Directorate General cannot be reimbursed.
- (6) The Applicant or his proxy may submit an appeal petition to the Trademark Appeal Commission within a period of 3 (three) months at the latest from the date of receipt of refusal as referred to paragraph (4).
- (7) The fees for filing an appeal petition to the Trademark Appeal Commission shall be paid at the time of filing of such petition.

Part Three Publication

Article 11

- (1) The Directorate General shall within a period of 10 (ten) days at the latest from the date of decision that the Geographical Indication can be registered or refused publish the decision in the Official Gazette of Geographical Indication.
- (2) In case of the Geographical Indication has been approved to be registered as referred to in paragraph (1), the publication in the Official Gazette of Geographical Indication shall contain the number of Application, full name and complete address of the Applicant,

name and address of the proxy, filing date, relevant Geographical Indication, and abstract of the Book of Requirements.

- (3) In case of the Geographical indication is refused as referred to in paragraph (1), the publication in the Official Gazette of Geographical Indication shall contain the number of Application, full name and complete address of the Applicant, full name and complete address of the proxy, and name of Geographical Indication being applied for registration.
- (4) The publication as referred to paragraph (2) shall be undertaken for 3 (three) months.

Part Four Objection and Rebuttal

Article 12

- (1) During the period of publication as referred to in Article 11 paragraph (4), any party may file an objection to the Application to the Directorate General in writing and in 3 (three) copies with a payment of fee.
- (2) The objection as referred to in paragraph (1) shall contain the reasons accompanied by sufficient evidence that the Application shall not be registered or shall be refused based on this Government Regulation.
- (3) The objection as referred to in paragraph (1) may also be submitted in relation to the boundary of area or region covered by the Geographical Indication being applied for registration.
- (4) In the case of the objection as referred to in paragraph (2) and/or paragraph (3), the Directorate General shall within a period of 14 (fourteen) days at the latest from the date of receipt of the objection send a copy of the objection to the Applicant or his proxy.
- (5) The Applicant or his proxy shall be entitled to file a rebuttal to the objection as referred to in paragraph (4) at the Directorate General within a period of 2 (two) months at the latest from the date of receipt of copy of the objection.

Part Five Substantive Re-examination

Article 13

- (1) In the case of a rebuttal as referred to in Article 12 paragraph 5, the Geographical Indication Experts Team shall conduct the substantive re-examination of the Application by taking into account the rebuttal.
- (2) The substantive re-examination as referred to in paragraph (1) shall be completed within a period of 6 (six) months at the latest from the date of expiry of the period of filing of rebuttal as referred to Article 12 paragraph (5).
- (3) Where there is no objection as referred to in Article 12 paragraph (1), the Directorate General shall register the Geographical indication in the General Register of Geographical Indication.

- (4) In case the result of the substantive re-examination as referred to in paragraph (1) and paragraph (2) suggests that the objection can be approved, the Directorate General shall notify the Applicant or through his proxy in writing that the Geographical Indication is refused.
- (5) The Applicant or his proxy may file an appeal petition to the Trademark Appeal Commission within a period of 3 (three) months from the receipt of refusal as referred to paragraph (4),
- (6) In case the result of the substantive re-examination as referred to in paragraph (1) and paragraph (2) suggests that the objection cannot be accepted, the Directorate General shall register the Geographical Indication in the General Register of Geographical Indication.
- (7) The Directorate General shall publish the decision in the Official Gazette of Geographical Indication within a period of 30 (thirty) days at the latest from the decision of substantive re-examination.

Part Six **Geographical Indication Experts Team**

Article 14

- (1) The Geographical Indication Experts Team is a non-structural body which undertakes evaluation of the Book of Requirements, and gives advice/recommendation to the Directorate General with regard to the registration, amendment, cancellation or control of national Geographical Indications.
- (2) Members of the Geographical Indication Experts Team as referred to in paragraph (1) consist of experts who have expertise in the field of Geographical Indication and come from:
 - (a) representatives of the Directorate General;
 - (b) representatives of the ministries whose scope of duties and responsibilities related with agriculture, forestry, industry, commerce, and/or other relevant ministries;
 - (c) representatives of authorities or institutions in charge of inspecting and/or controlling the quality of goods; and
 - (d) other qualified experts.
- (3) Members of the Geographical Indication Experts Team as referred to in paragraph (2) shall be appointed and dismissed by the Minister for a period of service of 5 (five) years.
- (4) The Geographical Indication Experts Team shall be presided by a chair who is selected from and by members of the Geographical Indication Experts Team.
- (5) In implementing its duties and functions as referred to paragraph (1), the Geographical Indication Experts Team is assisted by a Technical Evaluation Team which consists of members based on expertise.
- (6) The Technical Evaluation Team as referred to in paragraph (5) shall be established by the Directorate General upon the recommendation from the Geographical Indication Experts Team.

