



LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

Ministry of Science and Technology

No. **1119** /MOST
Vientiane, Date **25 OCT 2016**

**Decision
of the Minister of Science and Technology
on the Implementation of Geographical Indications
under the Law on Intellectual Property**

- Based on Law on Intellectual Property, No.01/NA, dated December 20, 2011;
- Based on the proposal of the Department of Intellectual Property, No. 325/MOST.DIP, dated 18 May 2016

**The Minister of Science and Technology issues the following
Decision:**

**SECTION I
General Provisions**

Article 1. Objective

This Decision implements geographical indications under the Law on Intellectual of the Lao People's Democratic Republic. It is a purpose of this Decision to provide uniform criteria for use in all proceedings relating to implementation of Geographical Indications, including registration procedures, appeals, suspension and cancellation proceedings, and legal actions for infringement or misuse, dispute settlement, and the enforcement of rights under the Law on Intellectual Property throughout the Lao People's Democratic Republic.

Article 2. Definitions

In addition to definitions provided in Article 3 of the Law on Intellectual Property No. 01/NA dated December 20, 2011, the following terms shall have the meanings given below, unless the context otherwise requires:

1. **Minister** refers to the Minister of Science and Technology;
2. **Department** refers to the Department of Intellectual Property of the Ministry of Science and Technology;
3. **Director General** refers to the Director General of the Department of Intellectual Property;
4. **Appeal** refers to an appeal against the final decision of the Department of intellectual property;

5. **Applicant** refers to a geographical indication association or producers' group, producers and/or operators organization which may benefit from a geographical indication;
6. **Book of specifications** refers to a document, specifying the production geographical area, production conditions and the quality control process of geographical indication goods, which is drafted by the applicant;
7. **Cancellation** is a proceeding under which any interested person may request that a geographical indication registration be canceled;
8. **Commercial purpose**, as used in the Law on Intellectual Property, means that an act is carried out to receive money or any other thing of value or that an act is carried out in connection with an undertaking to increase the value or profitability of the undertaking;
9. **Controls** refer to internal and external controls. Controls refer to the verification of the compliance of products with the book of specifications by the geographical indication association and control bodies or designated authorities;
10. **Country of origin** means the country or countries, or customs union that is coextensive with or includes the geographical region or location where goods associated with a geographical indication are produced.
11. **Court** means:
 - In case of filing a civil action to enforce intellectual property rights, the Commercial Chamber of a regional court, provincial court, or capital court, where the right holder of the intellectual property rights may file in accordance with the Lao Law on Civil Procedure.
 - In case of appealing any decision related to enforcement of intellectual property rights, the relevant Appeals Court or People's Supreme Court where an appeal has been filed in accordance with the Law on Civil Procedure.
 - In case of filing an administrative appeal from a holding of the Industrial Property Department or one of its units, the Commercial Chamber of the capital court;
12. **Generic** refers to the name which is generally known as the designation of any kind of goods;
13. **Geographical indication** means a sign used to indicate a good as originating in the territory of a country or region or locality in that territory, where a given quality and reputation or other characteristic of the good is essentially attributable to its geographical origin;
14. **Geographical Indication association** refers to a geographical indication association or producers' group, producers and/or operators organization which benefit from a geographical indication and is recognized as a GI owner;
15. **Geographical Indication owner** refers to a geographical indication association or producers' group, producers and/or operators organization whose geographical indication has been registered;
16. **Goods** refers to agricultural goods, foodstuffs, handicraft goods or any other goods produced or transformed in the geographical area;
17. **Hearing** refers to a dispute resolution meeting of registrar before making decision on any objection by opponent;

