GUIDELINES FOR THE PROTECTION OF GEOGRAPHICAL INDICATIONS

November 2008

This publication was produced for review by the United States Agency for International Development. It was prepared by Dr. Judy Goans, for TAPR II Project.
GUIDELINES FOR THE
PROTECTION OF GEOGRAPHICAL INDICATIONS

TECHNICAL ASSISTANCE FOR POLICY REFORM II
CONTRACT NUMBER: 263-C-00-05-00063-00
BEARINGPOINT, INC.
USAID/EGYPT POLICY AND PRIVATE SECTOR OFFICE
NOVEMBER 2008
AUTHOR: DR. JUDY GOANS
ENABLING POLICY ENVIRONMENT FOR BUSINESS

DISCLAIMER:
This report is made possible by the support of American people through the United States Agency for International Development (USAID). The contents of this report are the sole responsibility of BearingPoint, Inc. and/or its implementing partners and do not necessarily reflect the views of USAID or the United States Government.
INTRODUCTION

Geographical indications can be used to distinguish goods produced in one place from similar goods produced in another place. Developing a reputation for high-quality goods, or goods with particular characteristics, can add value to products and benefit all producers of that type of goods within the same geographic region. It is therefore important to develop procedures that will permit producers to capture the value of the reputation of their products, and to protect their geographical indications against unfair use by others who wish to trade on the reputation developed by producers in the region. Procedures are also needed to protect consumers against the labeling or marketing of goods bearing deceptive geographical indications.

The purpose of this Guide is to describe procedures for protecting geographical indications in Egypt, in the context both of Egyptian law and practice and also international agreements that related to the protection of geographical indications.
DEFINITIONS


Department: Department of Trade Registry.

Authority: General Authority for Trademarks and Industrial Designs.

Application: an application for registration.

Register: The Register established to record geographical indications that are protected in Egypt. The term Register refers to the collection of data maintained by the Trademark or Industrial Designs Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored; references to page include the electronic or paper copy, or both.

Gazette: Trade Mark and Industrial Design Gazette.

Geographical Indication: Any indication (such as a word or name) which identifies a good as originating in a particular geographical territory, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

Office: the Trademark Office.

Person: a natural person or a legal entity; references to a “person” include both unless specified otherwise.

Registration: the registration of a mark by the Trademark Office, or registration of a geographical indication, as appropriate.

Paris Convention: Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended.


Page: Page in the Register; references to page include the electronic or paper copy, or both.

File: collection of documents associated with an application; references to file include an original or replacement file, or both; references to file also include the electronic or paper copy, or both.
GEOGRAPHICAL INDICATIONS – HOW PROTECTED

REGISTER OF GEOGRAPHICAL INDICATIONS

Protection of geographical indications is accomplished in Egypt by registering the indication on the official Register of Geographical Indications in the Trademark Office in the Commercial Registration Authority.

WHAT CAN BE REGISTERED

Law 82/2002, Article 104, provides for the protection of geographical origin that “has become descriptive of the quality, reputation or other characteristics of a certain product so as to be largely instrumental in its marketing,” where the indication indicates a place of origin in a country that is a WTO Member or accords reciprocity to Egypt. Thus, to be registrable, an indication must

1) Indicate geographic origin,
2) Indicate something about that products other than their geographic origin,
3) Apply to goods (not services).

Law 82/2002 Article 104

Where a geographical origin has become descriptive of the quality, reputation or other characteristics of a certain product so as to be largely instrumental in its marketing, such geographical indications shall be used to indicate the place of origin of such goods in a district or part in a country member in the World Trade Organization or a country according Egypt reciprocity.

The protection in the country of origin is required to protect such indications.

Law 82/2002 Article 105

A person residing in a place especially reputed for the production of a given product, may not affix on the products of his trade geographical indications in such a manner as to lead the public to believe that the products were produced in that place of special reputation.

Article 106

No means may be used to designate or present any products, in such a manner as to lead the public to believe that such products were produced in a geographical area other than its real place of origin.
Law 82/2002 Article 107

A person producing any products in a place especially reputed for the production of such products, may not affix the geographical indication of that place on similar products he produces in other places in such a way as to suggest that such products were produced in the reputed place.

INDICATIONS NOT REGISTRABLE

The common descriptive term for a product, in common usage in the Arab Republic of Egypt for the type of goods, cannot be registered as a geographical indication.

Law 82/2002 Article 108

Where a geographical name has become descriptive, to indicate in a commercial sense the nature of any products and not their geographical place of origin, such geographical name may be used in connection with such products.

