

Trademark Act (1996)

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Law of 12 December 1996 regarding the Protection of Trademarks and Geographical Indications

I grant consent to the following Resolution taken by the Parliament:

I. TRADEMARKS ➡

A. General Provisions ➡

1. Trademark Protection ➡

Article 1 Definition

1. A trademark is a sign capable of distinguishing the goods or services of one undertaking from those of other undertakings.

2. Trademarks may consist, in particular, of words, letters, numerals, graphic

representations, three-dimensional shapes or combinations of such elements with each other or with colours.

Article 2 Absolute grounds for exclusion

Trademark protection shall not be available to:

- a) signs which belong to the public domains, except where they have become recognised as a trademark for the goods or services for which they are claimed;
- b) shapes which constitute the nature of the goods themselves and shapes of goods or of their packaging which are technically necessary;
- c) misleading signs;
- d) signs which contravene public order, public morality or applicable law.

Article 3 Relative grounds for exclusion

1. In addition, trademark protection does not cover signs which:

- a) are identical with an earlier trademark and are intended for the same goods or services as such trademark;
- b) are identical with an earlier trademark and are intended for similar goods or services and a risk of confusion results therefrom;
- c) are similar to an earlier trademark and are intended for the same or similar goods or services and a risk of confusion results therefrom.

2. Earlier trademarks shall mean:

- a) filed or registered trademarks, which enjoy priority under this Law (Articles 6 to 8);
- b) trademarks, which at the time of filing of the sign referred to in paragraph 1 are well known in Liechtenstein in terms of Article 6 bis of the Paris Convention of 20 March 1883 for Protection of Industrial Property (Paris Convention).

3. The grounds for exclusion under this Article may only be evoked by the owner of the earlier trademark.

Article 4 Registration in the name of authorised users

In addition, no protection is given to trademarks which are registered in the name of agents, representatives or others authorised to use them without the consent of the owner or which remain entered in the Register after the consent has been withdrawn.

2. Creation of Trademark Rights; Priority ➡

Article 5 Creation of trademark rights

Trademark rights shall be created on entry in the Register.

Article 6 Priority of filing

The trademark right shall belong to the person who first filed the trademark.

Article 7 Priority under the Paris Convention

1. If a trademark has been duly filed for the first time in another member State of the Paris Convention or has been duly filed with effect for such a State, the applicant or his/her legal successor may claim the date of first filing for an application of the same trademark in Liechtenstein, on condition that the application is filed in Liechtenstein within six months from the initial filing.

2. First filing in a State granting reciprocity to Liechtenstein shall have the same effect as first filing in a member State of the Paris Convention.

Article 8 Exhibition priority

Any person who exhibits goods or services identified by a trademark at an official or officially recognised exhibition, as defined by the Convention on International Exhibitions of 22 November 1928, in a member State of the Paris Convention, or in any other exhibition recognised by the Government, may claim the date of the opening of the exhibition for the application, on condition that he files the trademark within six months from such date and supplies a certified document from the exhibition management in this respect.

Article 9 Priority declaration

1. Any person claiming priority under the Paris Convention or exhibition priority shall deliver a priority declaration at the time of application and shall submit evidence of priority.

2. The claim shall lapse if the time limits and the formal requirements specified in the Ordinance are not complied with.

3. The entry of priority shall merely provide a basis for presumption in favour of the owner of the trademark.

3. Subsistence of trademark rights ➡

Article 10 Period of validity and extension of registration

1. Registration shall be valid for ten years as from the filing date.

2. Registration shall be extended for further ten-year periods if a corresponding request is submitted and the extension fee and, if appropriate, the class fee (Article 29, paragraph 4) have been paid.

3. The request for extension must be submitted to the Office of National Economy within the last twelve months prior to expiry of the term of validity, but in no case later than six months after expiry.

