

LAW
OF THE REPUBLIC OF TAJIKISTAN «ON GEOGRAPHICAL INDICATIONS»

This Law shall govern relations arising in connection with the legal protection and use of geographical indications of origin of goods in the Republic of Tajikistan.

SECTION 1.

GENERAL PROVISIONS

Article 1. Basic terms

The basic terms used in this Law are as follows:

- geographical object – shall mean a territory with officially defined borders, in particular, a country, a region as a part of a country, a settlement, a locality;
- geographical indications – shall be a general term for designation of an appellation of origin and appellation of source;
- 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;
- applicant – shall mean a natural person or a legal entity which filed an application with the authorized body for registration and grant of the right to use an appellation of origin;
- competent authority – shall mean a state authority empowered to establish borders of a geographical object where the good is produced, the specific quality and features of which are essentially or exclusively determined by natural conditions specific to a given geographical object or other factors (by a combination of natural conditions and these factors), with which some of the characteristics of the good are connected;
- appellation of origin shall mean a designation which is or contains a contemporary or historical name of a country, a settlement, a location or other geographical object (or a derivative from such designation) and which has become known as a result of its use in respect of a good the specific quality and features of which are essentially or exclusively defined by natural conditions and (or) human factors specific to a given geographical object.
- indication of source shall mean a designation directly or indirectly indicating the true place of origin or of manufacture of a good.

Article 2. Legislation of the Republic of Tajikistan on Geographical Indications

The legislation of the Republic of Tajikistan on geographical indications shall be based on the Constitution of the Republic of Tajikistan and shall consist this Law and other legislative acts of the Republic of Tajikistan, as well as international legal acts recognized by Tajikistan.

Article 3. Authorized State body and its competence

Implementation of the state policy and functions in the field of legal protection of the topologies of integrated circuits stipulated by this Law shall be entrusted to the Authorized State Body. The Authorized State Body shall be appointed by the Government of the Republic of Tajikistan.

In cases stipulated by this Law, the Authorized State Body, in accordance with its competence, shall issue regulatory legal acts on the application of this Law.

The Authorized State Body shall set up an Appeal Board, which in compliance with its Statute shall consider the issues attributed to its competence by this Law.

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SECTION 2.

GEOGRAPHICAL INDICATIONS AND THEIR LEGAL PROTECTION

Article 4. Designations not recognized as an appellation of origin

A designation shall not be recognized as an appellation of origin if it represents or includes a name of a geographical object, but is commonly used in the Republic of Tajikistan as a designation for a certain type of a good which is not associated with the place of its production.

Article 5. Indication of source

An indication of source may be represented in the form of a verbal designation, containing a name of a geographical object, or as a figurative representation.

Article 6. Legal protection of an appellation of origin

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

An appellation of origin may be registered jointly by one or more natural persons or legal entities. A person who has registered an appellation of origin shall be entitled to use the same if the goods produced by such person meet the requirements set out in this Law.

The right to use the same appellation of origin may be granted to any natural person or legal entity located in the same geographical object and producing goods with the same basic properties.

The registration of an appellation of origin shall be valid indefinitely.

Article 7. Legal protection of an indication of source

Legal protection of an indication of source shall be realized on the basis of use of the indication of source.

Legal protection of an indication of source shall consist in non-admission of use of false indications of source, as well as of indications capable of confusing consumers in respect of the true place of origin of the good.

An indication of source shall not be subject to the State registration

SECTION 3.

REGISTRATION AND GRANT OF THE RIGHT TO USE AN APPELLATION OF ORIGIN

Article 8. An application and procedure for its filing

An application shall be filed with the Authorized State Body by a natural person(s) and/or legal entity (ies) either independently or through a patent attorney.

Natural persons permanently residing outside the Republic of Tajikistan, or foreign legal entities or their representatives shall deal with the Authorized Body through patent attorneys authorized by a power of attorney and who obtained the right to perform as patent attorneys according to the legislation of the Republic of Tajikistan.

An application shall relate to a single appellation of origin.

An application shall contain:

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- a statement requesting the registration and grant of the right to use an appellation of origin or the grant of the right to use an appellation of origin already registered, naming the applicant(s) and its/his (their) location(s) or domicile(s).

- the claimed designation;

- an indication of a good for which the registration and grant of the right to use the appellation of origin or the grant of the right to use the appellation of origin already registered is sought;

- an indication of the place of origin of the good (borders of the geographical object);

- a description of the special properties of the good.