18. **Legal entity or organization** means an entity of a type that is legally recognized to deal business in the place of its origin and includes a company, state or governmental entity, association or collective organization, or other legal person;
19. **National Geographical Indication logo** refers to the logo used on geographical indication goods products and supporting documents specified by the Department of Intellectual Property;
20. **Operator** refers to any person involved in the process of producing, processing, purchasing, trading or distributing geographical indication goods;
21. **Objection** is a proceeding under which any interested person may raise objections to the registration of a published geographical indication;
22. **Paris Convention** means the Paris Convention for the Protection of Industrial Property;
23. **Pending** and **pendency** refer to the period between the filing of an application or other proceeding and the registration, abandonment, or other final action thereon;
24. **Power of attorney** means a written document by which a principal authorizes one or more person to act on his or her behalf;
25. **Practitioner** means an attorney or agent who regularly engages in practice before the Department;
26. **Producers** means all the people or enterprises involved in the process of production and/or processing the GI product.
27. **Registrant** of a geographical indication means geographical indication association or producers' group, producers and/or operators organization or the legal entity that has obtained a registration for a geographical indication and who is entitled to exercise control on a registered geographical indication;
28. **Representative** means an attorney or agent who is authorized to represent an applicant or intellectual property owner or other person with regard to one or more proceedings before the Department;
29. **Reputation** refers to the product and its name that are widely known in the sector of production or trade or in the use of related goods;
30. **Revoke** means, in connection with a power of attorney, the cancellation by the principal of the authority previously given to a practitioner or other person to act on behalf of the principal;
31. **Suspension** means the Department competency to suspend of the geographical indication use when an operator infringes the rules of the book of specification
32. **Trademark** refers to any sign, or any combination of signs, capable of distinguishing the goods or services of one person from those of other person. The term **mark** refers to any type of mark including a trademark, collective mark, or certification mark;
33. **Use of geographical indication** refers to offer for sale, production, sale, export or import of geographical indication goods;
34. **User of geographical indication** refers to only producers or operators who carry

out business within the geographical region specified for the geographical indication and who use the registered geographical indication on or in connection with the goods to which the geographical indication relates;

35. **Well-known mark** means a trademark, which is widely recognized by the relevant sector within the territory of the Lao PDR, including where such knowledge is a result of promotion of the trade mark.

Article 3. Competent Authority - Duties of the Department of Intellectual Property

The Department of Intellectual Property in the Ministry of Science and Technology shall be the competent authority for determining whether an application to register a geographical indication meets the legal requirements set forth in the Law on Intellectual Property and this Decision and for deciding other matters set forth in this Decision. The Department shall have such other duties as provided by Law or Decision.

The Ministry of Science and Technology confers the rights to manage, register, recognize, and protect the Geographical Indications in the PDR Lao to the Department.

Department of Intellectual Property is mainly responsible for:

1. Receiving and examining applications;
2. Examining the book of specifications;
3. Receiving objections and counterstatements;
4. Registering the geographical indications and amendment, suspension, invalidation, and cancellation of geographical indications;
5. Conciliating the conflicts related to geographical indications;
6. Publishing the registered Geographical indications in Official Gazette;
7. Issuing the authorization to use the National Geographical Indication logo;
8. Supervising the controls on geographical indications;
9. Performing any other instruction in relation to geographical indications matters received from the Minister of Science and Technology;
10. The Department shall appoint boards or committees as may be needed to implement the Law on Intellectual Property and this Decision;

In carrying out its responsibilities, the Department shall have the authority to take necessary actions as may be required to prevent or correct mistakes on matters within its responsibility, and to ensure the orderly operations of the Department, and to grant extensions of time in appropriate cases, provided all such actions are consistent with the Law on Intellectual Property and this Decision and with any international agreement or convention to which the Lao PDR is a party.

Article 4. Geographical Indications

Pursuant to Articles 3 and 18 of the Law on Intellectual Property, a geographical indication is subject to protection only where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. Such quality, reputation, or characteristic may be based on natural factors including conditions of the soil, air, water, ecology, and other natural conditions or on human factors including skill and the experience of the manufacturers and traditional production methods of that locality.

Article 5. Language.

Application forms for geographical indications are available in the Lao and English languages. The language requirements of Article 37 of the Law on Intellectual Property shall be deemed to have been complied with for purposes of the GI application. Where application and accompany documents are in English, applicant must translate such documents into Lao.

Any material accompanying an application may be filed in either the Lao language or in the English language. In case of application or document(s) filed or submitted in English, the applicant must, within 90 days of such filing or submission, provide a translation in the Lao language. Such translation must be certified by the translator, or by another person who has personally reviewed the translation, to be a true and correct translation of the translated document.

Any other correspondence with the Department and accompanying material shall be in the Lao language or the English language, provided that where correspondence is submitted in the English language, a translation into the Lao language shall be submitted within 90 days of the submission, or not less than 30 days from notification by the Department to supply a Lao translation. For correspondence and documents submitted under this paragraph, the Department shall have the authority to grant extensions of time in appropriate circumstances and on such conditions as may be determined by the Department.

