

Act No. 16 of the Year 2004
relating to the Protection of Geographical Indications

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain, having examined:

- The Constitution;
- The Civil and Commercial Procedures Act issued by Decree Law No. 12 of 1971, and amendments;
- The Commercial Code issued by Decree Law No. 7 of 1987, and amendments;
- Decree Law No. 10 of 1991 regarding Trademarks;
- Decree Law No. 7 of 1994 regarding Ratification of the Document Establishing the World Trade Organisation;
- Decree Law No. 31 of 1996 approving Accession to the Paris Convention for the Protection of Industrial Property;
- The Civil Code issued by Decree Law No. 19 of 2001;
- The Code of Criminal Procedure issued by Decree Law No. 46 of 2002;
- Decree No. 1 of 1995 regarding the Accession of the Kingdom of Bahrain to the Convention Establishing the World Intellectual Property Organisation (WIPO);

do, with the approval of the Consultative Council and the Council of Representatives, ratify and issue the following Act:

Article 1

For the purposes of implementing this Act, geographical indications shall mean any geographical indication identifying the origin of some product in the territories of a member State of the World Trade Organisation or of a State which has relations of reciprocity with the Kingdom of Bahrain, or in a specific area, place or region of those territories, if the quality, repute or any other characteristics of that product are fundamentally associated with that geographical origin.

Article 2

It is forbidden for any natural or juridical person to undertake the following:

- (a) Using any means to name or present any product in a manner which suggests that its geographical origin is any other than its true origin, and which leads to public misconception vis-à-vis that origin.
- (b) Using a geographical indication in a way considered to be a form of unfair competition which conflicts with honourable business practices.

This includes using a geographical indication in a manner which deceives the public into believing that the origin of a product is other than its true origin, even if that indication is literally correct as regards the territory, area, place or region in which the product originated.

Article 3

Geographical indications enjoy the protection defined in this Act, as long as those indications are protected in their country of origin.

Article 4

Geographical indications with names similar to one another also enjoy the protection of this Act, conditionally on the guarantee that the producers receive equal treatment and that the consumers of the products are not misled. This is regulated by rules issued by decision of the Minister of Commerce to distinguish between those indications.

Article 5

The competent office in the Ministry of Commerce shall keep a register, known as the "Geographical Indications Register", wherein shall be recorded - after payment of the due fees - applications to register geographical indications presented by interested parties, decisions taken thereon, and any modifications that may arise. This is to be done in accordance with conditions and methods established by decision of the Minister of Commerce.

Article 6

Without detriment to international treaties in force in the Kingdom of Bahrain, provisions laid down in the Trademarks Act vis-à-vis the procedures for making, examining, deciding on and objecting to applications also apply to geographical indications, provided that they do not conflict with the provisions of this Act.

Article 7

Anyone may make a request to examine the Geographical Indications Register and obtain extracts, copies or information therefrom, in accordance with the rules, procedures and methods established by decision of the Minister of Commerce, and after having paid the due fees.

Article 8

The various categories of fees mentioned in this Act, the rules and percentages for increasing or reducing them, and the conditions in which they can be waived altogether, are laid down by decision of the Minister of Commerce after having obtained the agreement of the Council of Ministers.

Article 9

The following actions are not considered to violate the provisions of this Act:

- (a) The use of a geographical indication by a third party, if he was already using it in good faith before that indication was granted protection in its country of origin.
- (b) The use, in any way, of a geographical indication which is identical to a name commonly used for any goods, product or service in the Kingdom of Bahrain.
- (c) The use by any party of his own name or the name of his ancestors, in his commercial activity, in a manner which does not mislead the public.
- (d) The use of a geographical indication which is not protected, or the protection of which has expired in its country of origin, or which is no longer used in that country.
- (e) Registering a trademark which is identical or similar to a geographical indication, or appropriating the rights to that trademark by using it, if done in good faith before the provisions of this Act have come into force or before the geographical indication is granted protection in its country of origin.
- (f) Agreeing to register a trademark which is identical or similar to a geographical indication after the provisions of this Act have come into force, if the application for registration was presented in good faith before those provisions came into force, and before the geographical indication was granted protection in its country of origin.

