

Ministerial Regulation (Prakas)
on
the Procedure for the Registration and Protection of
Geographical Indications

Minister of Commerce

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Decree No. NS/RKT/0913/903 dated September 24, 2013 on the Appointment of the Royal Government of Cambodia;
- Having seen the Royal Decree No. NS/RKT/0416/368 dated April 04, 1996 on the Revision and Addition of the Members of the Royal Government of Cambodia;
- Having seen the Royal Kram No.02/NS/94 dated July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen the Royal Kram No. NS/RKM/0196/16 dated January 24, 1996 promulgating the Law on the Establishment of the Ministry of Commerce;
- Having seen the Royal Kram No. NS/RKM/0202/006 dated February 07, 2002 promulgating the Law Concerning Marks, Trade Names and Acts of Unfair Competition;
- Having seen the Royal Kram No. NS/RKM/0114/006 dated January 20, 2014 promulgating of the Law on Geographical Indications;
- Having seen the Sub-Decree No.131 RNKR/BK dated March 19, 2014 on the Organization and Functioning of the Ministry of Commerce;
- Pursuant to the necessity of the Ministry of Commerce

Hereby Decides

Chapter I
General Provisions

Article 1: Objective

The purpose of the Ministerial Regulation (Prakas) is to effectively implement the provisions of the Law on Geographical Indications.

Article 2: Purposes

The purposes of the Ministerial Regulation (Prakas) are to

- determine rules and procedures concerning the management, registration, recognition and protection of Geographical Indications,
- protect the intellectual property rights of the producers, operators and consumers of Geographical Indication products,
- preserve and strengthen the knowledge, traditional know-how and national identity,
- create employment in rural areas, foster local communities, reduce poverty and attract tourists.

Article 3: Definitions

For the purposes of this Prakas, the following terms are defined as follows:

- “Law” refers to the Law on Geographical Indications.
- “GIs” refers to “Geographical Indications” as stated in Article 4 of the Law.
- “Geographical Indication Association” refers to the group of producer representatives, producers and/or operators organization which benefits from a geographical indication as defined in Article 7 of the Law and is recognized as a GI right holder.
- “GI Board” refers to “Geographical Indication Board” as defined in Article 6 of the Law which is the Inter-Ministerial Board established by the sub-decree with the purpose of studying and promoting potential products eligible for GI registration in the Kingdom of Cambodia and dealing with any appeal against the registration of GIs.
- “Applicant” refers to a geographical indication association aiming to apply for GI registration.
- “Goods” refers to agricultural goods, foodstuffs, handicraft goods or any other goods produced or transformed in the geographical area.
- “National GI Logo” refers to the logo used to certify all registered GI goods in the Kingdom of Cambodia as defined in Article 14 of the Law.
- “PGI” refers to “Protected Geographical Indications”.
- “Registrar” refers to the official of the Department of Intellectual Property, the Ministry of Commerce responsible for examination, registration of GIs and other related task.
- “Competition authority” refers to the Ministry of Commerce of the Kingdom of Cambodia.

Chapter 2

Competent authority

Article 4: Duties of the Department of Intellectual Property

Department of Intellectual Property under the Ministry of Commerce has the following duties:

- Receiving and examining applications;
- Examining the book of specifications and other related documents;
- Receiving oppositions and counterstatements and appeal;
- Registering, amending, revising, invalidating and cancelling geographical indications;
- Conciliating the conflicts related to geographical indications, such as hearings during the opposition procedure;
- Determining and deciding other related tasks concerning the Geographical Indications;
- Publishing the registered Geographical indications, amendment, revision, invalidation and cancellation of registered Geographical Indications in Official Gazette;
- Monitoring and authorizing the use the National Geographical Indication logo;
- Determining and considering any advice provided by the Ministry of Commerce;
- Performing the instruction, recommendation and decision of GI Board or court;
- Maintaining all the lists and documents related to Geographical Indications;
- Providing the Geographical Indication Board Secretariat and performing other tasks related to Geographical Indications.

Chapter 3

Procedure for Geographical Indication Registration

Section 1: Geographical Indication Application

Article 5: Applicant

1. In accordance with the Article 7 of the Law, for each product applied as a geographical indication, the applicant should give the evidences of its ability to defend and manage the geographical indication.