An application shall be filed in the official language.

An application shall be signed by the applicant or, if filed through a patent attorney, by the applicant or the patent attorney.

In the event that a geographical object, the name of which is claimed as an appellation of origin, is situated in the territory of the Republic of Tajikistan, an application shall be accompanied by a statement issued by a competent authority to confirm that the applicant produces goods the special properties of which are determined by the natural conditions and(or) human factors specific to such geographical object.

In the event that a geographical object, the name of which is claimed as an appellation of origin, is situated outside the territory of the Republic of Tajikistan, an application shall be accompanied by a

document certifying the applicant's right in the appellation of origin applied for in the country of origin of the good;

An application shall be accompanied by a document confirming payment of the obligatory payment for filing of an application in the established amount;

The documents accompanying an application shall be filed in the official or another language.

Where such documents are filed in another language, their translation into the official language shall be enclosed. The translation into the official language may be submitted by the applicant not later than two months after the date of notifying him by the Authorized Body of the need to comply with this requirement.

The date of filing of an application with the Authorized Body shall be the date of receipt of the documents provided for by Part 4 of this Article, or, where the said documents were filed other than simultaneously, the date of receipt of the last of the documents submitted.

Article 9. Examination of an application

Examination of an application shall be conducted by the Authorized State Body and shall comprise a formal examination and an examination of the claimed designation.

During examination of the application before the decision on it has been taken the applicant shall be entitled to supplement, correct or amend the materials of 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.

During the examination the Authorized Body, in accordance with legal normative acts, shall be entitled to request of 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 the applicant, the Authorized Body 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.

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

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

Simultaneously with notification of the positive outcome of the formal examination, the applicant shall be informed of the filing date established in accordance with this Law.

The Authorized Body shall send a justified notification of refusal to accept the application for consideration to the applicant.

The claimed designation in an application which has been accepted for examination shall be checked for compliance with the requirements set out in this Law.

During the examination of the claimed designation, the validity of indicating the place of production of a good within the territory of the Republic of Tajikistan shall also be checked.

Before the decision on examination of the claimed designation has been taken, 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 this Law, along with an invitation to submit own arguments regarding the grounds of such notification. The applicant's arguments shall be taken into account in taking a decision based on the results of the examination of the claimed designation, provided that the same are submitted within six months of the date of giving such notice.

On the basis of the results of examination the Authorized Body shall make a decisions to register or to deny the registration of the appellation of origin and to grant the right to use it, or either to grant or to deny grant of the right to use the appellation of origin already registered.

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

Rules of Register keeping and the content of the particulars to be entered in the Register shall be established by the Authorized Body.

Article 10. Appeal against the decision on an application and reinstatement of missed terms

In the event of disagreement with the decision taken on the results of a formal examination, with the denial to accept the application for consideration, or with the decision taken on the results of an examination of the claimed designation, or with the decision to recognize the 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.

The time periods provided for by Part 5 of Article 9 and Part 1 of this Article and missed by an applicant, may be restored by the Authorized Body on the basis of an appropriate petition of the applicant, which shall be filed not later than two months after the date of their expiry, provided that the reasons are confirmed to have been valid and that the respective obligatory payment is paid.

Such petition shall be filed with the Authorized Body simultaneously with the additional 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 11. Registration of an appellation of origin and issuance of a certificate for the right to use an appellation of origin

On the basis of the decision of examination the Authorized Body shall register an appellation of origin in the Register. The appellation of origin, the indication and description of the special

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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, extension of the term of validity, and the subsequent changes in such information shall be entered in the Register.

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

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

The form of a certificate and the content of the information contained therein shall be determined by the Authorized Body.

Article 12. Term of validity of a certificate

A certificate shall be valid for a period of 10 years from the date of filing the application with the Authorized Body.

The term of validity of a certificate may be extended at the request of its holder and subject to the submission by the certificate holder of a statement issued by a competent authority. The statement of the competent authority shall confirm that the holder of the certificate produces goods featuring those properties which are stated in the Register within the borders of the geographical object concerned.

In the event that an appellation of origin is a name of a geographical object located outside the Republic of Tajikistan, instead of the said statement, a certificate holder shall submit a document

confirming the latter's right to use the appellation of origin in the country of origin of the good as of the date of filing a request for extension of the validity term of the certificate.