Article 10

Officials appointed by the Minister of Commerce to enforce the provisions of this Act and the decrees issued to implement it have the authority to enter relevant premises.

Officials delegated by the Ministry of Justice, with the agreement of the Minister of Trade, have the status of law enforcement officers vis-à-vis the offences which fall under their jurisdiction and pertain to their functions. Written records concerning those offences are to be transferred to the Public Prosecutor by decision of the Minister of Commerce or his delegate.

Article 11

Any interested party may lodge a complaint before the Minister of Commerce regarding any decision taken under the provisions of this Act, within thirty days of learning of that decision. The complaint is to be resolved and the interested party informed in writing of the decision issued thereon within thirty days of his presentation of the complaint. If the complaint is rejected, the decision must include reasons.

If a complaint is rejected the party concerned may appeal against the decision before the competent tribunal within sixty days of being informed of the rejection of his complaint.

An appeal may not be presented to the tribunal until after a complaint against a decision has been made, and a rejection of that complaint has been issued, or the Minister has failed to respond within the set time limit.

Article 12

(a) In the event of the occurrence of any of the offences under article 2 of this Act, or to prevent them from occurring, all interested parties may, by petition, request the president of the competent court to issue an order for one more appropriate precautionary measures to be taken, including the following:

1. Making a detailed description of the goods - including imported goods upon importation thereof - and of the materials, machinery and equipment that are being used, or have been used, in the offence, and conserving pertinent evidence.
2. Effecting precautionary seizure on the aforementioned items.
3. Preventing the offence.

(b) The petition must be accompanied by an official certificate proving that the geographical indication is protected in the Kingdom of Bahrain, and sufficient evidence that an offence has taken place, or is about to take place.

The president of the court may request the applicant to submit the information necessary to help the authorities charged with implementing the precautionary measures to identify the products, materials, machinery or equipment in question.

(c) The president of the court may, if necessary, issue the aforementioned order urgently and without summoning the other party. He may do so if there is a likelihood that a delay in issuing the order would harm the plaintiff in a manner difficult to compensate, or that it would lead to the destruction of evidence. The other party must be informed immediately the order is issued.

The order to take any of the aforementioned measures may include the designation of one or more experts to assist in its implementation. The plaintiff may also be required to lodge an appropriate bank or cash surety as a guarantee against any possible damages that may unlawfully result from this measure. The party against whom the order is issued may lodge a complaint against it before the competent court within ten days of its issue, or of the date he was informed thereof (as applicable). In this case the court may uphold the order or abrogate it wholly or partially.

A legal case concerning the matter under dispute must be filed within fifteen days from the date the order was issued, otherwise the effect of the measures taken shall be null and void.

Article 13

Without detriment to any more severe penalty laid down by another law, imprisonment of between three months and a year and/or a fine of between 500 and 2,000 dinars shall be imposed upon anyone who knowingly and unlawfully performs any of the actions described in article 2 of this Act, if the geographical indication is registered in the Kingdom of Bahrain.

The court may order the verdict to be published on one or more occasions in a local daily newspaper, at the expense of the guilty party.

Repeat offenders shall be imprisoned for between six months and two years and/or subject to a fine of between 1,000 and 4,000 dinars. Moreover their commercial premises or enterprise shall be closed, or their activity interrupted (as applicable) for a period of between

fifteen days and six months. The verdict shall be published on one or more occasions in a local daily newspaper, at the expense of the guilty party.

In the case of a conviction, the court may order the confiscation or destruction of the goods involved in the offence, including imported goods, and of the materials, machinery and equipment used.

In the case of acquittal, the court may still order the confiscation or destruction of the aforementioned items if they have caused damage or were used in committing a crime

Article 14

The provisions of this Act do not impinge upon any additional protection or more favourable prerogatives contained in other legislation or treaties in force in the Kingdom of Bahrain.

Article 15

The Minister of Commerce shall issue the decisions necessary for the implementation of the provisions of this Act within six months of its publication in the official Gazette.

Article 16

It is incumbent upon Ministers, each according to his own functions, to implement this Act, which shall come into force on the day following its publication in the Official Gazette.

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

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