Where translation would lead to confusion or be unhelpful, the Department may waive the translation with regard to specific portions of a document, such as names of persons, organizations, trade names or trademarks, technical terms, or street names that would not be readily recognizable in translation.

SECTION II

Geographical Indications Applications

Article 6. Persons Eligible to Obtain Protection

Pursuant to the article 26 of the Law on Intellectual Property, persons shall be eligible to obtain protection for geographical indications, to file an application to register a geographical indication, to receive a registration certificate, to enforce their rights administratively or through the courts, and to undertake any other actions pursuant to the Law on Intellectual Property or this Decision.

For purposes of Article 26 of the Law on Intellectual Property, the term organization shall be understood to include a governmental organization or an intergovernmental organization or an agency or office of such organization.

Article 7. Applicant

Producer groups, operators, institutions, and/or interested persons intending to apply for the registration of a geographical indication in Lao PDR shall constitute a Geographical Indication Association and shall discharge their statutory responsibility to administer and function, on a non-profit basis. The Association shall be recognized by the Department. The Association shall ensure that its members comply with the book of

specifications and other obligations designated by Law on Intellectual Property and this Decision.

For each product applied as a geographical indication, the applicant should give the evidences of its ability to defend and manage the geographical indication scheme.

When receiving the application, the Department should consider the following duties of the applicant:

1. To draft specifications, contribute to its implementation by producers/members and participate in the implementation of control plans, mainly by performing internal controls;
2. To maintain the list of the geographical indication producers and/operators, it shall submit to the control body and the Department;
3. To participate on activities related to the protection of the name of the product and the land, the valuation of the product as well as the statistical knowledge of the value chain;
4. To implements decisions of the Department in relation to geographical indication matters.

When the geographical indication is applied, the Applicant should present the following documents to the Department:

1. The rules and, where applicable, the internal regulations of the organization;
2. 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;
3. Information on the organization and the resources devoted to the tasks defined in paragraph 3 of this article of this Decision.

The Department may request additional information to consider the recognition of the Association. Particularly, the Department shall make sure that 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.

An applicant without business premises or residence in the Lao PDR shall appoint a representative in the Lao PDR in accordance with the requirements of the Law on Intellectual Property.

Article 8. Single Producer/Operator

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:

1. The person concerned is the only producer willing to submit an application;
2. 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.

Article 9. Geographical Indication Association Duties

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

1. Contribute to ensuring that the quality, reputation and authenticity of their products are guaranteed on the market by monitoring the use of the name in trade and, if necessary, by informing competent authorities as referred to in Article 2 of this Decision.
2. Take action to ensure adequate legal protection of the protected geographical indication and of the intellectual property rights that are directly connected with them;
3. Develop information and promotion activities aiming at communicating the value-adding attributes of the product to consumers;
4. Develop activities related to ensuring compliance of a product with its specification;
5. 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;
6. 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.

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

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.

SECTION III

Procedure for Geographical Indication Registration

Article 10. Geographical Indication Application

In accordance with the article 35 of the Law on Intellectual Property, the application shall be filed with the Department by the applicant or through his representative.

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

1. Geographical Indication application form;
2. Name of the geographical indication;
3. Name and address of the applicant;
4. Name and address of representative and a power of attorney if the application is filed through a representative;
5. Type of goods covered by the geographical indication application;
6. Book of specifications as defined in Article 11 of this Decision;
7. A summary of the book of specification;
8. Receipt of payment of fee and service fee;

9. Any other relevant document in relation to the geographical indication application.

An application of foreign geographical indication as referred to Section 6 shall, in addition, include proof that the name of the product is protected in its country of origin.

The format and content of the geographical indication application form as referred to in paragraph 2 of this article shall be decided by the Department.

Article 11. 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 the authorities or, if available, the name and address of bodies verifying compliance with the provisions of the product specification;
8. Method used to control the products according to the process of production and in accordance with the general rules defined by the Department of Intellectual Property, Ministry of Science and Technology;
9. Any specific labelling rule for the product in question;
10. Any other information, if needed.

Article 12. Withdrawal of Application

The applicant may withdraw the application at any time by notifying its decision in writing to the Department.