4. An additional fee shall be paid if the application for extension is submitted after expiry of the period of validity.

Article 11 Use of trademark

1. A trademark shall be protected when used in association with the goods and services for which it is claimed.
2. Use of the trademark shall include use in a form not significantly different from that of registration and use for export.
3. Use of the trademark with the consent of the owner shall be regarded as use by the owner himself.
4. Use of the trademark also covers its use in the territory of the European Economic Area or Switzerland.

Article 12 Consequences of non-use

1. If the owner of the trademark has not used the trademark in connection with the goods or services for which it has been claimed for an uninterrupted period of five years after registration, he may no longer assert his right to the trademark, unless there exist important reasons for its non-use.
2. If the trademark is used for the first time or is resumed after more than five years, the trademark right shall be restored with effect from the original priority date, provided that no one has claimed non-use of the trademark in accordance with paragraph 1 prior to the time of first or resumed use.
3. Any person claiming non-use of the trademark shall be required to substantiate the claim; in such case, the owner of the trademark shall then provide evidence of use.

4. Rights conferred by a trademark ➡

Article 13 Exclusive right, principle of exhaustion

1. The trademark right grants the owner the exclusive right to use and dispose of the trademark for identification of the goods or services for which it is claimed.
2. The owner of a trademark may prohibit others from using a sign which is excluded from trademark protection under Article 3, paragraph 1, in particular from:
 - a) affixing of the sign on goods or their packaging;
 - b) the offering, marketing or storage for such purpose of goods under the sign;
 - c) offering or performing services under the sign;
 - d) importing or exporting goods under the sign;
 - e) using the sign on business documents, in advertising or in any other way for business transactions.

The owner of the trademark also holds these rights against authorised users under Article 4.

4. The owner of a trademark does not have the right to prohibit third parties from using the trademark for goods which have been marketed under the trade-mark by him, or with his consent, within the country or in one of the other member States of the European Economic Area.

5. Paragraph 4 is not applicable if the owner of the trademark objects to the use in connection with further sale of the goods for justified reasons, in particular if the condition of the goods is altered or deteriorated after they have been marketed.

6. The owner of a trademark only has the right to prohibit third parties from using the trademark for goods which have been marketed under this trademark by him or with his consent in a country outside the European Economic Area, if such use produces a risk of deception for the domestic consumer.

Article 14 Restriction in favour of previously used signs

1. The owner of a trademark may not prohibit another person from continuing to use, within the previous scope, a sign which such person has already used prior to the filing of the application.

2. This right of continued use may only be transferred in association with the undertaking.

Article 15 Well-known trademarks

1. The owner of a well-known trademark may prohibit others from using it for any form of goods or services, if such use endangers the distinctiveness of the trademark or would exploit or adversely affect the trademark's reputation.

2. Rights obtained before the trademark became well-known shall remain unaffected.

Article 16 Reproduction of trademarks in dictionaries and other reference works

If a registered trademark is reproduced in a dictionary, in some other reference work, or in any similar work, without making any reference to its registration, the owner of the trademark may require from the publisher, editor or distributor of the work to incorporate an appropriate reference by no later than in a reprint.

5. Changes in trademark rights ➡

Article 17 Transfer

1. The owner may transfer his trademark in whole or in part for the goods or services for which it is claimed.

2. The transfer shall only be valid if evidenced in writing. It only becomes effective against third parties acting in good faith once it has been entered in the Register.

3. Proceedings under this Law may be filed against the former owner up to the time the transfer has been entered in the Register.

4. Unless otherwise agreed, the transfer of an undertaking shall imply the transfer of its trademarks.

Article 18 Splitting of the application for registration or the registration itself

1. The owner of a trademark may at any time request in writing that the registration or the application for registration shall be split.
2. The goods and services shall be allocated over the split applications or split registrations.
3. Split applications or registrations retain the date of filing and priority of the original application or registration.

Article 19 Licence

1. The owner of a trademark may permit others to use his/her trademark, in whole or in part, for the goods or services for which it is claimed.
2. The licence shall be entered in the Register on request of one of the parties. Consequently, it retains its effect as regards any subsequently acquired right in the trademark.