CHAPTER V
THE USE AND CONTROL OF GEOGRAPHICAL INDICATION

Part One
User of Geographical Indication

Article 15

- (1) Any producer who is interested in using Geographical Indication shall apply as a user of Geographical Indication to the Directorate General with a payment of fee in accordance with the prevailing laws and regulations.
- (2) The producer as referred to in paragraph (1) shall fill in a declaration form as provided by the Directorate General and attach a letter of recommendation from a competent technical authority.
- (3) The Directorate General shall, within a period of 30 (thirty) days at the latest after furnishing the requirements as referred to paragraph (2), register the producer using a Geographical Indication in the General Register of Users of Geographical Indications and publish his/her name and relevant information in the Official Gazette of Geographical indications

Part Two
Control of User of Geographical Indication

Article 16

- (1) Any person can submit his/her observation on the user of Geographical Indication to the competent authority with a copy to the Directorate General that the information contained in the Book of Requirements concerning the good protected by Geographical Indication is not fulfilled.
- (2) The result of observation as referred to paragraph (1) shall contain evidence and reasoning.
- (3) The Directorate General shall, within a period of 7 (seven) days at the latest from the receipt of result of observation as referred to in paragraph (1), convey it to the geographical indication expert team.
- (4) The Geographical Indication Experts Team shall, within a period of 6 (six) months at the latest from the receipt of result of observation as referred to paragraph (3), examine the result of observation and convey the result of examination to the Directorate General including any necessary acts that should be taken by Directorate General.

Article 17

- (1) The Directorate General shall, within a period of 30 (thirty) days at the latest from the receipt of the result of examination as referred to Article 16 paragraph (4), decide the necessary acts including the cancellation of the registered User of Geographical Indication.

- (2) In case the Directorate General decides to cancel the registered User of Geographical Indication, the registered User of Geographical Indication is removed from the General Register of Users of Geographical Indication and further declared not entitled to use the Geographical Indication.
- (3) Any objection on the cancellation of a registered User of Geographical Indication as referred to and paragraph (2) may be submitted to the Commercial Court within 3 (three) months at the latest from the date of receipt of the cancellation decision.
- (4) The Directorate General shall, within a period of 30 (thirty) days at the latest from cancellation decision as referred to paragraph (2), publish that decision on the Official Gazette of Geographical Indication.

Article 18

- (1) The deletion of the use of registered Geographical Indication can be filed on the initiative of a User of the relevant Geographical Indication.
- (2) In case the deletion as referred to paragraph (1) is filed, the registered User of Geographical Indication will be removed from the General Register of Users of Geographical Indication and no longer entitled to use the Geographical Indication.
- (3) The Directorate General shall, within a period of 30 (thirty) days at the latest from the decision for cancellation as referred to paragraph (2), publish that decision on the Official Gazette of Geographical Indications.

Part Three Control of Use of Geographical Indication

Article 19

- (1) The Geographical Indication Experts Team organises and monitors the control of use of Geographical Indication in the territory of the Republic of Indonesia.
- (2) In implementing the duties and responsibilities as referred to paragraph (1), the Geographical Indication Experts Team may be assisted by a Technical Controlling Team which consists of technical experts in certain fields to provide consideration or to conduct a controlling duty.
- (3) The Technical Controlling Team as referred to in paragraph (2) may come from:
 - (a) institutions which are competent in conducting control both at the regional and national, and/or
 - (b) private entities or non-departmental government institutions which are recognized as competent institutions in conducting inspection/control in relation to goods protected by Geographical Indication.
- (4) The list of institutions and entities which have been recognized as referred to in paragraph (3) shall be updated and monitored accordingly by the Geographical Indication Experts Team.

- (5) The list of institutions and entities which have been recognized as referred to in paragraph (3) must be able to be accessed by the public and used as guidance for Users of Geographical Indication.
- (6) The Technical Controlling Team as referred to paragraph (2) shall be established by the Directorate General upon the recommendation by the Geographical Indication Experts Team.