The applicant shall comply with the following requirements:

- To draft specifications, contribute to its implementation by producers, members and operators and participate in the implementation of control plans, mainly by performing internal controls;
- To maintain the list of the geographical indication producers and/or operators, it shall submit to the control body and the Department of Intellectual Property of the Ministry of Commerce;
- To participate in activities related to the protection of the geographical indication, mainly the name and the land, the valuation of the product as well as the statistical knowledge of the value chain.

2. When the Geographical Indication is applied, the applicant should present the following documents to the Department of Intellectual Property:

- a) The rules and internal regulations of the organization, where applicable the information to assess the representativeness of the producers/operators and the balanced nature of the representation of different categories of operators for the product in question;
- b) Information on the organization and the resources devoted to the tasks defined in paragraph (1);
- c) Implementation the decisions of the Minister of Commerce or the GI Board in relation to geographical indication matters.

3. The Department of Intellectual Property may request additional information to consider the recognition of the Association and the operators willing to adhere to the rules of a geographical indication are able to do so and do not face obstacles to participation that are discriminatory or otherwise not objectively founded.

Article 6: Single producer or operator

1. In exceptional cases, a single natural or legal person may be treated as a Geographical Indication Association or group where it is shown that both of the following conditions are fulfilled:

- a) The person concerned is the only producer willing to submit an application;
- b) With regard to geographical indications, the defined geographical area possesses characteristics which differ appreciably from those of neighbouring areas or the characteristics of the product are different from those produced in neighbouring areas.

2. As referred to in paragraph 1, geographical indication association or group under this situation remain opens to new producers or operators willing to adhere to the rules of the geographical indication.

Article 7: Geographical Indication Association

1. Without prejudice to specific provisions on producer organisations and inter-branch organisations, a geographical indication association is entitled to:

(a) Contribute to ensuring that the quality, reputation and authenticity of their products are guaranteed on the market by monitoring the use of the geographical indication in trade and, if necessary, by informing competent authorities as referred to in Chapter 2 of the Law.

(b) Take action to ensure adequate legal protection of the protected geographical indication and of the intellectual property rights that are directly connected with them;

(c) Develop information and promotion activities aiming at communicating the value-adding attributes of the product to consumers;

(d) Develop activities related to ensuring compliance of a product with its specification;

(e) Take action to improve the performance of the scheme, including developing economic expertise, carrying out economic analyses, disseminating economic information on the scheme and providing advice to producers;

(f) Take measures to enhance the value of products and, where necessary, take steps to prevent or counter any measures which are, or risk being, detrimental to the image of those products.

2. Geographical Indication Associations should inform the Department of Intellectual Property, at its request, any information collected in connection with the performance of its duties.

3. Geographical Indication Associations can develop a charter of good practice containing provisions designed to preserve certain environmental characteristics of its soil or specific provisions on animal welfare.

Article 8: Geographical Indication Application

1. In accordance with the article 8 of the Law, the application shall be filed with the Department of intellectual Property of the Ministry of Commerce by the applicant or through his/her agent.

2. The application shall be in Khmer or in English. The documents required for the registration, if not originally in Khmer or in English shall be accompanied by Khmer or English translations.

3. The application for registration of a Geographical Indication shall include at least:

- a) Geographical Indication application form as defined in the article 9 of the Regulations,
- b) Name and address of the applicant,
- c) Name of the geographical indication,
- d) Type of goods covered by the geographical indication application,
- e) Book of specifications as defined in Article 10 of the Regulations,
- f) A summary of the book of specification,
- g) Receipt of payment of fee,
- h) Any other relevant documents in relation to the geographical indication application.

4. An application of foreign geographical indication as referred to in Chapter 5 of the Law shall, in addition, include proof that the name of the product is protected in its country of origin.

Article 9: Content of the geographical indication application form

1. The layout and content of the geographical indication application form as referred to in article 8 of the Regulations shall be decided and updated by the Department of Intellectual Property.

2. The application form shall contain the following information:

- a) Information in relation to the official use such as:
 - the reference to the examiner,
 - the agent for service,
 - the date of filing,
 - the application number.

- b) Information in relation to the applicant
 - name and address of the applicant,
 - name and address of agent, if the application is filed through an agent.
- c) Type of application
 - application for registration,
 - application for amendment or revision of GI,
 - application for invalidation or cancellation of GI,
 - other related applications of GI.
- d) Name, symbol or sign of the geographical indication,
- e) Type of goods covered by the geographical indication,
- f) Description of the product,
- g) Class of goods or service (Nice Classification),
- h) Geographical indication area,
- i) Description of the method of production,
- j) Elements establishing the link between geographical indication products and their geographical origin,
- k) Methods for GI products control,
- l) Information concerning the labelling of the GI products,
- m) Documents attached to the application form,
- n) Miscellaneous,
- o) Date and signature of the applicant.