Article 20 Usufruct and pledge; execution

1. A trademark may be the subject to usufruct, pledge and of compulsory execution measures.
2. Usufruct and pledges shall only be effective against third parties acting in good faith, if they have been entered in the Register.

6. International Treaties ➡

Article 21

1. International treaties shall remain unaffected.
2. Where international treaties that are binding for Liechtenstein afford more extensive rights than this Law, such rights shall also apply to Liechtenstein nationals.

B. Guarantee marks and collective marks ➡

Article 22 Guarantee marks

1. A guarantee mark is a sign that is used under supervision of the owner of the mark by different undertakings and which serves to guarantee the quality, geographical origin, nature of manufacture or other common features of goods or services of such undertakings.
2. A guarantee mark may not be used for goods or services of the owner of the mark or any undertaking having close economic associations with the owner of the mark.
3. The owner of the mark must permit anyone to use the guarantee mark, subject to an appropriate remuneration, for goods or services having guaranteed common features in accordance with the mark regulations.

Article 23 Collective marks

A collective mark is a sign of an association of manufacturing, trading or service undertakings, which is used to distinguish the goods or services of members of the association from goods or services of other undertakings.

Article 24 Mark regulations

1. The applicant of a guarantee or collective mark must submit regulations on the use of the mark to the Office of National Economy.
2. The regulations for the guarantee mark shall designate the common features of the goods or services which the mark is intended to guarantee; they shall further provide for effective monitoring of the use of the mark and appropriate penalties.
3. The regulations for a collective mark shall designate those undertakings which are entitled to use the mark.
4. The regulations may not contravene public order, public morality or applicable law.

Article 25 Approval of regulations

The regulations must be approved by the Office of National Economy. Approval shall be given if the requirements set out in Article 24 are met.

Article 26 Unlawful regulations

If the approved regulations do not or no longer meet the requirements set out in Article 24 and if this is not rectified by the owner of the mark within a period to be specified by the Court of First Instance (Landgericht), on the expiry of such period the registration of the mark shall be cancelled.

Article 27 Use contrary to regulations

If the owner of the mark tolerates repeated use of the guarantee or collective mark which contravenes fundamental provisions of the regulations, and if he fails to rectify this situation within a period of time specified by the Court of First Instance, on the expiry of such period the registration of the mark shall be cancelled.

Article 28 Transfer and licensing

Transfers of a guarantee or collective mark and the granting of licences with respect to collective marks shall only be valid if entered in the Register.

C. Registration of Trademarks ➡

1. Registration procedure ➡

Article 29 Filing

1. Any person may file a trademark.

2. The application filed with the Office of National Economy shall comprise:

- a) a request for registration, indicating the name or trade name of the applicant;
- b) a reproduction of the trademark;
- c) a list of the goods or services for which the trademark is claimed.

3. An application fee shall be payable for each filing, this fee is to be specified by the Government by Ordinance.

4. Apart from this, the Government may specify a supplementary fee, in proportion to the scope of the list of goods and services (class fee).

5. The Government shall regulate other details of the registration procedure by Ordinance. In particular, it shall determine which documents have to be submitted, which limitation periods must be observed and how the trademarks are to be published.

Article 30 Filing date

1. A trademark shall be deemed as filed once the documents mentioned in Article 29, Paragraph 2 have been submitted.

2. If a trademark is replaced or substantially amended or if the list of goods and services is expanded after filing, the date at which these amendments are submitted shall be deemed the filing

Article 31 Decision and registration

1. The Office of National Economy shall not approve the request for registration if the filing does not meet the requirements set out in Article 29, Paragraph 2.

2. It shall reject the request for registration if:

- a) the filing fails to meet the formal requirements set out in this Law or in any Ordinances promulgated in relation to it;
- b) the prescribed fees have not been paid;
- c) there are absolute grounds for refusal;
- d) the guarantee or collective mark does not meet the requirements set out in Articles 22 to 24.