CHAPTER VI FOREIGN GEOGRAPHICAL INDICATIONS

Article 20

- (1) An application which filed by an applicant whose domiciles or resides permanently outside the territory of the Republic of Indonesia shall be filed through his proxy in Indonesia or through the diplomatic representation in Indonesia of the country of origin of the Geographical Indication.
- (2) The application as referred to in paragraph (1) can only be registered if the Geographical Indication has been acknowledged and/or registered in accordance with the prevailing regulation in its country of origin.
- (3) The provisions on the examination of administrative requirements of application as referred to in Article 7 shall also apply on foreign applications.
- (4) In case of a foreign application which has fulfilled the requirements as referred to paragraph (1), paragraph (2), and paragraph (3), the Directorate General shall decide that the application can be registered and shall conduct the publication as referred to Article 11.
- (5) The Directorate General shall refuse any foreign Application in case the requirements as referred to in paragraph (1), paragraph (2), and/or paragraph (3) have not been fulfilled.
- (6) The refusal as referred to paragraphs (5) shall be notified to the Applicant through his proxy or his diplomatic representation in Indonesia in a period of 30 (thirty) days at the latest from the date of refusal.
- (7) The provisions regarding the procedure of publication, opposition and rebuttal as well as appeal petition in this Government Regulation shall apply mutatis-mutandis to foreign applications.
- (8) A foreign application which has been registered shall be given protection in accordance with this Government Regulation.

CHAPTER VII AMENDMENT AND TERMINATION OF PROTECTION

Part one Amendment and Withdrawal of Application

Article 21

- (1) Amendment of an application as referred to in Article 6 and Article 20 can only be filed provided that such application has not been published in the Official Gazette of Geographical Indication as referred to in Article 11.
- (2) Withdrawal of an application as referred to Article 6 and Article 20 can only be done before the Directorate General decides to register the Geographical Indication.
- (3) In case of withdrawal of application as referred to in paragraph (2), all fees that have been paid to the Directorate General cannot be reimbursed.

Part Two

Amendment of Book of Requirements after Registration

Article 22

- (1) An applicant may file a request for amendment of the Book of Requirements in accordance with development in the field of scientific and technology or the change of geographical boundaries.
- (2) The request for amendment of the Book of Requirements as referred to paragraph (1) shall be filed in writing to the Directorate General stating with the reasons and amendments.
- (3) In case the request for amendment of the Book of Requirements as referred to in paragraph (1) can be approved, the Directorate General shall publish the amendment of the Book of Requirements in the Official Gazette of Geographical Indication.
- (4) The provisions regarding the publication as referred to in Article 11, and opposition and rebuttal as referred to in Article 12 shall also apply to the amendment of the Book of Requirements.
- (5) In case the Directorate General refuses the request for amendment of the Book of Requirements, the applicant or his proxy may file an appeal petition to the Trademark Appeal Commission.
- (6) The appeal as referred to in paragraph (5) can be filed within a period of 3 (three) months at the latest from the receipt of decision of refusal.

Part Three

Termination of Protection of Geographical Indication

Article 23

- (1) Any person, including the Geographical Indication Experts Team may submit to the Directorate General a result of observation that the specific characteristics and/or the quality based on which the protection of Geographical Indication has been conferred no longer exist.
- (2) In case the result of observation as referred to paragraph (1) does not come from the Geographical Indication Experts Team, the Directorate General shall convey such result

to the Geographical Indication Experts Team within 30 (thirty) days at the latest from the receipt of the result of observation.

- (3) Within a period of 6 (six) months at the latest from the receipt of the result of observation as referred to paragraph (2), the Geographical Indication Experts Team shall examine and notify its decision and the actions to be taken to the Directorate General.
- (4) Within a period of 30 (thirty) days at the latest from the receipt of decision as referred to paragraph (3), the Directorate General shall consider the decision of the Geographical Indication Experts Team and actions to be taken, including the cancellation of Geographical Indication.
- (5) In case of cancellation of the Geographical Indication, the Directorate General shall notify in writing the Applicant or his proxy as well as all Users of Geographical Indication as referred to Article 15 paragraph (3) within 14 (fourteen) days at the latest from the receipt of the decision.
- (6) Within a period of 30 (thirty) days from the decision of cancellation as referred to paragraph (5), the Directorate General shall publish the decision in the Official Gazette of Geographical Indication.
- (7) The publication as referred to in paragraph (6) shall state of the cancellation of the Geographical Indication as well as the termination of its use by Users of the Geographical Indication.
- (8) Any objection on cancellation of Geographical Indication as referred to paragraph (5) can be filed to the Commercial Court at the latest 3 (three) months at the latest from the receipt of the decision for cancellation.