In case of the application is deemed withdrawn as referred to in paragraph 1, all fees that have been paid to the Department cannot be reimbursed.

Article 13. Payment of the Fee and Service Fee

Where the procedures of article 10 have been completed, the applicant or applicant's representative shall pay the applicable fee and service fee at the Department in accordance with the Presidential Decree on Fees. The Department shall issue a payment receipt.

Article 14. Definition of the filing date

The filing date is defined:

1. When the geographical indication is applied at the Department; and
2. Where an Application has fulfilled the formal requirements and the fees has been paid as referred in Articles 10 and 13 of this Decision.

Article 15. Formality Examination

Pursuant to the Article 38 of the Law on Intellectual Property, the Department shall conduct a formal examination of the applications. For this purpose, the Department shall check the application and notify within sixty (60) days from the filing date of the application.

When the application duly fulfils the requirements, the Department shall officially issue an acknowledgement of application.

In case the application does not fulfil the requirements, the Department shall issue a letter to the applicant specifying the points to be added or adjusted. The applicant may add or adjust the application within sixty (60) days from the date of the notification. The application shall be deemed to have been abandoned if there is no addition or adjustment or response or positive explanation within the aforesaid period. At the reasonable request of the applicant, the Department may provide an extension for another sixty (60) days. The Department shall check the added or adjusted documents and respond within thirty (30) days from the date of receiving those documents.

Article 16. Substantive Examination

Pursuant to the article 40 of the Law on Intellectual Property, an application that has satisfied with the formal requirements shall be subject to a substantive examination by the Department.

The substantive examination conducted by the Department shall be in accordance with articles 18 and 25 of the Law on Intellectual Property and article 10 and 11 of this Decision.

If the application complies with the registration requirements as referred to Articles 25, 35 and 40 of the Law on Intellectual Property and articles 10 and 11 of this Decision, the Department shall proceed with the registration of the geographical indication.

In case the Department considers that an application shall be refused or amended, a notification in writing shall be sent to the applicant or through his representative stating the reasons thereof.

The applicant or his representative may respond by stating his reasons within a period of ninety (90) days at the latest from the date of receipt of the notification from the Department.

In case of the applicant or his representative does not respond to the notification as referred to in paragraphs 4 and 5 of this article, the Department shall decide the refusal of the application and notify this decision to the applicant or through his representative.

In case of the applicant or his representative responds to the notification as referred to in paragraph 5, the Department shall within 30 (thirty) days at the latest from the receipt of such response conduct a re-examination of the application.

In case of the Department approves the arguments contained in the response as referred to paragraph 5, the Department shall register the Geographical Indication.

In case of the Department disagrees with the response as referred to paragraph 5, the Department shall decide the refusal of the Application.

The Department shall notify in writing this Decision of refusal as referred to paragraph 9 to the applicant or through his representative by stating the reasons thereof.

In case of an application is refused, all fees that have been paid to the Department cannot be reimbursed.

The Applicant or his representative may submit an appeal petition to the competent Court or Board of Appeals against this Decision of the Department within a period of 90 days at the latest from the date of receipt of this Decision.

In the course of the substantive examination of an application, the Department may invite the applicant or any interested person to provide additional explanation or evidence. The Department may seek advice from experts in related fields and if needed take this advice into consideration when making its decision.

Article 17. Amendment during examination

As provided in Article 42 of the Law on Intellectual Property, when an application is pending with the Department and before the Department has granted registration thereon, and before the abandonment, final rejection, or other termination of proceedings on the application, the applicant may amend the application without fee, provided that such amendment is minor.

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

1. Introduce new goods on the application
2. Relate to the essential characteristics or nature of the product;
3. Alter the link referred to in point 6 of the Book of specifications
4. Include a change to the name, or to any part of the name of the product;
5. Affect the defined geographical area; or
6. Represent an increase in restrictions on trade in the product or its raw materials

Article 18. Abandonment of Application

Pursuant to Article 43 of the Law on Intellectual Property, the Department shall determine that an application is abandoned for the following reasons:

1. If the application is incomplete and does not meet minimum requirements for obtaining a filing date, as referred to Article 14 of this Decision;

2. Where the application does not meet the requirements for protection, at the conclusion of the substantive examination and the expiration of any period for response by the applicant;

Article 19. Publication

Where the Department finds that an application complies with the requirements for protection as provided in the Law on Intellectual Property and this Decision, the Department shall register the geographical indication, record the relevant information in the official industrial property gazette, publish the application as provided in Article 44 of the Law on Intellectual Property, and issue a registration certificate.