3. A sample of the Application for geographical indication registration form can be downloaded from the Department of Intellectual Property's website (www.cambodiaip.gov.kh).

Article 10: Content of the Book of Specifications

A geographical indication shall comply with a book of specifications which shall include at least:

- 1) the name to be protected as a geographical indication, as it is used, whether in trade or in common language;
- 2) a description of the product, for which the Geographical indication is applied, including the raw materials, if appropriate, as well as the principal physical, chemical, microbiological or organoleptic characteristics of the product;
- 3) the definition of the geographical area delimited with regard to the link referred to in point (6) of this paragraph;
- 4) evidence that the product originates in the defined geographical area;
- 5) a description of the method of obtaining the product;
- 6) details establishing the link between a given quality, the reputation or other characteristic of the product and the geographical origin;
- 7) the name and address of bodies verifying compliance with the provisions of the product specifications;
- 8) method used to control the products according to the process of production and in accordance with the general rules defined by the Ministry of Commerce;
- 9) any specific labelling rule for the product in question;
- 10) any other information, if needed.

Article 11: Withdrawal of application

1. The applicant may withdraw the application at any time by notifying its decision in writing to the Department of Intellectual Property.
2. In case of the application is deemed withdrawn as referred to in paragraph (1), all fees that have been paid to the Ministry of Commerce cannot be reimbursed.

Section 2: Procedure for Examination

Article 12: Definition of the filing date

The filing date is defined when an application has fulfilled the formal requirements as referred to in Article 9 of the Law.

Article 13: Formality Check

1. According to paragraph (2) Article 9 of the Law, after finding that the application fulfils the formal requirements, the Department of Intellectual Property shall officially issue an acknowledgment of application.
2. According to paragraph (3) and (4) Article 9 of the Law, when the Department of Intellectual Property checks the added or adjusted documents and if the application fulfils the formal requirements, the Department of Intellectual Property shall officially issues an acknowledgment of application. If the application does not fulfil the requirements, the application is refused.

Article 14: Substantive examination

1. Within the period of 60 (sixty) days at the latest from the date of the completion of requirements and issuance of the acknowledgment of application as referred to in Article 9 paragraph (2) of the Law, the Department of Intellectual Property shall conduct a substantive examination on the application.
2. If the application complies with the registration requirements as referred to in Article 11 of the Law, the Department of Intellectual Property shall register the geographical indication, in the Register of Geographical Indications.
3. In case the Department of Intellectual Property considers that an application shall be refused or amended, a notification in writing shall be sent to the applicant or through his/her agent stating the reasons thereof.
4. The applicant or his/her agent may respond by stating the reasons within a period of 90 (ninety) days at the latest from the date of receipt of the notification from the Department of Intellectual Property.

In case of the applicant or his/her agent does not respond to the notification as referred to in paragraphs (3) and (4), the Department of Intellectual Property shall refuse the Application and notify this decision to the Applicant or through his/her agent.

5. In case of the applicant or his/her agent responds to the notification as referred to in paragraph (3), the Department of Intellectual Property shall within 30 (thirty) days at the latest from the receipt of such response conduct a re-examination of the application and take a decision within 6 (six) months at the latest from the receipt of response as referred to paragraph (4).

6. In case of the Department of Intellectual Property approves the arguments contained in the response as referred to paragraph (4), the Department of Intellectual Property shall register the Geographical Indication in the Register of Geographical Indications.
7. In case of the Department of Intellectual Property disagrees with the response as referred to paragraph (4), the Department of Intellectual Property shall refuse the application and notify in writing the decision of refusal to the applicant or through his/her agent by stating the reasons thereof.
8. In case of an application is refused; all fees that have been paid to the Ministry of Commerce cannot be reimbursed.
9. The applicant or his/her agent may submit an appeal petition to the Geographical Indication Board or to the competent court against the decision of the Ministry of Commerce within a period of 90 (ninety) days at the latest from the date of receipt of the decision of the Ministry of Commerce.
10. The substantive examination as referred to in Article 11 of the Law shall be subject to the payment of fee. In case the fee for substantive examination is not paid, the application shall be deemed withdrawn.
11. In the process of formality and substantive examination of the application of GI as referred to in Article 13 and 14 of the Regulation, the Department of Intellectual Property may extend the above limited period , if necessary and only with the valid reasons.