CHAPTER VIII APPEAL PETITION OF GEOGRAPHICAL INDICATION

Article 24

- (1) An applicant or his proxy may file an appeal petition may be filed to the Trademark Appeal Commission against the refusal of an application as referred to in Article 9 paragraph (4), Article 10 paragraph (3), and Article 13 paragraph (4), and Article 22 paragraph (5).
- (2) The appeal petition as referred to in paragraph (1) shall be filed in writing to the Trademark Appeal Commission within a period as referred to in Article 10 paragraph (6), Article 13 paragraph (5), and Article 22 paragraph (6) with the payment of fee.
- (3) The provisions of Article 29, Article 30, Article 31, Article 32, Article 33, and Article 34 of the Law Number 15 of 2001 on Marks and the implementing regulations shall apply *mutatis-mutandis* to the provisions regarding appeal petition.

CHAPTER IX INFRINGEMENT AND LAWSUIT

Part One
Infringement of Geographical-indication

Article 25

Infringement of Geographical Indication shall include:

- a. Direct or indirect use of Geographical Indication for commercial purposes on goods which do not comply with the Book of Requirements;
- b. Direct or indirect use of sign of Geographical Indication for commercial purposes on goods which are protected or not protected with an intention:
 1. to show that the goods have a comparable quality with those protected by Geographical Indication;
 2. to gain benefits from such use; or
 3. to gain benefits from the reputation of the Geographical Indication.
- c. Use of a Geographical Indication which misleads the public as to the geographical origin of the goods.
- d. Use of Geographical Indication without right even though the place of origin of the goods is indicated.
- e. Imitation or other misleading use which can be misleading as to the place of origin or the quality of the goods reflected in the statements appearing:
 1. on packaging or wrapping;
 2. in advertising materials;
 3. on documents concerning the goods; or
 4. information which can be misleading as to the place of origin in case of packaging or wrapping; or
- f. Any other practices which are likely to mislead the general public as to the true origin of goods.

Part Two
Lawsuit

Article 26

- (1) The filing of a lawsuit against infringement as referred to in Article 25 is conducted in accordance with the provisions of Article 57 paragraph (1) and Article 58 of Law Number 15 of 2001 on Marks.
- (2) The lawsuit as referred to in paragraph (1) may be filed by:
 - (a) Any producer having the right to use the Geographical Indication;
 - (b) An institution representing the society; or
 - (c) An institution that is given the authority to do so.

- (3) Article 80 of Law Number 15 of 2001 on Marks shall apply *mutatis-mutandis* on provisions regarding the procedure of filing a lawsuit on Geographical Indication.

CHAPTER X
Prior User of Geographical Indication

Article 27

- (1) In the case of use of a sign as referred to in Article 56 paragraph (8) of Law Number 15 of 2001 on Marks, if prior to or on the date of application for registration of a Geographical Indication for identical or similar type of goods a sign has been used with good faith by another party who has no right to use the Geographical Indication, the prior user may continue to use the sign concerned for a period of 2 (two) years from the date of its registration as a Geographical Indication provided that such party states the truth regarding the place of origin of goods and guarantees that the use of the sign will not mislead the registered Geographical Indication.
- (2) In case a sign as referred to in Article 56 (8) of Law Number 15 of 2001 on Marks has been registered or used as a mark prior to or on the date of application for registration of a Geographical Indication for identical or similar type of goods and the sign is registered as a Geographical Indication, then the use of sign as a mark with good faith by the other party who has no right to use the Geographical Indication will still be possible provided that the user of mark states the truth regarding the place of origin of goods and guarantees that the use of the mark will not mislead the registered Geographical Indication.

CHAPTER X
CLOSING PROVISIONS

Article 28

This Government Regulation shall take effect on the date of its enactment.

In order that every person may know of it, the promulgation of this Government Regulation is ordered by placement in the State Official Gazette of the Republic of Indonesia.

Ratified in Jakarta
On 4 September 2007

PRESIDENT OF THE REPUBLIC OF INDONESIA

DR. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
on 4 September 2007

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

ANDI MATTALATTA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2007 NUMBER 115

ELUCIDATION OF
GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NUMBER 51 YEAR 2007
REGARDING
GEOGRAPHICAL INDICATIONS

I. GENERAL

In the daily life people recognize or call a name of a good/product followed with the name of place or area of origin of the good. Such expression is known as Geographical Indication. Although in European countries Geographical Indication has developed for along time, but in Indonesia it is a new thing.