Where a publication contains a mistake, the related applicant may request a new publication with corrected information, without additional fee, provided that such request must be filed within two months from the date of the earlier publication.

The book of specifications shall remain available for consultation at the Department upon request of any interested person.

Section IV Effect of Registration

Article 20. Rights Conferred

When a geographical indication is registered at the Department, in accordance with the provisions of the Law on Intellectual Property and this Decision, members of Geographical Indications Association, producers and/or operators, who comply with the book of specifications, are authorized to use the registered geographical indication. These rights shall not be transferable.

The owner of a geographical indication shall have the right to institute a complaint to the competent courts either against any person who used its geographical indication without authorization or against any member of Geographical Indication Association who infringed a geographical indication as provided for in Article 59-of the Law on Intellectual Property.

Article 21. Geographical Indication Protection

As referred to in Article 59 of the Law on Intellectual Property, national and foreign geographical indications registered in the Lao PDR shall be protected against any.

1. Direct or indirect commercial misuse of a registered geographical indication in respect of identical or comparable goods to those of the registered geographical indication where the misuse benefited or would benefit from the reputation of the geographical indication;
2. Unauthorized use, imitation, evocation or translation of the geographical indication even if the true origin of the goods is accompanied by the expression such as style, type, method, manner, imitation, or translations of such expressions, or of similar expressions likely to mislead the public in relation to wine or spirit.
3. False or misleading indication as to origin, nature, or specific quality of the goods appearing on packaging, or in advertising materials or on other documents concerning the goods that are likely to mislead its origin;

4. Other practices likely to mislead the public as to the true origin of the goods.
Protected geographical indications shall not become generic.

Article 22. Generic Terms

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

1. The existing situation in areas of consumption;
2. The relevant national legal acts.

Article 23. Duration of Protection

The registration of geographical indication shall be valid from the date of the filing of the application provided that its registration is not cancelled or invalidated according to the Law on Intellectual Property and this Decision.

Article 24. Public Order

Registration of a geographical indication may be refused where its publication would be contrary to public order and morality as used in international agreements to which the Lao PDR is a party. In particular, registration may be refused to any indication that consists of, comprises, or includes material that is scandalous or obscene or otherwise offensive, where it includes disparaging material, or where publication of the geographical indication would constitute a violation of national law.

Section V Foreign Geographical Indications

Article 25. Requirements of Foreign Geographical Indication Registration

A foreign geographical indication be registered as long as the foreign geographical indication is registered in accordance with the local provision in its country of origin. The Department shall not allow the registration of a foreign geographical indication which is not or has ceased to be protected in its country of origin or which has fallen into disuse in that country.

The Department may register a foreign geographical indication only if the application is made by representative.

Article 26. Procedure for Foreign Geographical Indication Registration

The application for a foreign geographical indication registration shall be filed with the Department.

Provisions of Articles 35, 40 of the Law on Intellectual Property and the section III of this Decision shall apply mutatis-mutandis to the foreign geographical indication registration procedure

Article 27. Objection and Appeal of Foreign Geographical Indication

The provisions concerning the duration, conditions and procedures of objection and appeal contained within the Law on Intellectual Property and this Decision shall apply to foreign geographical indications.

Section VI

Geographical Indication and Recognition or Rejection of Trademark

Article 28. Geographical Indication and Trademark

A geographical indication shall be refused registration pursuant to paragraph 5 of Article 25 of the Law on Intellectual Property if it is identical with or similar to a protected trademark as provided in accordance with Article 28 of this Decision and the use of the indication in connection with the goods to which it applies is likely to lead to misunderstanding or confusion as to the origin of the said goods as provided in Article 36 of this Decision.

For purposes of Article 25 of the Law on Intellectual Property, a "protected mark" includes a trademark registered in the Lao PDR and a mark that is well-known in the Lao PDR at the time the geographical indication application is being evaluated.

