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GEOGRAPHICAL INDICATION ACT OF LIBERIA, 2014

GEOGRAPHICAL INDICATIONS ACT, OF LIBERIA

It is enacted by the Senate and House of Representatives in Legislature Assembled:

PART I

PRELIMINARY PROVISIONS

§1.1. Short Title

This Act may be cited as Liberia Geographical Indications Act

§1.2. Definitions

Unless the context otherwise requires,

Territory of a country, or a region or locality in that territory, where a given quality, reputation or 1 0 0 {6(h)200

PART II
PROTECTIONS

§2.1. Civil Proceedings

Any interested person may institute proceedings in the court to prevent, in respect of geographical indications:

(a) the use of any indication or device in the presentation of a good in the course of trade that suggests that the good in question originates in a geographical area other than its true place of origin in a manner which misleads the public as to the geographic origin of the good,

(b) any use that would constitute an act of unfair competition under the Unfair Competition Act of Liberia; or

(c) any use of a geographical indication for goods not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by waivers, de-localizing clarifications or expressions

of such indications, the Director General shall determine the practical conditions under which the homonymous indications will be differentiated, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled and issue appropriate legislation.

(c) In the case of homonymous geographical indications for wines, protection shall be accorded to each indication.

§2.4. Exclusion from Protection

The following shall not be protected as geographical indications:

(a) an indication that does not comply with the definition of geographical indication in Section 1.2 of this Act;

(b) an indication the use of which must be prevented on grounds of public order or morality;

(c) a geographical indication that is not, or that ceases to be, protected in its country of origin, or which has fallen into disuse in that country;

(d) an indication that is identical with the term customary in common language in Liberia as the common name for the relevant goods or for related services.

§2.5. Application for Registration; Right to File Application

(a) An application for the registration of a geographical indication shall be filed with the Director General.

(b)

§2.6. Content of Application

- (a) An application for the registration of a geographical indication shall specify:
 - (i.) the name, address and domicile of the persons or legal entity filing the application;
 - (ii.) the geographical indication for which registration is sought;
 - (iii.) the geographical area to which the geographical indication applies;
 - (iv.) the goods designated by the geographical indication.

(f) Where the Director General finds that the conditions referred to in subsection (a) of this section are fulfilled he shall register the geographical indication, publish a reference to the registration and issue to the applicant a certificate of registration. Otherwise, he shall refuse the application.

§2.8. Scope of Exclusive Rights

(a) Only producers carrying on their activity in the geographical area specified in the Register

other a decisive influence with respect to the exploitation of the geographical indication, or where a third party may exercise such an influence on both persons;

(ii.) use of the registered geographical indication by any person for the purpose of indicating truthfully in the course of trade that the goods or services that bear the geographical indication originate with the holder of the geographical indication or a licensee thereof;

(iii.) use of the registered geographical indication by any person to provide information regarding the intended purpose, use or compatibility of a product or service, in particular with respect to accessories or spare parts;

(iv.) use of indications concerning the kind, quality, quantity, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of goods or services;

(v.) use by a person on

§2.10. Invalidation, Revocation and Amendment of Registration

(a) Any interested person or any competent authority may request the Director General to order:

(i.) the invalidation of a registration of a geographical indication on the ground that the registered indication did not qualify for protection as such under this Act;

(ii.) the revocation of a registration of a geographical indication on the ground that the registered indication is used in a manner that does not correspond to the specifications of the products designated by the indication; or

(ii.) the amendment of a registration of a geographical indication where the specifications recorded in the register need to be corrected.

(b) In any proceedings under this section, the Director General shall cause a notice of the request:

(i.) to be served on the persons who filed the application for registration of the geographical indication; and

(ii.) to be given by publication in the Official Gazette to all persons having the right to use the registered geographical indication.

(iii.) The persons referred to in subsection (b) of this section and any other persons who have an interest in the registered geographical indication.

§3.2. Provisional Measures

(a) All provisional remedies under the Civil Procedure Law of Liberia including injunctions shall be applicable to civil proceedings relating to geographical indications primarily to prevent an infringement from occurring and preserve relevant evidence in regard to the alleged infringement;

(b) Time limitations for action for damages under the Civil Procedure Law of Liberia shall be applicable to geographical indications.

Law of Liberia.

§3.3. Evidence

(a) Any party to proceedings relating to geographical indication infringement shall be governed by the provisions of the Civil Procedure Law relative to evidence including burden of proof, the right to compel production of documents and to designate documents as privileged or confidential.

(b) Any registration issued under this Act of a geographical indication registered on the principal register for geographical indication and owned by a party to an action shall be admissible in evidence and shall be prima facie evidence of the validity of the registered geographical indication and of the registration of the geographical indication ownership of the geographical indication geographical indication.

§3.4. Damages

(a) An aggrieved party to proceedings involving geographical indication may seek and obtain a court order that the infringer pay the right holder damages adequate to compensate for the injury

Civil Procedure Law of Liberia.

§3.6. Unfair Competition

Unfair competition legislation in Liberia prohibiting dishonest practices in industrial or commercial matters shall be applicable to geographical indication.

§3.7. Appeals

(a) An applicant for registration of a geographical indication, party to an opposition proceeding, or applicant for renewal or other infringement proceedings who is dissatisfied with the decision of the Director General may appeal to the courts.

(b) The appeal shall follow the procedure provided under the Civil Procedure Law of the Republic of Liberia.

§3.8. Further Sanctions

When a person has been found liable for infringement under this Act, to create an effective deterrent to further infringement, the infringer may be subjected to a court order for seizure, forfeiture or disposal of the infringing goods and of any materials and instruments the predominant use of which have been in the commission of the infringement.

PART IV

OFFENSES

§4.2. Misleading as to origin

A person is

A person is guilty of the offense of fraud in relation to registers, which shall constitute a felony of the second degree under the Penal Law of Liberia, who:

- (a) makes or causes to be made a false entry in a register for geographical indication maintained by the Liberia Intellectual Property Office; or
- (b) makes or causes to be made a writing falsely purporting to be a copy of an entry in any such register; or
- (c) produces or tenders or causes to be produced or tendered as evidence any such entry or copy thereof knowing it to be false.

§4.3. False statement for the purpose of deceiving

A person is guilty of the offense of false statement for the purpose of deceiving or influencing the Director General, the Registrar or other officer of the Liberia Intellectual Property Office, which shall constitute a felony of the second degree, who makes a false statement for the purpose of:

- (a) deceiving the Director General, the Registrar or any officer in the execution of the provisions of this Act;
- (b) procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder; or
- (c) makes a false representation knowing it to be false.

§4.4. Falsely representing geographical indication as registered

A person is guilty of falsely representing a geographical indication as registered, which shall constitute a felony of the second degree, under the Penal Law of Liberia, who:

- (a) makes a representation with respect to a geographical indication not being a registered geographical indication, to the effect that it is a registered geographical indication;
- (b) makes a representation that a registered geographical indication is registered in respect of any goods or services in respect of which it is not registered;
- (c) makes a representation that the registration of a geographical indication gives an exclusive right to the use thereof in any

circumstances in which, having regard to limitations entered in the register, the registration does not give that right.

This Act shall take effect immediately upon publication in handbills by the Ministry of Foreign Affairs.

ANY LAW TO THE CONTRARY NOTWITHSTANDING