Article 15: Registration and publication in the Official Gazette

1. The Ministry of Commerce shall within a period of 30 (thirty) days at the latest from the date of registration publish the registration of GI in the Official Gazette.
2. In case the Geographical Indication is registered as referred to in Article 12 of the Law, the publication will include a summary of the book of specifications.
3. The book of specification shall remain available for consultation at the Department of Intellectual Property upon request of any interested person.

Article 16: Content of the GI Certificate

1. In accordance with the Article 12 of the Law, the Ministry of Commerce, when registering the geographical indication, shall issue a certificate to the geographical indication holder.
2. This certificate shall contain the following information:
 - Date of registration,
 - Registration number,
 - Reference to the concerned Register,
 - Name of the Geographical indication,
 - Number of application,
 - Date of application,
 - Type of product covered by the geographical indication,
 - Name and address of the applicant,
 - Reference of the examiner,
 - Agent for service,
 - National logo of Geographical indication,

- Signature and stamp of the Ministry of Commerce.

Article 17: Correction of the Record

According to the Article 13 of the Law and based on an application of a geographical indication holder, a recommendation of the Geographical Indication Board or at the initiative of the Department of Intellectual Property, the Ministry of Commerce may correct any mistake on geographical indications' registrations.

Article 18: Homonymy

1. As referred in Article 11 paragraph (4) of the Law, a geographical indication proposed for registration that is wholly or partially homonymous - with a geographical indication already entered in the Register established under Article 19 of the present regulation/or with a geographical indication already registered - may not be registered unless there is sufficient distinction in practice between the conditions of local and traditional usage and presentation of the homonym registered subsequently and the geographical indication already entered in the register, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.
2. A homonymous geographical indication which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned.
- 3- The Ministry of Commerce can determine any further requirements concerning the homonym to enable those GIs distinguishable before deciding to register the GI.

Article 19: Geographical Indications Register

A specific Register on geographical indications is created and managed by the Department of Intellectual Property, the Ministry of Commerce.

Section 3: National GI Logo

Article 20: Creation of the National Logo

The National logo shall be created and administered by the Ministry of Commerce to certify all protected geographical indications in the Kingdom of Cambodia and all the uses shall be authorized by the Ministry of Commerce.

Article 21: Condition to use the National Logo

1. Protected geographical indications and the National Logo be used by any producer or operator producing and/or marketing a product conforming to the corresponding book of specifications.
2. In the case of products originating in the Kingdom of Cambodia that are marketed under a protected geographical indication registered in accordance with the procedures laid down in this Regulation, the National Logo associated with it must appear on the labelling. In addition, the registered geographical indication of the product should appear in the same field of vision. The indications '*protected* geographical indication' or the corresponding abbreviations or '*PGI*' may appear on the labelling.

3. In the case of products originating in third countries marketed under a geographical indication entered in the register, the indications referred to in paragraph 2 or the National logo associated with them may appear on the labelling.
4. Any user of the National Logo as referred to in paragraph (1) must applied for to the Department of Intellectual Property and receive prior permission from the Department of Intellectual Property.
5. In order to effectively prevent the counterfeit geographical indication products and administer the use of National Logo, Department of Intellectual Property is entitled to determine further requirement of the use of the National logo, if necessary.

Article 22: User of the National Logo

1. Persons having the right to use the National Logo must have the following qualifications:
 - being a producer or an operator member of a Geographical Indication Association;
 - complying with the geographical indication book of specifications.
2. The permission to use the National Logo is subject of fees as determined in the joint Prakas of the Ministry of Economy and Finance and Ministry of Commerce.
3. Users are entitled to produce their own National Logo stickers, labels or packaging according to the specifications provided by the Department of Intellectual Property.

