

LAW
OF THE REPUBLIC OF TAJIKISTAN
«ON GEOGRAPHICAL INDICATIONS»

This Law shall govern relations arising in connection with the legal protection and use in the Republic of Tajikistan of “appellation of origin” and “indication of source” referred to by a general term of a geographical indication.

CHAPTER 1.
GENERAL PROVISIONS

Article 1. Basic terms

The terms used in this Law shall have the following meaning:

a geographical object – shall mean a territory with officially defined borders, for example, a country, a region as a part of a country, a settlement, a locality;

an application – shall mean a set of documents necessary for registration and for acquiring the right to use an appellation of origin or for acquiring the right to use an appellation of origin already registered;

a competent authority – shall mean

Body (hereinafter the "Patent Office").

In cases stipulated by this Law, the Patent Office, in accordance with its

1. Legal protection of an appellation of origin in the Republic of Tajikistan shall stem from its state registration in accordance with the procedure prescribed by this Law or by virtue of international agreements recognized by the Republic of Tajikistan.

2. While an application is being examined and while a decision in respect thereof is pending, the applicant shall be entitled to supplement, correct or amend the material attached to the application.

If the supplementary materials substantially alter the application, such materials shall not be accepted for consideration and may be arranged by the applicant as a separate application.

4. During the examination the Patent Office shall be entitled to request from the applicant the supplementary materials the absence of which would make the examination impossible.

The additional materials shall be filed within two months of the day on which the request is received. At the request of an applicant, the Patent Office may extend this period, provided the request has been received prior to the expiry of the aforementioned period. If the applicant violated the established term or did not answer the request, the application shall be considered to have been withdrawn.

4. A formal examination of an application shall be carried out within two months from the date of its filing with the Patent Office.

During the course of the formal examination, the presence of the necessary documents and their conformity with the established requirements shall be checked. Depending on the findings of the formal examination, a decision shall be made either to accept it for further examination or to deny its acceptance.

Simultaneously with notification of the positive outcome of the formal examination, the applicant shall be informed of the filing date established pursuant to Paragraph 5 of Article 9 of this Law.

A justified notification of refusal to accept the application for consideration shall be sent to the applicant.

5. The designation applied for under an application which has been accepted for examination shall be checked for compliance with the requirements set out in Article 5 of this Law.

During the examination of the designation applied for, the legitimacy of indicating the place of origin (production) of a good within the territory of the Republic of Tajikistan shall also be checked.

Pending a decision upon the findings of an examination of a designation applied for, the applicant may be notified of the results of a check performed to verify the compliance of such designation to the requirements set out in Article 5 of this Law along with an invitation to submit its/his arguments regarding the grounds of such notification. The applicant's arguments shall be taken into account in decision-making based on the findings of the examination of the designation applied for, provided that a

appellation of origin and not to grant the right to use it; or to provide the right to use the appellation of origin already registered, or to refuse to grant the right to use the appellation of origin already registered.

7. An applicant may withdraw an application at any time during its examination before recodal in the State register of appellations of goods of the Republic of Tajikistan (hereinafter, "Register") of the information relating to the registration of and grant of the right to use the appellation of origin.

Article 11. Appeal against the decision on an application and reinstatement of missed terms

1. In the event of disagreement with the decision taken on the results of a formal examination, with the refusal to accept an application for consideration, or with the decision passed on the results of an examination of the designation applied for, or with the decision to recognize an application as having been withdrawn, the applicant may lodge an objection with the Appeal Board within three months after the date of receipt of the corresponding decision.

2. The time periods provided for by paragraph 3 of Article 10 of this Law and missed by an applicant, may be restored by the Patent Office on the basis of an appropriate petition of the applicant, which shall be filed not more than two months after the date of their expiry, provided that the reasons are confirmed to have been valid and that the respective fee is paid.

Such petition shall be filed with the Patent Office simultaneously with the materials requested by the examiner or with a request for extending the time period prescribed for its submission, or simultaneously with an objection filed with the Appeal Board.

Article 12. Registration of an appellation of origin and issuance of a certificate of the right to use an appellation of origin

1. On the basis of the decision of examination the Patent Office shall register an appellation of origin in the Register. The appellation of origin, the indication and description of the special properties of the good in respect of which the appellation of origin has been registered, the information related to the registration and grant of the right to use the appellation of origin, the extension of the term of validity, and the subsequent changes in such information shall be entered in the Register.

2. Issuance of a certificate for the right to use an appellation of origin (hereinafter "certificate") and recodal of the information about a certificate holder in the Register shall be made by the Patent Office within one month from the date of receipt of a document proving the payment of a fee.

Unless a document proving the payment of a fee for the issuance of a certificate of the right to use an appellation of origin is submitted, such certificate shall not be issued and the information about the certificate holder shall not be recorded in

Law, except for the information which describes any special properties of the good, shall be published by the Patent Office's Official Bulletin forthwith after its recodal in the Register.

Article 16. Registration of an appellation of origin in foreign countries

1. Legal entities and natural persons of the Republic of Tajikistan shall have the right to register an appellation of origin in foreign countries.

2. An application for registration of an appellation of origin in foreign countries shall be filed following the registration and acquisition of the right to use the appellation of origin in the Republic of Tajikistan.

