

KINGDOM OF CAMBODIA**NATION RELIGION KING****Ministry of Commerce**
No. 105 MOC / SM 2009**PRAKAS**
On
the Procedures for the Registration and Protection of Marks of Goods
which include a Geographical Indication**Senior Minister, Minister of Commerce**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree No. NS/RKT/0908/1055 dated November 25, 2008 on the Nomination of the Royal Government of Cambodia
- Having seen the Royal Kram No. 02 NS.94 dated July 20, 1994 on the Organization and Functioning the Council of Minister
- Having seen the Royal Kram No. NS/RKM/0196/16 dated January 24, 1996 promulgating the Law on the Establishment of Ministry of Commerce
- Having seen the Royal Kram No. NS/RKM/0202/006 dated February 07, 2002 Promulgating the Law on Mark, Trade Name and Acts of Un-Fair Competition
- Having seen the Sub Decree No. 91 ANK.BK dated August 01, 2007 on the Organization and Functioning of the Ministry of Commerce
- Having seen Prakas No. 211 MOC/SM 2007 dated November 18, 2007 on the Organization and Functioning of the Intellectual Properties Department
- In Pursuant to actual needs and urgently on Registration and Mark Protection for Geographical Indication in the Kingdom of Cambodia to Prevent some bad Businessman using wrongly in Geographical Indications which cost the lost of reputation of geographical indication.

DECIDES**Article 1: Objective**

The objective of this Prakas is to manage, register, recognize, and protect Geographical Indications in the Kingdom of Cambodia.

Article 2: Purpose

This Prakas creates a procedure on the management, registration, recognition, and protection of Geographical Indications for the purpose of protecting the intellectual property rights of the producers, operators, and consumers of Geographical Indication products, and also to preserve and strengthen the knowledge, traditional know-how and national identity in order to create jobs rural areas, to develop communities, to reduce poverty, and to attract tourists.

Article 3: Scope

Agricultural goods, foodstuffs, handcrafted goods, and other goods which are produced or transformed in the Kingdom of Cambodia in compliance with the provisions of this Prakas shall be registered and protected as Geographical Indications in the Kingdom of Cambodia.

Article 4: Definitions

The terms used in this Prakas shall be defined the meanings as follows:

- 1- **"Mark of Goods which include a Geographical Indication"** refers to a name, symbol or any other sign which is used for calling or representing a geographical origin and can identify the goods as originating in such geographical origin where the quality, reputation or other characteristic of the goods is essentially attributable to the geographical origin;
- 2- **"Application"** refers to an application for the registration of a Geographical Indication;
- 3- **"Applicant"** means a natural or legal person of Geographical Indication association, or group of producers, or producer organization, or operator having an interest in the registration of geographical indication;
- 4- **"Operator"** refers to a natural or legal person involved in the collection, transformation, processing, trading, or distribution of Geographical Indication goods;
- 5- **"Official Gazette"** is the Official Gazette issued by the Department of Intellectual Property Rights of the Ministry of Commerce;
- 6- **"Book of Specifications"** is a document elaborated by the applicant, specifying the geographical area of goods, production conditions, and qualification process for Geographical Indication goods;
- 7- **"Control"** means the verification of the compliance of the goods with the book of specifications by the designated authorities or body;
- 8- **"Registration"** means registration of the Geographical Indication;
- 9- **"Day"** means calendar day;
- 1- **"Certification Body"** refers to an organization issuing a certificate of conformity with the book of specification;

Article 5: Conferred Rights

When a Geographical Indication is registered at the Intellectual Property Department of the Ministry of Commerce in accordance with the provisions of this Prakas, producers and/or operators whose practices is compliance with the book of specifications shall be conferred the absolute rights to use the Geographical Indications. These rights are not transferable.

Article 6: The duties of the Department of Intellectual Property

The Ministry of Commerce confers the rights to manage, register, recognize, and protect the Geographical Indications in the Kingdom of Cambodia to the Department of Intellectual Property.