Article 23: Control of the National Logo

1. The Department of Intellectual Property shall manage and update a list of persons allowed to use the National Logo.
2. In case the Department of Intellectual Property later finds the person allowed to use the National Logo does not comply with the provisions set out previously, the Department of Intellectual Property has the right to request the said allowed person to come and provide information or documents or other items as necessary to assist in its deliberations.
3. Allowance to use the National Logo shall be revoked in the following circumstances:
 - a) If any allowed person uses the National Logo in ways other than specified in the present article, the Department of Intellectual Property has the right to revoke the allowance to use the National Logo and the person allowed to use the National Logo must cease to use the said Logo.
 - b) In case the registration of a geographical indication according to Chapter 8 of the Law has been invalidated or cancelled, it shall be deemed that permission to use the National Logo is also invalidated or cancelled.
4. When a right to use the National Logo has been invalidated or cancelled, the allowed person must return the allowance document to the Department of Intellectual Property within 30 (thirty) days of written notification regarding such decision.

Article 24: Duration of the authorization

The authorization to use the National Logo lasts as long as the authorized person complies with the rules of the concerned geographical indication.

Section 4: Opposition

Article 25: Grounds for Opposition

1. A reasoned statement of opposition as referred to in Articles 15 to 17 of the Law shall be admissible only if it is received by the Department of Intellectual Property within the time limit set out in the Law and if it:

a) shows the non-compliance with the definitions relating to geographical indication within Article 4 of the Law;

b) shows that the registered geographical indication is not able to be registered as a geographical indication as stated in Article 10 of the Law and Regulations.

2. The grounds for opposition shall be assessed in comply with the laws and regulations and in relation to the territory of the Kingdom of Cambodia.

Article 26: Opposition procedure and consultations

1. Within 90 (ninety) days from the date of publication in the Official Gazette, any natural or legal person having a legitimate and established interest may lodge a notice of opposition with the Department of Intellectual Property.

2. A notice of opposition shall contain a declaration that the geographical indication application falls under the grounds of opposition laid down in the Law and this Regulation. A notice of opposition that does not contain this declaration is void.

3. If a notice of opposition is lodged with the Department of Intellectual Property and is followed within by a reasoned statement of opposition, the Department of Intellectual Property shall check the admissibility of this reasoned statement of opposition.

4. Within 90 (ninety) days after the receipt of an admissible reasoned statement of opposition and the notification of the applicant, the Department of Intellectual Property shall invite the parties to engage in appropriate consultations for a reasonable period that shall not exceed 90 (ninety) days.

5. Both parts shall start such appropriate consultations without undue delay. They shall provide each other with the relevant information to assess whether the application for registration complies with the conditions of the Law and the Regulation. If no agreement is reached, this information shall also be provided to the Department of Intellectual Property.

6. During the consultation period and if needed or at the request of any party, the Department of Intellectual Property shall organize a hearing during the opposition procedure, as referred in the Article 17 of the Law:

a) The request for hearing shall be made after 30 (thirty) days of the date of submitting the information of no agreement to the Department of Intellectual Property, as referred in the Article 26 (4) of the Regulations. In case there is no request for hearing having been made within the above period and based on the discretionary power given to the Department of Intellectual Property by the Law or by the Regulations, the Department of Intellectual Property may invite concerned parties of the opposition for a hearing if it is deemed necessary.

b) Upon receiving the request for hearing, the Department of Intellectual Property shall notify in writing about the date of hearing, at least 7 (seven) working days before, to the party who has requested for hearing and other interested parties. The hearing shall be organized within 30 (thirty) days from the notification of the request.

c) In case there is no request for hearing having been made within the above period and based on the discretionary power given to the Department of Intellectual Property by the Law or by the

Regulations, the Department of Intellectual Property may make his/her own decision without hearing or invite parties of opposition for the hearing if it is deemed necessary.

d) The Department of Intellectual Property shall notify his/her decision within 2 (two) weeks from the date of decision.

7. At any time during these 90 (ninety) days, the Department of Intellectual Property may, at the request of the applicant or based on its discretionary power, extend the deadline for the consultations by a maximum of 90 (ninety) days.

8. The decision of the Department of Intellectual Property in relation to the opposition shall be published in the Official Gazette.

9. In the event there is no opposition under Chapter 3 section 3 of the Law, or there has been an opposition but the Ministry of Commerce or the GI Board or the Court, as the case may be, issued a final decision under Chapter 4 of the Law or a final judgment to dismiss the opposition, the Department of Intellectual Property shall maintain the registration of GI.

Chapter 4

Appeal procedure

Article 27: Appeal procedure conditions

1. As referred in Articles 6, 17, 18, 21 of the Law, any interested person or his/her agent may file an appeal petition to the GI Board or to the competent courts against the decision of the Ministry of Commerce.