3. It shall register the trademark if no grounds for rejection subsist.

2. Cancellation of Registration ➡

Article 32 Cancellation

The Office of National Economy shall cancel a trademark registration wholly or partially if:

- a) the owner requests for cancellation;
- b) the registration has not been extended;
- c) the registration has been annulled by a final court decision.

3. Legal actions ➡

Article 33 Appeals

1. Decisions of the Office of National Economy may be contested by an appeal to the Government within thirty days from receipt of the decision.
2. A representation may be made to the Government, or an appeal made to the Administration Court against decisions of the Government within thirty days from receipt of such decisions.

4. Register, publications ➡

Article 34 Keeping of the Register

The Office of National Economy shall keep the Trademark Register.

Article 35 Publications

1. The Office of National Economy shall publish:
 - a) the registration of the trademarks (Article 31, Paragraph 3).
 - b) the extension of trademark registrations (Article 10, Paragraph 2)
 - c) the cancellation of trademark registrations (Article 32).
2. The Government specifies by Ordinance which further entries have to be published and determines the organ of publication.

Article 36 Access to Register; inspection of files

1. Any person may inspect the Register, obtain information regarding its contents and request extracts.
2. Any person shall also be entitled to inspect the files of registered trademarks.
3. The Government shall specify by Ordinance those cases where inspection of the files is permitted even prior to registration, or cases where inspection of specific file paragraphs concerning the protection of trademarks or geographical indications is not allowed.

Article 37 Searches

Subject to payment of a fee to be specified by the Government by Ordinance, the Office of National Economy shall undertake itself, or with outside assistance, searches for

trademarks, which have been filed or registered with effect for Liechtenstein and which are identical to or similar to a certain sign. There is no liability for accuracy and completeness.

5. Continuance in the event of non-compliance with time limit ➡

Article 38

1. If the Office of National Economy rejects an application regarding trademarks for the reason that a time limit has not been complied with, the applicant may request a continuance in writing. Article 104 of the State Administration Law shall remain unaffected.

2. The request must be submitted within two months from the time when the applicant becomes aware of the non-compliance, but in any case, no later than six months after expiry of the time limit not complied with; within the said time limits, any actions omitted must have been performed entirely and the continuance fee must have been paid.

3. If the application is accepted, the situation will be restored which would have arisen if action had been taken in due time.

4. Continuance is excluded in the event of failure to comply with:

a) the time limit allowed for the filing of the continuance application (paragraph 2)

b) the time limit for claiming priority in accordance with Articles 7 and 8.

6. Representation ➡

Article 39

The owner of a trademark having neither residence nor domicile, nor any branch office in Liechtenstein, may only participate in any administrative or legal proceeding governed by this Law involving the relevant administrative or legal authorities, if such person has appointed as representative in Liechtenstein some lawyer or patent agent.

7. Fees ➡

Article 40

1. In addition to the cases referred to in this Law, fees shall be paid for any official act initiated by a specific request.

2. The Government shall specify the fees by Ordinance in such a way that they cover the administrative costs.

D. International Registration of Trademarks ➡

Article 41 Applicable law

1. This chapter shall apply to international registrations in accordance with the Madrid Agreement of 14 April 1891 concerning the International Registration of Trademarks (Madrid Agreement), and the Protocol Relating to the Madrid Agreement of 28 June 1989 (Madrid Protocol), where such registrations are initiated by the Office of National Economy

or where such registrations are effective for Liechtenstein.

2. The other provisions of this Law shall apply where not otherwise stipulated by the Madrid Agreement or the Madrid Protocol and Section I.