CHAPTER 4.

USE OF GEOGRAPHICAL INDICATIONS

Article 17. Use of geographical indications

1. Use of an appellation of origin shall be understood to mean its use on goods, labels, packaging, in advertising, pamphlets, invoices, blank forms and other documentation connected with the commercial use of such goods.

2. The use of false indications of source of a registered appellation of origin by persons who do not possess an appropriate certificate, even if the genuine place of origin of a good is indicated or an appellation is used in translation or in combination with such expressions as "art's", "kind," "type," "imitation," and the like, shall not be permitted, just as the use of an identical designation for any good which may mislead the consumer as regards the place of origin and special features of the good (illegal use of a geographical indication) shall not be allowed.

Goods, labels and packaging of these goods, which an appellation of origin or a confusingly similar designation is used illegally, are counterfeits.

3. Any person who honestly used the name of a geographical object identical or similar to the registered appellation of origin or not less than six months prior to the date of its registration shall be retained the right to continue to use it during a two year period from the date of the said registration.

4. The assignment of the right to use a geographical indication and provision of the right to use it on the basis of a license shall not be admitted.

Article 18. Precautionary Marking

A certificate holder may affix next to the appellation of origin a precautionary marking in the form of the Latin letter R, either –by itself on a circle, or a verbal designation indicating that the applied designation is an appellation of origin

registered in the Republic of Tajikistan.

CHAPTER 5. TERMINATION OF LEGAL PROTECTION OF AN APPELLATION OF ORIGIN

Article 19. Challenge of the registration of an appellation of origin, issuance of a certificate and invalidation thereof

1. The grant of legal protection to an appellation of origin may be challenged and invalidated at any time during the entire term of its validity term, if effected in breach of any requirements set out in this Law.

Issuance of a certificate may be challenged and a certificate itself may be invalidated at any time during the entire term of its validity term if issued in breach of any requirements set out in this Law, or in connection with the invalidation of the grant of legal protection to the appellation of origin.

2. Any person, on such grounds as are provided by paragraph 1 of this Article, may submit to the Appeals Board an appeal against the grant of legal protection to an appellation of origin and the issuance of a certificate.

3. The grant of legal protection to an appellation of origin and a certificate shall be invalidated on the basis of a decision by the Appeal Board as well as a court judgement that has taken legal effect.

Article 20. Termination of legal protection of an appellation of origin and validity of a certificate

1. The legal protection of an appellation of origin shall be terminated:

upon the disappearance of conditions characteristic to a particular geographical object and impossibility of producing a good with the features indicated in the Register.

upon the loss by foreign legal entities or natural persons of the right to such appellation of origin in the country of origin of the corresponding goods.

2. The certificate shall be terminated:

upon the loss by the good of its special properties indicated in the Register in respect of the given appellation of origin;

upon the termination of legal protection of the appellation of origin;

upon the liquidation of the legal entity, the holder of the certificate;

upon a voluntary refusal legalized by the Patent Office on the basis of a

request of the certificate holder to terminate the certificate.

3. Any person on the grounds provided for by paragraphs 1 and subparagraph 2 and 3 of paragraph 2 of this Article, may file an appeal to the Appeal Board on termination of legal protection of an appellation of origin and validity of a certificate.

Any person on the ground set out in the paragraph 4 of paragraph 2 of this Article may file a motion with the Patent Office to terminate validity of a certificate.

4. Legal protection of an appellation of origin and validity of a certificate shall be terminated pursuant to a decision by the Appeal Board, the Patent Office, as well as a court judgement, provided that such judgement has taken legal effect.

which has not been duly registered in the Republic of Tajikistan shall be liable pursuant to the procedure laid down by the legislation of the Republic of Tajikistan.

Article 22. Settlement of disputes connected with infringement of the legislation on geographical indications

Disputes arising in connection with the application of this Law, including disputes over unlawful use of the geographical indications shall be examined by courts within the limits of their jurisdiction in accordance with the procedure laid down by the legislation of the Republic of Tajikistan.

CHAPTER 7. CONCLUDING PROVISIONS

Article 23. Decisions of the Appeal Board

The rules for filing oppositions and requests with the Appeal Board and a procedure for their consideration shall be prescribed by the Patent Office.

Decisions of the Appeal Board made on oppositions and requests, filed in the order set forth in Articles 19, 20 of this Law shall be approved by the Head of the Patent Office and shall come into force from the date of their approval and may be appealed against in court in conformity with legislation of the Republic of Tajikistan.

Article 24. Obligatory payments and a procedural payment

1. For filing an application, registration and issuing a certificate, extension of the registration and reinstatement of missed term 36 (paid) 545 TD [(r) their a) c 0 Tw (Ta

or on the basis of reciprocity.

The right to register appellations of origin in the Republic of Tajikistan shall be granted to legal entities and natural persons of countries granting the same rights to legal entities and natural persons of the Republic of Tajikistan.

Article 26. International treaties

Where an international treaty to which the Republic of Tajikistan is a party establishes rules that differ from those set in this Law, the rules of such international treaty shall apply.

Article 27. Procedure for entry into force of this Law

This Law shall enter into force on the day of its official publication.