2. The appeal petition as referred to in paragraph (1) shall be filed in writing to the GI Board or to the competent courts within a period as referred to in Article 18 of the Law with the payment of fee as determined by laws and regulations.

Article 28: Appeal procedure within the GI Board

1. The appeal petition lodged within the GI Board shall be motivated.

2. When the GI Board receives a petition concerning the appeal of an applicant or any interested person, the GI Board shall within 30 (thirty) days check the admissibility of the appeal petition. The decision of the GI Board is notified to the applicant or any interested person.

3. The GI Board shall then examine the content of the appeal petition within 90 (ninety) days from the date of application. The decision of the GI Board shall be sent in a written notice, together with reasons, to the applicant or any interested person within 15 (fifteen) days from the date of the decision. If the applicant or the interested person does not agree with the decision of the Board, the applicant or the interested person shall have the right to bring an action in court within 90 (ninety) days from the date of receiving the notice of decision. If no action is brought within such period of time, it shall be deemed that the decision of the Board is final.

4. The Department must implement the decision of the GI Board or competent court.

Chapter 5

Effect of Registration

Article 29: Geographical Indication protection

1. Where a geographical indication contains within it the name of a product which is considered to be generic, the use of that generic name shall not be considered to be contrary to points (a) or (b) of the Article 23 of the Law.
2. Generic term contain in the geographical indication shall not be protected.
3. Protected geographical indications shall not become generic.

Article 30: Date of the protection

The protection of geographical indication shall take effect as from the date of filing the application for registration.

Article 31: Generic terms

To establish whether or not a term has become generic, account shall be taken of all relevant factors, in particular:

- a) The existing situation in areas of consumption;
- b) The relevant national legal acts.

Article 32: Ex-officio protection

In according with the laws and relevant regulations, the Ministry of Commerce shall take appropriate administrative and judicial steps to prevent or stop the unlawful use of protected geographical indications that are produced or marketed in the Kingdom of Cambodia.

Article 33: Transitional period

Without prejudice to Chapter 2 of the Law, the Minister of Commerce may adopt decisions granting a transitional period of up to 5 (five) years to enable products the designation of which consists of or contains a name that contravenes the Article 23 of the Law to continue to use the designation under which it was marketed on condition that an admissible statement of opposition under Chapter 3 section 3 of the Law shows that:

1. The registration of the name would jeopardise the existence of an entirely or partly identical name; or
2. Such products have been legally marketed with that name in the territory concerned for at least 5 (five) years preceding the date of publication of the registration.

Chapter 6 Geographical Indication and Recognition or Rejection of Trademark

Article 34: Trademarks having a reputation or renown

A name proposed for registration as a geographical indication shall not be registered where, in the light of a trade mark's reputation and renown and the length of time it has been used, registration of the name proposed as the geographical indication would be liable to mislead the consumer as to the true identity of the product.

Chapter 7

Control Compliance of Book of Specifications of Geographical Indication Registration

Article 35: Competent authority in relation to GI controls

1. In accordance with Articles 5, 26 and 27 of the Law, the Department of Intellectual Property of the Ministry of Commerce is the competent authority or authority responsible for official controls carried out to verify compliance with the legal requirements related to the geographical indication scheme established by this Regulation.
2. The competent authority referred to in paragraph 1 shall offer adequate guarantees of objectivity and impartiality, and shall have at their disposal the qualified staff and resources necessary to carry out their functions.

Article 36: Controls on Geographical indications

Official controls shall cover:

- a) Verification that a product complies with the corresponding product specification; and
- b) Monitoring of the use of registered geographical indication to describe product placed on the market, in conformity with Article 23 of the Law.

Article 37: Delegation by competent authorities to control bodies

1. Pursuant to Article 26 of the Law, the competent authority may delegate, specific tasks related to official controls of the geographical indications schemes to one or more control bodies.
2. The certification body or control body is a competent and impartial public or private certification body both accredited according to the International Standard Organization or any organization which has reliable control system.
3. Accreditation referred to in paragraph 2 of this Article may only be performed by:
 - a) A national accreditation body;
 - b) An accreditation body outside the Kingdom of Cambodia that is a signatory of a multilateral recognition arrangement under the auspices of the International Accreditation Forum.

Article 38: List of certification and control bodies

The Ministry of Commerce shall make public the name and address of the certification bodies or control bodies referred to the Article 26 of the Law and updates that information periodically.