Article 42 Applications for registrations in the International Register

1. There may be effected, through the intermediary of the Office of National Economy:

a) the international registration of a trademark, if Liechtenstein is the country of origin as defined by Article 1, Paragraph 3 of the Madrid Agreement, or Article 2, Paragraph 1 of the Madrid Protocol;

b) the modification of an international registration, if Liechtenstein is the country of the owner of the trademark as defined by the Madrid Agreement or the Madrid Protocol;

c) the international registration of an application for the registration, if Liechtenstein is the country of origin, as defined by Article 2, Paragraph 1 of the Madrid Protocol.

2. The international registration of a trademark or an application for registration, or the modification of an international registration shall be subject to fees specified in the Madrid Agreement, the Madrid Protocol and in the Ordinance.

Article 43 Effect of international registration in Liechtenstein

1. An international registration with protective effect for Liechtenstein shall have the same effect as a filing with the Office of National Economy and registration in the Liechtenstein Register.

2. The registration is not effective if and in as much as the protection for Liechtenstein is refused for the internationally registered trademark.

Article 44 Conversion of an international registration into a national registration application

An international registration may be converted into a national registration application if:

a) the application is submitted to the Office of National Economy within three months following the cancellation of the international registration.

b) the international registration and national registration application relate to the same trademark.

c) the goods and services listed in the application in relation to the protective effect for Liechtenstein are actually covered by the international registration.

d) this national registration application complies with all other requirements under this Law.

II. GEOGRAPHICAL INDICATIONS ➡

Article 45 Principle

1. Geographical indications shall be direct or indirect references to the geographical origin of goods or services, including references to their property, having a relationship with their origin.

2. Geographical names and signs which are not understood by the relevant business circles to be references to a specified origin of the goods or services, shall not be regarded as geographical indications within the meaning of Paragraph 1.

3. It shall be prohibited to use:

a) incorrect geographical indications;

b) designations that may be confused with incorrect geographical indications;

c) a name, address or trademark in connection with goods or services of foreign origin, when this might create a risk of deception.

4. Regional or local geographical indications for services shall be considered as correct, if such services meet the criteria of origin for the relevant country as a whole.

Article 46 Origin of goods

1. The origin of a good shall be determined in accordance with the place where it was manufactured, or in accordance with the origin of the basic materials and components used.

2. In addition, compliance with other conditions may be required, i.e. the observance of customary local or locally prescribed manufacturing principles and quality requirements.

3. In an individual case, the criteria shall be determined in accordance with their influence upon the reputation of the relevant goods; if geographical indication corresponds to usage, it shall be presumed correct.

Article 47 Origin of services

1. The origin of any service shall be determined in accordance with:

a) the place of business of the person providing the service;

b) the nationality of the persons exercising actual control over the business policy and management; or

c) the domicile of the persons exercising actual control over business policy and management.

2. In addition, compliance with other conditions may be required, i.e. the observance of customary or prescribed principles for provision of the service or the traditional association of the person performing the service with the country of origin.

3. In an individual case the criteria shall be determined in accordance with their influence upon the reputation of the relevant services; if a geographical indication corresponds to usage, it shall be presumed correct.

Article 48 Special provisions

If the general interest of the economy, or individual branches so requires, the Government may prescribe by Ordinance in more detail the conditions under which a Liechtenstein geographical indication may be used for specified goods or services. Before doing so, it will consult the professional and business associations concerned.

Article 49 Producer identification

If the interests of a branch of the economy require it, the Government may prescribe by Ordinance that a producer identification shall be affixed to goods of this sector of the economy.

III. LEGAL PROTECTION ➡

A. Protection under Civil Law ➡

Article 50 Action for declaratory judgement

Any person proving a legal interest may request the Court of First Instance for a declaratory judgement that a right or legal relationship under this Law exists or does not exist.

Article 51 Action for transfer of a trademark

1. In place of a declaration of nullity of the trademark registration, the plaintiff may institute action for transfer of the trademark, if the defendant has usurped the trademark.
2. The entitlement shall expire two years after publication of the "registration", or after withdrawal of the owner's consent in accordance with Article 4.