For purposes of Article 25 of the Law on Intellectual Property, a geographical indication that is the subject of an application shall be considered to be

1. **Identical** where it cannot be distinguished in its essential aspects from a registered trademark or well-known mark.
2. **Similar** where it resembles a registered trademark or well-known mark as described below in such a way as to give the same overall commercial impression.

Article 29. Well-known Trademarks

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.

Section VII

Control Compliance of Geographical Indications

Article 30. Competent Authority in Relation to Geographical Indication Controls

In accordance with article 3 of this Decision the Department is the competent authority or authorities responsible for official controls carried out to verify compliance with the legal requirements related to the geographical indication scheme established by this Decision.

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 31. Controls on Geographical Indications

Official controls shall cover:

1. Verification that a product complies with the corresponding product specification;
2. Monitoring of the use of registered names to describe product placed on the market, in conformity with Article 21 of this Decision.

Article 32. Delegation by Competent Authorities to Control Bodies

Pursuant to article 3 of this Decision the competent authority may delegate, specific tasks related to official controls of the geographical indications schemes to one or more control bodies.

Such control bodies shall be accredited in accordance with ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).

Accreditation referred to in paragraph 2 of this Article may only be performed by:

1. A national accreditation body;
2. An accreditation body outside the Lao PDR that is a signatory of a multilateral recognition arrangement under the auspices of the International Accreditation Forum.

Article 33. List of Certification and Control Bodies

The Department shall make public the name and address of the certification bodies or control bodies referred to the Article 36 of this Decision and update that information periodically.

Article 34. Approval of Certification or Control bodies

Certification and control bodies referred to in Article 36 of this Decision are approved by decision of the Department. Certification and control bodies shall apply the approval to the Department which shall issue this Decision within 45 (forty) days from the reception of the application.

A certification body or control body shall be approved for the control of one or more geographical indication products.

Approval of certification and control bodies is awarded for a period of three years. It is renewed at the request of the beneficiary, under the same conditions as prevailed at issue.

Article 35. Duties of Certification and Control Bodies

Approved certification and control bodies shall remain at the disposal of the competent services of the Department and shall provide documents to control their functioning, the legality of their actions and the effectiveness of controls they perform.

Article 36. Compliance Control

The applicant may select a certification body or control body which is legally registered in Lao PDR or which is allowed to provide control or certification activities in Lao PDR.

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.

To verify the effective compliance after registration, the Department may invite the owner or interested person to provide additional explanation or evidence. The Department may request advice from experts in related fields in order to consider and reach a decision if needed.

The certification body or control body shall ensure the verification of the compliance of goods produced according to the book of specifications. The certification body or control body shall send an annual report to the Department every year including a list of certified producers, operators, products, quantities and measures taken if any. The Department shall determine the date of the report based on the harvest season or the end of calendar year. Any documents other than Lao language shall be translated into Lao with the confirmation of the correct translation.

In the case of non-compliance with the book of specifications by any producers or operators, the certification body or the control body shall report to the Department appropriate measures and sanctions as follows:

1. Remarks and advice;
2. Warning;
3. Disqualify operator or producer for any lot of his products;
4. Temporary suspension of the operator or producer rights from using the geographical indication;
5. Definitive revocation of the operator or producer rights from using the geographical indication.

The Geographical Indication Association shall comply with this Decision of the certification body or control body. The Geographical Indication Association shall report to the Department on the implementation of the measures.

Article 37. Efficiency of the Certification or Control Body

The Department shall verify the efficiency of the certification body or control body. In case of inefficiency, the Department is authorized to deny the certification of body or control body by outlining the evidence in writing and may order the applicant to select a new certification body or control body.

Article 38. Right and Duty to Control

The Geographical Indication owner shall have the right and duty to exercise control over the use of the geographical indication and in particular to prevent the use of the registered geographical indication on or in connection with goods:

1. that do not originate in the relevant geographical origin or in any way that indicates or suggests that the good originates in a geographical area other than its true place of origin or
2. in a manner that misleads the public as to the geographical origin of the good.

In exercising control over the use of the geographical indication, the registrant must restrict the use of the geographical indication to goods from the relevant region

Section VIII **Objection, Amendment, Invalidation and Cancellation of** **Geographical Indication Registration**

Article 39. Grounds for Objection

As referred to Articles 44 of the Law on Intellectual Property, a reasoned statement of objection shall be admissible only if it is received by the Department within the time limit set out in the Law on Intellectual Property and if it:

1. shows the non-compliance with the definitions relating to geographical indication within Articles 3 and 18 of the Law on Intellectual Property;
2. shows that the registered geographical indication is not able to be registered as a geographical indication as stated in Article 25 of the Law on Intellectual Property.