Article 39: Approval of certification or control bodies

1. Certification and control bodies referred to in Article 26 of the Law are approved by decision of the Ministry of Commerce. Certification and control bodies shall apply the approval to the Ministry of Commerce which shall issue the decision within 45 (forty five) days from the reception of the application.
2. A certification body or control body shall be approved for the control of one or more geographical indication products.
3. Approval of certification and control bodies is awarded for a period of 1 (one) year. It is renewed at the request of the beneficiary, under the same conditions as prevailed at issue.

Article 40: Duties of certification and control bodies

Approved certification and control bodies shall remain at the disposal of the competent services of the Ministry of Commerce and shall provide documents to control their functioning, the legality of their actions and the effectiveness of controls they perform in according with Article 26 of the Law

Chapter 8

Amendment, Invalidation and Cancellation of Geographical Indication registration

Article 41: Amendment

1. A GI right holder or any interested person having a legitimate interest may apply for approval of an amendment to a book of specifications from a registered product.

Applications shall describe and give reasons for the amendments requested.

2. Where the amendment involves one or more amendments to the book of specifications that are not minor, the amendment application shall follow the procedure laid down in Chapter 3 of the Law.

3. However, if the proposed amendments do not vitally affect the decision that led to the GI registration, the Department of Intellectual Property shall approve or reject the application for amendment. In the event of the approval of amendments implying a modification of the elements referred to in a former opposition procedure, the Department of Intellectual Property shall publish those elements in the Official Gazette.

For an amendment to be regarded as minor, it shall not:

- (a) Relate to the essential characteristics of the product;
- (b) Alter the link referred to in point (6) of the Book of specifications;
- (c) Include a change to the name, or to any part of the name of the product;
- (d) Affect the defined geographical area; or
- (e) Represent an increase in restrictions on trade in the product or its raw materials.

Article 42: Cancellation

1. The request of the cancellation of the geographical indication registration shall be motivated and respect the conditions laid down by Article 29 of the Law.

2. Within 90 (ninety) days from the date of reception of the request of cancellation, the Department of Intellectual Property shall check the admissibility of this request.

3. The Department of Intellectual Property shall invite the party that lodged the request and the GI right holder to engage in appropriate consultations for a reasonable period that shall not exceed 90 (ninety) days.

4. Both parties shall start such appropriate consultations without undue delay. They shall provide each other with the relevant information to assess whether the application for cancelling registration is justified with the conditions of the Law and the Regulation. If no agreement is reached, this information shall also be provided to the Department of Intellectual Property.

5. During the consultation period and if needed or at the request of any party, the Registrar shall organize a hearing during the cancellation procedure.

a) The request for hearing shall be made after 30 (thirty) days of the date of submitting the information of no agreement to the Registrar, as referred in the Article 42 paragraph 4 of the

Regulations. In case there is no request for hearing having been made within the above period and based on the discretionary power given to the Registrar by the Law or by the Regulations, the Registrar may invite concerned parties of the cancellation for a hearing if it is deemed necessary.

b) Upon receiving the request for hearing, the Registrar shall notify in writing about the date of hearing, at least 7 (seven) working days before, to the party who has requested for hearing and other interested parties. The hearing shall be organized within 30 (thirty) days from the notification of the request.

c) In case there is no request for hearing having been made within the above period and based on the discretionary power given to the Registrar by the Law or by the Regulations, the Registrar may make his/her own decision without hearing or invite parties of cancellation for the hearing if it is deemed necessary.

d) The Registrar shall notify his/her decision within 1 (one) week from the date of decision.

6. At any time during these 90 (ninety) days, the Department of Intellectual Property may, at the request of the applicant or based on its discretionary power, extend the deadline for the consultations by a maximum of 90 (ninety) days.

7. The decision of the Department of Intellectual Property in relation to the cancellation of the geographical indication shall be published in the Official Gazette.

Chapter 9

Fees

Article 43: Administrative fees

Applicants for the protection of geographical indications in the Kingdom of Cambodia shall pay the administrative fees and other related fees in accordance with Joint Prakas between the Ministry of Economy and Finance and the Ministry of Commerce.

Chapter 10

Final Provision

Article 44: Effective date

Director of Cabinet, Director General, Inspector General, Director of Department, and all Directors of Departments under the Ministry of Commerce shall effectively implement this Ministerial Regulation from the date of signature.

Phnom Penh, date 29 December 2016

Minister of Commerce

[Signature and Seal]

PAN Sorasak