Article 52 Notification of decisions

The Court of First Instance shall notify to the Office of National Economy final decisions that result in an alteration of an entry in the Register.

Article 53 Action for execution

1. Any person who suffers or is likely to suffer prejudice to his rights in a trademark may request the Court of First Instance:
 - a) to prohibit an imminent infringement;
 - b) to eliminate an ongoing infringement;
 - c) to require the defendant to indicate the origin of any objects in his possession which unlawfully bear the trademark or geographical indication.
2. This does not affect any claims under civil law for damages or satisfaction and for surrender of any profit in accordance with the provisions on agency without authority.

3. Use of a guarantee or collective mark contrary to the applicable regulations shall also be regarded as an infringement of trademark rights.

Article 54 Right of action held by Associations and Organisations concerned

1. Actions under Articles 50 and 53, Paragraph 1, concerning protection of geographical indications, may also be instituted by:

a) professional and trade associations, authorised by statutes to protect the economic interests of their members;

b) organisations devoted by statute to protection of consumers.

2. Such associations and organisations shall be entitled to institute proceedings under Article 50 with respect to a guarantee or collective mark.

Article 55 Confiscation in civil proceedings

1. The Court of First Instance may order the confiscation of objects that unlawfully bear a trademark or geographical indication and that are in the possession of the defendant.

2. The Court of First Instance shall decide whether the trademark or geographical indication is to be made unrecognisable, or whether the objects are to be rendered unusable, destroyed or to be used in a specific manner.

Article 56 Jurisdiction

1. The Court of First Instance shall be competent to hear actions covered by this law, if the domicile of the defendant, the place where the act was committed or the place where the act had effect is in Liechtenstein.

2. In any case, the Court of First Instance shall be competent to hear actions involving infringement of a Liechtenstein trademark.

Article 57 Precautionary measures

1. Any person who reasonably claims that his right in a trademark or geographical infringed indication, or that he is likely to suffer such infringement and that he will suffer some loss from the infringement which may not easily be compensated, may request that precautionary measures be ordered.

2. He may, in particular, request that the Court of First Instance orders measures for securing of evidence, for determination of the origin of objects unlawfully bearing the trademark or geographical indication, for preservation of the existing state, or for provisional execution of preventive injunctions and injunctions to desist.

3. Precautionary measures shall be ordered by the Court of First Instance.

Article 58 Publication of Judgement

At request of the successful party, the Court of First Instance may order that the judgement be published at the expense of the other party. The court shall determine the nature and

extent of publication.

B. Penal Provisions ➡

Article 59 Infringement of trademark rights

At the request of the injured party, the Court of First Instance may impose imprisonment for up to one year or a fine of up to 360 daily rates upon anyone who intentionally violates the trademark right of another by:

- a) usurping, copying or imitating such trademark;
- b) marketing goods or providing services under the usurped, copied or imitated trademark, offering such goods or services or advertising them.

2. At the request of the injured party, the same penalties will be imposed upon any person refusing to indicate the origin of objects bearing an usurped, copied or imitated trademark, which are in his possession.

3. Any person who commits an infringement of trademark rights by way of trade (§ 70 of the Penal Code), shall be subject to imprisonment for up to three years. The Public Prosecutor will initiate the relevant action.

Article 60 Fraudulent use of trademarks

1. At the request of the injured party, the Court of First Instance will impose a penalty of imprisonment of up to three years upon any person who:

- a) unlawfully marks goods or services with the trademark of another in order to mislead and thereby give the impression that these are original goods or original services;
- b) unlawfully offers or markets as original goods, or offers or provides as original goods or services bearing the trademark of another.

2. Any person who commits an infringement under Paragraph 1 by way of trade shall be penalised by imprisonment of up to five years. The Public Prosecutor will initiate the relevant action.