The grounds for objection shall be assessed in relation to the territory of the Lao PDR.

Article 40. Objection Procedure

Pursuant to Article 44 of the Law on Intellectual Property, at any time within five years from the date of publication of a registered geographical indication, any interested party may object to the registration of the geographical indication or request its modification or cancellation. For purposes of Article 44 of the Law on Intellectual Property, a request to modify the registration shall be referred to as an objection, and a request to cancel the registration in its entirety shall be referred to as a cancellation.

An objection or cancellation request may be brought by filing an application to modify or cancel the registration and paying the fee therefor. The application shall indicate whether the application requests modification or cancellation and the relief sought. The application must be signed by the party or parties bringing the action or by their representative

An objection must include an allegation that registration of the geographical indication interferes with, or reasonably can be expected to interfere with, the exercise of the rights of the objecting party as they existed on or before the effective filing date of the application to register the geographical indication.

Article 41. Amendment after Registration

After registration, a geographical indication registration may be amended. Amendment after registration is subject to payment of the appropriate fee as set forth in the Presidential Decree on Fees.

Where the amendment involves one or more modifications to the book of specifications that are not minor, the amendment application shall follow the procedure laid down in Section III of this Decision.

However, if the proposed amendments are minor, the Department shall approve or reject

the application. In the event of the approval of amendments implying a modification of the elements referred to in a former objection procedure, the Department shall publish those elements in the Official Gazette.

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

1. Relate to the essential characteristics of the product;
2. Alter the link referred to in point 6 of the Book of specifications
3. Include a change to the name, or to any part of the name of the product;
4. Affect the defined geographical area; or
5. Represent an increase in restrictions on trade in the product or its raw materials

Article 42. Grounds for Cancellation of Geographical Indication Registration

Pursuant to the article 45 of the Law on Intellectual Property, the Department may, on its own initiative or at the request of third party having a legitimate interest, cancel the registration of a protected geographical indication in the following cases:

1. where compliance with the conditions of the book of specification is not ensured;
2. where no product is placed on the market under the geographical indication for at least seven years.
3. it is convinced upon the evidence that the owner of the registered geographical indication is not the legitimate owner;
4. foreign geographical indication which are not or cease to be protected in their country of origin, or which have fallen into disuse in that country;

Provisions of Article 16, 18 and 19 of this Decision shall apply mutatis-mutandis to the procedure for cancellation of a geographical indication registration.

Article 43. Effect of Cancellation of Registration

The Department shall examine the observation for cancellation by verifying the facts and evaluate the same in order to make a decision to confirm, amend or cancel the geographical indication based on the Law on Intellectual Property and this Decision.

The cancellation of geographical indication registration shall be deemed to have been effective from the date of this Decision.

All cancellations of geographical indication registration shall be recorded and published in the Official Gazette and be publicized.

Section IX

National Logo for Certifying Geographical Indication Goods

Article 44. Creation of the National Geographical Indication Logo

A National logo designed to publicise protected geographical indications is established. The National Geographical Indication logo shall be administered and subject to trademark registration by the Department.

Article 45. Condition to Use the National Logo

Protected geographical indications and the National Geographical Indication logo may be used by any producer or operator producing and/or marketing a product conforming to the corresponding book of specifications.

A person wishing to use the National Geographical Indication logo as referred to in paragraph 1 of this article and article 44 of this Decision shall apply either via the Geographical Indication Association or directly to the Department and receive prior permission from the Department. The Department is empowered to issue permissions to use the National Geographical Indication logo.

In the case of products originating in the Lao PDR that are marketed under a protected geographical indication registered in accordance with the procedures laid down in this Decision, the National Geographical Indication Logo associated with it shall appear on the labelling. In addition, the registered name 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.

In the case of products originating in third countries marketed under a name entered in the register, the indications referred to in paragraph 2 or the National Geographical Indication logo associated with them may appear on the labelling.

The Director General or a person assigned by the Director General is empowered to issue permission for the use of the National Geographical Indication Logo.