Like Trademark, Geographical Indication is one kind of intellectual properties which has to be provided with protection by the member states of the World Trade Organization. Such provision is provided for in the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs), particularly Articles 22 to 24. In order to fulfil this obligation, Article 56 paragraph (9) of Law Number 15 of 2001 regarding Mark has provided that the provisions regarding the procedure of registration of Geographical Indication would be further regulated in a Government Regulation. Based on such consideration, this Government Regulation has been drafted in order to regulate the whole implementing provisions of Law Number 15 of 2001 regarding Mark with regard to Geographical Indications.

Geographical Indication is an indication which has been in existence for a long time but unnoticed. It can indirectly show specific characteristics of a good produced in a particular area/region. Such indication can be further used to indicate the origin of a good, be it agricultural product, food material, handy-craft, or other goods, including the raw material and/or results of processing deriving from agricultural products as well as mining products.

Indication of origin of a good is important because the effects of geographical factors, including the natural factors as well as human factors or the combination thereof in a particular area where the good is produced can give certain characteristics and quality to the good. The characteristics and quality which are preserved and can be maintained for a certain period of time will create a reputation (fame) for the good which may further bring high economic value. Therefore, such good deserves an adequate legal protection.

The legal protection of a Geographical Indication can be granted after its registration has been done. The objective of registration of a Geographical Indication is to guarantee the legal certainty. The period of protection of Geographical Indication can last without limit as long as the characteristics and/or quality used as the basis of its registration still exist.

The characteristics and/or quality used as the basis of registration of a Geographical Indication are described in the Book of Requirements, which also contains information regarding the effects of geographical environment, natural and human factors which affect the quality or characteristic of the good. In addition, it also contains information regarding map of area/region, history and tradition, processing, method of testing the quality of good, as well as the label which is used. The Book of Requirements is prepared by the group of local community where the good is produced.

The owner of a Geographical Indication is the applicant and group of people in the area where the good is produced. They have the competency to preserve, maintain, and use the Geographical Indication in connection with the need of their business. Meanwhile, a producer who can produce the good in accordance with requirements as described in the Book of Requirements and are willing to obey to the regulations in the Book of Requirements, can use the relevant Geographical Indication, after he registered himself as a user of Geographical Indication at the Directorate General.

As an archipelagic country which is rich of knowledge, tradition, and culture as well as tropical climate which produces various kinds of goods/products with great economic potentials, Indonesia should now has an adequate system for the protection of Geographical Indications. Through an optimized protection of Geographical Indication, the everlastingness of environment can be maintained and the empowerment of human and natural resources in the local regions can be maximized. In addition, it is expected that the migration of potential human labour to the urban areas can be prevented with the creation of opportunities and jobs in producing certain goods which are protected by Geographical Indication and expected to have high economic values in the relevant are/region.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Paragraph (1)

“Any other particular sign” shall mean any sign in the form of word, drawing, or the combination thereof.

Example:

- The word “Minang” indicates the province of West Sumatra;
- The drawing of traditional house of Toraja indicates the region of Toraja in the province of South Sulawesi.

Paragraph (2)

“Agriculture” shall also include forestry, plantation, breeding, fishery, and maritime.

“Other goods” shall include among others raw material and/or results of process from agricultural products as well as from mining products.

Paragraph (3)

“General Register of Geographical Indication” shall mean a book which contains Geographical Indications registered at the Directorate General.

Paragraph (4)

A name, an indication or a sign which has been registered as a Geographical Indication cannot be degraded i.e. regarded as a name of a good and becomes a public domain.

Paragraph (5)

Self-explanatory.

Article 3

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Where a Geographical Indication is used as a name of certain plant variety, such Geographical Indication can only be used for the relevant plant variety.

Example:

The name / word "Cianjur" has been known as name of a variety of rice. Therefore, the word "Cianjur" is not allowed to be used as the Geographical Indication of other varieties of rice even though the breeding is done in the area of Cianjur.

This is meant to avoid any possibilities which are misleading.

However, the word "Cianjur" can be used as a Geographical Indication for other plant varieties or goods, for example: *salak* (snakefruit), *markisa* (passion fruit), soybean paste and others.