3. Any person who imports, exports or stores goods in the knowledge that they are intended to deceive in the course of trade, shall be penalised at the request of the injured party by the Court of First Instance for offence by a fine of up to 20,000 francs, or in the event of non-payment by up to three months' imprisonment.

Article 61 Use of a guarantee or collective mark contrary to the regulations

1. At the request of the injured party, any person intentionally using a guarantee or collective mark contrary to the regulations shall be penalised by the Court of First Instance with imprisonment of up to one year, or with a fine of up to 360 daily rates.

2. Equally, any person refusing to divulge the origin of objects in his possession unlawfully given a guarantee or collective mark shall at the request of the injured party, be penalised with a fine of up to 20,000 francs and in the event of non-payment, by up to three months

imprisonment.

3. Punishment may be waived where insignificant provisions of the regulations are involved.

4. Any person committing an infringement under Paragraph 1 by way of trade is penalised by imprisonment of up to three years. The Public Prosecutor will initiate the relevant action.

Article 62 Use of incorrect geographical indications

1. At the request of the injured party, the Court of First Instance will impose a penalty of imprisonment of up to one year or a fine of up to 360 daily rates upon any person who intentionally:

a) uses an incorrect geographical indication;

b) uses a designation which may be confused with an incorrect geographical indication;

c) creates a risk of deception, by using a name, address or trademark in connection with goods or services of different origin.

2. Any person committing an infringement under Paragraph 1 by way of trade is penalised by imprisonment of up to three years. The Public Prosecutor will initiate the relevant action.

Article 63 Infringements involving the producer identification

Any person who intentionally infringes the requirements on producer identification shall be penalised by the Court of First Instance for the offence with a fine of up to 20,000 francs and in the event of non-payment, with up to three months imprisonment.

Article 64 Suspension of proceedings

1. The Court of First Instance may suspend penal proceedings if the accused party claims nullity of the trademark registration in civil proceedings.

2. If the accused party invokes nullity of the trademark registration in penal proceedings, he/she may be granted an appropriate period of time by the Court of First Instance in which to prove his/her claim in civil proceedings.

3. The term of prescription shall rest during suspension.

Article 65 Responsibility

If the infringements are committed in the pursuit of business by a corporate body, a collective or limited partnership or an individual, the penal provisions shall be applicable to those persons which have acted on behalf of such bodies or should have acted in such way, but the corporate body, company or partnership or the individual shall be jointly liable for fines and costs.

Article 66 Seizure in criminal proceedings

1. If an infringement has been committed

- a) goods affected by the infringement, and
- b) objects which have been used or were intended for use to commit the infringement,
- c) may be seized § 26 of the Penal Code is applicable.

2. The proceedings follow the provisions of §§ 353 to 357 of the Penal Procedure Code.

Article 67 Forfeiture of profit

- 1. The profit from infringements may be declared as forfeit in favour of the State, regardless of the person to whom it belongs. § 20 of the Penal Code is applicable.
- 2. The proceedings follow the provisions of §§ 353 to 357 of the Penal Procedure Code.

C. Measures relating to Import and Export ➡

Article 68 Reporting of suspicious consignments

The competent office shall be authorised to draw the attention of the owner of the trademark, of the person entitled to use a geographical indication or of professional and trade associations entitled to institute proceedings under Article 54 to specific consignments, if there exists a suspicion that goods unlawfully bearing a trademark or geographical indication are to be imported or exported.

Article 69 Application for assistance

- 1. Where the owner of a trademark, the person entitled to use a geographical indication or a professional or trade association entitled to institute proceedings under Article 54 has good reasons to suppose that goods unlawfully bearing a trademark or geographical indication are to be imported or exported, that person may apply to the relevant office in writing to refuse of the goods.
- 2. The applicant must provide all information available to him which is necessary for a decision by the competent office; this includes a precise description of the goods.
- 3. The competent office shall decide on the application. It may levy a fee to cover administrative costs.