Article 46. User of the National Geographical Indication Logo

Persons having the right to use the National Geographical Indication Logo must have the following qualifications:

1. being a producer or an operator member of a Geographical Indication Association;
2. Complying with the geographical indication book of specifications.

The permission to use the National Geographical Indication logo is subject of fees. Users are entitled to produce their own National Geographical Indication logo stickers, labels or packaging according to the specifications provided by the Department.

Article 47. Control of the National Geographical Indication Logo

The Department shall manage and update a list of persons allowed to use the National Geographical Indication logo. The list of the allowed persons shall remain available for consultation at the Department upon request of any interested person.

In case the Department later finds the person allowed to use the National Geographical Indication logo does not comply with the provisions set out previously, the Department 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. The Department is entitled to take administrative actions and sanctions in case of infringements to the National Geographical Indication logo.

Allowance to use the National Geographical Indication logo shall be revoked in the

following circumstances:

1. If any allowed person uses the National Geographical Indication logo in ways other than specified in the present article, the Department has the right to revoke the allowance to use the National Geographical Indication logo and the person allowed to use the National Geographical Indication logo must cease to use the said Logo.
2. In case the registration of a geographical indication according to article 46 and 47 of this Decision has been cancelled, it shall be deemed that permission to use the National Geographical Indication logo is also cancelled.

Article 48. Duration of the Authorization

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

Section X Appeal procedures

Article 49. Appeal Procedure

Any interested person or his representative may file an appeal petition to the competent courts against this Decision of the Department in relation to the Geographical Indications registration.

The appeal petition as referred to in paragraph 1 shall be filed in writing to the competent courts within a period as referred to in the Law of Civil Procedure with the payment of fee.

The provisions of the Law on Intellectual Property on Civil procedures and the implementing regulations shall apply mutatis-mutandis to the provisions regarding appeal petition.

Article 50. Board of Appeals

A Board of Appeals shall be constituted to resolve administrative appeals relating to the grant, refusal, or any requirement made by the Department in connection with an application or registration or other proceeding. The Board of Appeals shall be independent of any Division within the Department. The Board may have permanent or temporary existence, provided that no person shall take part in deciding an administrative appeal of such person's own decision.

Appeals and other actions provided in this Section are necessary and appropriate to the orderly administration of the Law on Intellectual Property. A request made under these procedures is part of the administrative procedure of the Department and is without prejudice to any rights that may arise under the Petitions Law. Appeals, requests for reconsideration, and other actions provided in this Section shall be governed by the procedures set forth in this Decision.

Article 51. Appeal procedure within the Board of Appeals

The appeal petition lodged within the Board shall be motivated. Appeal petition is subject of fees.

When the Board receives a petition concerning the appeal of an applicant or any interested person, the Board shall check the admissibility of the appeal petition. This Decision of the GI Board is notified to the applicant or any interested person.

The Board shall then examine the content of the appeal petition. This Decision of the Board shall be sent in a written notice, together with reasons, to the applicant or any interested person within thirty days from the date of this Decision. If the applicant or the interested person does not agree with this Decision of the Board, the applicant or the interested person shall have the right to bring an action in court within 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 this Decision of the Board is final.

The Department must implement this Decision of the Board of Appeals.

Section XI Implementation of International Treaties and Interpretation

Article 52: Protection available, International Treaties

1. Protection for any geographical indication shall be available in accordance with the Law on Intellectual Property and provisions set forth in the present Decision.
2. The provisions of any international treaties in relation to geographical indications matters, to which Lao PDR is party, shall apply to matters dealt with by the Law on Intellectual Property and the Decision.
3. In case of any conflict between the provision of the Decision and the provisions of any international treaty/agreement to which the Lao PDR is a party or has mutually signed, the provisions of the latter shall be implemented.

Section XI Registration Fees and Service Fees

Article 53. Registration fees and service fees

Geographical indications registration fee and service fee are in according with the Presidential Decree on Fees.

Section XII Final Provisions

Article 54. Implementation

The Department of Intellectual Property shall be responsible for organizing the drastic implementation of this Decision.

Article 55. Effective date

This Decision shall enter into force on the date of its signature. The regulations and decision if deemed to contravene this Decision shall be abolished.

Minister of Science and Technology




Prof. Dr. Boviengkham VONGDALA