A request for extension shall be filed during the last year of the validity term of a certificate.

The validity term of a certificate shall be extended each time for ten years.

At the request of a certificate holder, a six month period for submitting a request for extension of the validity of a certificate may be granted thereto upon the expiry of the validity term of a certificate subject to payment of an additional obligatory charge.

An entry concerning the extension of the validity term of a certificate shall be recorded by the Authorized Body in the Register and certificate.

Article 13. Entry of changes in the Register and Certificate

A certificate holder shall inform the Authorized Body of a change in his name, family name, first name and patronymic, as well as of changes relating to the registration and grant of the right to use an appellation of origin.

Entry of changes shall be made in the Register and certificate subject to payment of the prescribed procedural payment.

The Authorized Body shall enter changes in the Register and in the certificate in order to correct obvious and technical mistakes.

Article 14. Publication of the particulars of registration and grant of the right to use an appellation of origin

Particulars of the registration and grant of the right to use the appellation of origin recorded in the Register pursuant to this Law, except for the information which describes any special

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properties of the good, shall be published by the Authorized Body in its Official Bulletin without delay after their recodal in the Register.

Article 15. Registration of an appellation of origin in foreign countries

Natural persons and legal entities of the Republic of Tajikistan shall have the right to register an appellation of origin in foreign countries.

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.

SECTION 4 .

USE OF GEOGRAPHICAL INDICATIONS

Article 16. Use of geographical indications

The use of a geographical indication 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.

The use of false indications of source and 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 "sort", "kind," "type," "imitation," and the like, 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 an appellation of origin) shall not be permitted.

The assignment of the right to use a geographical indication and grant of the right to use it on the basis of a contract shall not be admitted.

Article 17. 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 or in a circle, or a verbal designation indicating that the applied designation is an appellation of origin registered in the Republic of Tajikistan.

SECTION 5.

CHALLENGING AND TERMINATION OF LEGAL PROTECTION OF AN APPELLATION OF ORIGIN

Article 18. Challenging of the registration of an appellation of origin, issuance of a certificate and invalidation thereof

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

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

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

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The grant of legal protection to an appellation of origin and the 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 19. Termination of legal protection of an appellation of origin and validity of a certificate

Legal protection of an appellation of origin shall be terminated:

- upon disappearance of the 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 natural persons or legal entities of the right to the given appellation of origin in the country of origin of the corresponding goods.

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 Authorized Body on the basis of a request of the certificate holder to terminate the certificate.

Any person on the ground provided for by Part 1 and Paragraphs 1 and 2 of Part 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 3 of Part 2 of this Article may file a motion with the Authorized Body to terminate validity of a certificate.

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

SECTION 6.

FINAL PROVISIONS

Article 20. Decisions of the Appeal Board

The rules for filing oppositions and requests with the Appeal Board and a procedure for their consideration shall be established by the Authorized Body.

Decisions of the Appeal Board taken on oppositions and requests, filed in the order set forth in this Law shall be approved by the Authorized Body 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 21. Obligatory charges and procedural payment

For filing an application, registration and issuing a certificate, extension of the registration and reinstatement of missed terms as well as for all other legally significant acts connected with registration and extension of the term of validity of certificate obligatory charges shall be charged. For carrying out examination, entering amendments and corrections in the documents of the application, publication of particulars of an appellation of origin, consideration of oppositions

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and requests by the Appeal Board, as well as for other acts connected with examination of the application, the Authorized Body shall charge a procedural payment.

The amount of obligatory charges and a procedural payment shall be determined by the Government of the Republic of Tajikistan.

Obligatory charges and a procedural payment shall be paid by the applicant, right holder, or, in agreement with them, by any natural person or legal entity.

Article 22. Rights of foreign natural persons and legal entities

Foreign natural persons and legal entities shall enjoy those rights granted by this Law on a par with legal entities and natural persons of the Republic of Tajikistan by virtue of international legal acts recognized by the Republic of Tajikistan or on the basis of reciprocity.

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

Article 23. Liability for Breaches of This Law

Natural persons and legal entities shall be liable for breaches of this Law pursuant to legislation of the Republic of Tajikistan

Article 24. Procedure for entry into force of this Law

This Law shall enter into force from the moment of its official publication.

President of the Republic of Tajikistan

E. RAKHMONOV

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