Article 70 Withholding of goods

- 1. Where, by virtue of an application under Article 69, the competent office has good reason to believe that goods intended for import or export unlawfully bear a trademark or a geographical indications, it shall notify the applicant accordingly.
- 2. The competent office shall withhold the goods concerned for up to ten working days from the time of notification under Paragraph 1, to enable the applicant obtaining precautionary measures.
- 3. Where there is reason to do so, the competent office may withhold the goods concerned for a maximum of a further ten working days.

4. The competent office shall make the withhold of the goods dependent upon the provision of an estimated security by the applicant, if it is likely that the withholding of goods will result in damages.

5. The applicant shall compensate for any damages incurred as a result of withholding of goods, if precautionary measures are not ordered or prove to be unjustified.

Article 71 Competence; International Treaties

1. The Government shall determine by Ordinance the competent office as defined by Articles 68 to 70.

2. The Government may entrust the execution of measures relating to import and export to:

- a) individual departments of the State Administration;
- b) third parties.

3. International Treaties shall remain unaffected.

IV. TRANSITIONAL AND FINAL PROVISIONS ➡

Article 72 Implementation

The Government shall issue the Ordinances necessary for implementation of this Law.

Article 73 Repeal of previous legislation

The following laws shall be repealed:

- a) Law of 26 October 1928 relating to protection of manufacturing, trading and service marks, geographical indications of goods and commercial distinguishing signs, Liechtenstein Law Gazette 1928 No. 13.
- b) Law of 7 August 1952 relating to the amendment of the law regarding protection of manufacturing, trading and service trademarks, the geographical indication of goods and commercial distinguishing signs, Liechtenstein Law Gazette 1952 No. 21.
- c) Law of 9 January 1964 regarding the amendment of the law of 26 October 1928 relating to protection of manufacturing, trading and service trademarks, geographical indications of goods and commercial distinguishing signs, Liechtenstein Law Gazette 1964 No. 12.
- d) Law of 19 December 1985 regarding the amendment of the law relating to protection of manufacturing, trading and service trademarks, geographical indications of goods and commercial distinguishing signs, Liechtenstein Law Gazette 1986 No. 19.

Article 74 Deposited or filed trademarks

1. Trademarks that are already filed or registered on entry into force of this Law shall be subject to the new Law as from that time.

2. Notwithstanding paragraph 1, the following provisions shall apply:

- a) priorities shall be subject to previous law;
- b) grounds for refusing applications for registration, with the exception of absolute grounds for refusal, shall be subject to old law;
- c) the validity of a registration shall terminate on expiry of the period applicable under the old law; up to such time they may be extended at any time;
- d) the first extension of the registration of a collective mark shall be subject to the same formal requirements as an application.

Article 75 Trademarks not previously registrable

Where, on entry of this Law, registration applications for trademarks are pending, which are excluded from registration under the old law but not under the new law, the date of entry into force shall be considered the filing date.

Article 76 Priority of use

Any person who has first used a trademark prior to entry into force of this Law on goods or their packaging or for identification of services, shall have a better entitlement than the first filer if he deposits the trademark within two years from entry into force of this Law and simultaneously indicates the time when he commenced to use the trademark.

Article 77 Terminology

The expression “manufacturing and trading marks” is being substituted in all publications by the term “trademarks”.

Article 78 Entry into force

1. Except for Paragraph 2, this Law enters into force on 31 March 1997.
2. In as much as reference is made to the Madrid Protocol, Article 18, Article 42 Paragraph 1, Subparagraph (c) and Article 44 and Article 41 and Article 42, Paragraph 1 Subparagraphs (a) and (b) and Paragraph 2 shall enter into force after ratification of the Trademark Law Treaty (TLT) of 27 October 1994 and of the Protocol of 28 June 1989 to the Madrid Agreement regarding the international registration of trademarks by the Principality of Liechtenstein.

Signed: Hans-Adam II von und zu Liechtenstein

(Head of State)

Signed: Dr. Mario Frick

(Head of Government)