Letter d

An indication which is generic is an indication of a good which has become a public domain because it has frequently been used in daily language, and is therefore not protected.

Example: *tahu* (bean curd), *tempe* (food made from fermented soybeans), *batik*, *jeruk bali*, *pisang ambon*, and other.

Article 4

Self-explanatory

Article 5

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory .

Paragraph (3)

Letter a

"Institution" shall include among others cooperative, association, or foundation which has local producers as its members.

Letter b

"An institution that is given the authority to do so" shall mean a government institution in the region which takes care of the good that is being filed, such as Local Government either at the provincial or *Kabupaten* (regency) / municipal level.

Article 6

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Letter a
Self-explanatory.

Letter b
Self-explanatory.

Letter c
“To differentiate the particular good from other goods of the same category” shall mean to compare a good with another similar one.

Example: particular rice which is compared with other rice.

Letter d
The description of the local geographical environment may include among other the description of highest or lowest or average temperature; level of rainfall, humidity, intensity of sun ray, height, and /or type/condition of soil.

Letter e
Self-explanatory.

Letter f
The description regarding the tradition and history which is related to the use of Geographical Indication shall include the description of tradition of the community which has taken place for a long time and is related to the production process of the good originating from the area/region.

Letter g
Self-explanatory.

Letter h
Self-explanatory.

Letter i
Self-explanatory.

Paragraph (4)

“Recommendation” shall mean an identifying letter issued by a government institution which takes care of the good being filed.

Article 7

Self-explanatory.

Article 8

Self-explanatory.

Article 9
Self-explanatory.

Article 10
Self-explanatory.

Article 11

Paragraph (1)
Self-explanatory.

Paragraph (2)
“Abstract of the Book of Requirements” shall mean concise information which describes the important elements of the good to be protected by Geographical Indications.

The complete content of the Book of requirements can be obtained at the Directorate General.

Paragraph (3)
Self-explanatory.

Paragraph (4)
Self-explanatory.

Article 12
Self-explanatory.

Article 13
Self-explanatory.

Article 14

Paragraph (1)
“To undertake evaluation of the Book of Requirements” shall mean to conduct a substantive examination on the proposed Book of Requirements which is filed by an Applicant.

“National Geographical Indication” shall mean the Geographical Indication originating from inside the country.

Paragraph (2)
“Expert who has expertise in the field of Geographical Indication” shall mean a person that has expertise among others in the field of agriculture, geology, meteorology, maritime, forestry, food, beverage, and/or other fields related to Geographical Indications.

Paragraph (3)

Self-explanatory.

Paragraph (4)
Self-explanatory.

Paragraph (5)
The number of Technical Evaluation Team can be more than one Technical Team.

Paragraph (6)
Self-explanatory.

Article 15
Self-explanatory.

Article 16

Paragraph (1)
“The competent authority to control” shall mean the government as well as non-government institution which has the competency in conducting an evaluation and control regarding the quality of a good.

Example:

- The National Agency for Food and Drug Control (NAFDC), which is competent in conducting an evaluation, testing and/or control of goods in the form of medicines or food.
- Sucofindo, which competent in conducting the testing of quality of a product.

Paragraph (2)
Self-explanatory.

Paragraph (3)
Self-explanatory.

Paragraph (4)
Self-explanatory.

Article 17
Self-explanatory.

Article 18

Self-explanatory.

Article 19

Paragraph (1)

The control can be conducted in the chain of production and distribution of the goods.

Paragraph (2)

The experts who are assigned and responsible for the control shall not have personal conflict of interest in relation to the Geographical Indication which they are going to control.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Article 20

Self-explanatory.

Article 21

Self-explanatory.

Article 22

Self-explanatory.

Article 23

Self-explanatory.

Article 24

Self-explanatory.

Article 25

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Self-explanatory.

Letter d

” Use of Geographical Indication without right” shall include, among others, misusing, imitating, creating negative image of certain Geographical Indication, such as the use of expression of ”ala”, “has the same form with”, “similar”, “made in the same manner”, “similar nature”, “resemble”, “like”, or transliteration, or the like.

Letter e

Self-explanatory.

Letter f
Self-explanatory.

Article 26
Self-explanatory.

Article 27
Paragraph (1)
“Sign which has been used” shall mean an unregistered sign.

Paragraph (2)
Self-explanatory.

Article 28
Self-explanatory.

SUPPLEMENTARY STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER
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