Department of Intellectual Property is mainly responsible for:

- Receiving and examining applications;
- Examining the book of specifications;
- Receiving oppositions and counterstatements;
- Registering the geographical indications;
- Conciliating the conflicts related to geographical indications;
- Managing the Geographical Indications register;

- Publishing the registered Geographical Indications in Official Gazette;

Article 7: Filing Application

- 1- The application shall be filed with the Department of Intellectual Property of the Ministry of Commerce following the form in Annex 1;
- 2- The application shall be in Khmer or English. The documents required for the registration, if not originally in Khmer or English, shall be accompanied by Khmer or English translations.
- 3- Required documents for registration are as follows:
 - a. An application;
 - b. A book of specifications;
 - c. Power of Attorney issued by the Geographical Indications association notarized by a Lawyer, Notary Public, or Public Administrator located in location of the Geographical Indications;
 - d. And other relating documents stipulated in the application.

Article 8: Withdrawal of Application

The applicant may withdraw the application at any time by notifying in writing to the Department of Intellectual Property of the Ministry of Commerce.

Article 9: Administrative Fees for the registration

Applicants for the protection of Geographical Indications in the Kingdom of Cambodia shall pay the administrative fees and other related fees in accordance with the inter-ministerial Prakas No. 457 SHV. BrKChMP dated June 8, 2007 on the Administrative Fees for Marks Registration and other Relating Fees of the Ministry of Commerce and the Ministry of Economy and Finance.

Article 10: Examination of Application

1. Department of Intellectual Property shall organize the preliminary examination procedure on the application within a period of no later than 90 days from the date of filing;
2. Department of Intellectual Property shall review the application as accurately completed in compliance with the conditions stipulated in Article 7 and shall issue an Acknowledgment of Filing Instruction or Rejection officially.
3. The Acknowledgment of Filing Instruction shall be identified by the filing date and application number.
4. The Rejection of Application shall be clarified the reason of rejection and notify the applicant. The applicant may correct the application within the correction period, or the application will be deemed abandoned.
5. The following Geographical Indications are not allowed to be registered:
 - The indication that become a General Term;
 - The indication that affects the name of plantation or any type of animals.
6. The registration of Geographical Indications shall be published in Official Gazette.

Article 11: The examination of the substance of application

1. If necessary, the ministry of commerce has the authority to determine any additional provisions for reviewing the substance of application.
2. The Department of Intellectual Property shall supervise the efficiency of the certification body issued from the Ministry of Commerce.

3. In reviewing the substance of application, the Department of Intellectual Property may invite the applicant or any related person to provide an additional explanation or evidences. If necessary, the Department of Intellectual Property may seek advice from experts in the field field in order to consider and make decision.
4. The verification of conformity of the Geographical Indication with the book of specifications shall be guaranteed by the competent and impartial public authority, or public organization, or private organization officially recognized by the International Standard Organization 65. The verification must comply with the guidelines of ISO 65, or of any other ISO with the agreement from the ministry of commerce.
The annual report of the organization issuing certificate on the quality of Geographical Indications goods shall be sent annually to the Department of Intellectual Property no later than December 31, and include the list of operators, products, quantity acknowledged and punishment imposed if any.
5. Applicant may select the certification body by himself. This selection is a part of the application and shall be examined and approved by the Department of Intellectual Property of the Ministry of Commerce.
6. In case of non-compliance with the book of specifications by any producer or operator, appropriate measures and punishment shall be taken by the certification body as follows:
 - Remarks made to operator or producer
 - Warning made to operator or producer
 - Disqualification of one lot of product
 - Temporary revocation of the rights to use the Geographical Indication by the operator or producer.
 - Definitive revocation of the rights to use the Geographical Indication by the operator or producer.

Article 12: Validity and Renewal

The validity and renewal of Geographical Indication registration shall be applied in conformity with Article 12 of the Law Concerning Marks, Trade Names and Acts of Unfair Competition and other related provisions.

Article 13: Cancellation of the Registered Geographical Indication

The Ministry of Commerce shall have the right to cancel the registered Geographical Indication before the expiration date in the case of following:

- No action taken concerning the planning control stipulated in the book of specifications
- Applicant fails to provide additional documents or information to the Department of Intellectual Property in response to the request in the case of changing modality, registration procedure

Article 14: Other implementation procedure and punishment

Opposition and counterstatement procedure, provisional and border measure, agent, and punishment related to Geographical Indication of this Prakas shall be implemented in compliance with other related provisions stipulated in the Law Concerning Marks, Trade Names and Acts of Unfair Competition.

Article 15: Validity

This Prakas comes in to effect from the date of this signature.

Phnom Penh, Dated 18 of May, 2009

**Senior Minister
Minister of Commerce**

Cham Prasith