GOODS TO WHICH THE GEOGRAPHICAL INDICATION APPLIES

The applicant is required to state explicitly and specifically the good/s or product/s which are sought to be registered as geographical indications. It could be of agricultural nature such as rice, cotton, coffee; craftsman products such as carpets, furniture; food and dairy products such as cheese and chocolate; wines and spirits; animal products such as wool; as well as any other good/s or products/s that meet the provisions of the geographical indications registration
WHo CAN REGISTER A GEOGRAPHICAL INDICATION

Any interested party may apply to register a geographical indication. An applicant may therefore be a producer, a governmental organization, or an association or society, or any other party with an interest in protecting the geographical indication, including a representative from an embassy or consulate of a foreign country. No particular formalities are required other than completing the application form as described below. However, see Effect of Registration, below.

EFFECT OF REGISTRATION

The effect of registration of a geographical indication in Egypt is to give notice that the indication is protected as a geographical indication under Law 82/2002. The registration of a geographical indication in Egypt may therefore facilitate and serve as a basis for obtaining recognition of the geographical indication in the courts or in other countries.

Registration does not confer exclusive rights on the applicant. That is, the registration is not “owned” in the same sense that a trademark registration is owned, and that fact that a party has registered the geographical indication does not, by itself, permit that party to use the geographical indication on that party’s goods or to prevent others from using the geographical indication.

The ability to use the geographical indication is independent of registration. That is, a party who produces the type of goods to which the geographical indication applies, and within the region indicated by the geographical indication, is entitled to use the geographical indication on those goods in a manner that is consistent with honest business practices and does not deceive or mislead the public. This is true the geographical indication is registered to another party.

Likewise, the fact a party has registered the geographical indication does not authorize such a party to use the indication on goods that are not produced within the geographical region to which the indication applies, or to use the geographical indication on goods actually produced in that region if the use would tend to deceive or mislead the public as to the nature of the goods.

Because the right to use a geographical indication is not conditioned on registration, does not create an exclusive right, and is not “owned” by any particular party, including the registrant, a geographical indication cannot be licensed or assigned. There would be no benefit to any party in attempting to obtain a license or assignment from a registrant since use does not require registration, and a use that is contrary to law – that is, the use of the geographical indication on goods not produced in the geographic region – would be prohibited notwithstanding a so-called license or assignment.

In addition, a geographical indication cannot be an element of a mark where the use of the geographical indication in the mark would tend to mislead or confuse the public as to the geographic origin of the goods, or as to the nature of the goods or their qualities. Where a
geographical indication is part of a mark, the trademark owner is obligated to produce the goods only in the relevant geographical region.

**LAW 82/2002, ARTICLE 67**
(8) Marks and geographical indications which are likely to mislead or confuse the public or which contain false descriptions as to the origin of products, whether goods or services, or their other qualities, as well as the signs that contain an indication of a fictitious, imitated or forged trade name.

**LAW 82/2002, ARTICLE 104**
Where a geographical origin has become descriptive of the quality, reputation or other characteristics of a certain product so as to be largely instrumental in its marketing, such geographical indications shall be used to indicate the place of origin of such goods in a district or part in a country member in the World Trade Organisation or a country according Egypt reciprocity.

The protection in the country of origin is required to protect such indications.

**LAW 82/2002, ARTICLE 105**
A person residing in a place especially reputed for the production of a given product, may not affix on the products of his trade geographical indications in such a manner as to lead the public to believe that the products were produced in that place of special reputation.

**LAW 82/2002, ARTICLE 106**
No means may be used to designate or present any products, in such a manner as to lead the public to believe that such products were produced in a geographical area other than its real place of origin.

**LAW 82/2002, ARTICLE 107**
A person producing any products in a place especially reputed for the production of such products, may not affix the geographical indication of that place on similar products he produces in other places in such a way as to suggest that such products were produced in the reputed place.

**LAW 82/2002, ARTICLE 109**
The registration of a trademark including a geographical indication requires the continuous production, by the applicant, of the products in the reputed geographical area.
LAW 82/2002, ARTICLE 110
A trademark including a geographical indication may not be registered, where such an indication is likely to mislead the public as to the real origin of the goods.

REQUIREMENTS FOR REGISTRATION

The applicant must complete and submit an application to register a geographical indication. It is not required that the application be made on an official form, provided that the required information is provided. If the geographical indication has not been previously registered in Egypt, the applicant must submit an application that includes sufficient information to enable the Trademark Office to determine whether to approve the registration.

If the previously registered geographical indication is registered by an official governmental body, it is not necessary or appropriate for a private party to submit a separate application. In such cases, a producer of goods should obtain whatever permission is required from the governmental registrant to use the geographical indication on the producer’s goods.

Where a geographical indication has previously been registered in Egypt by a private party, a separate application may be filed. In such cases, the applicant has the option of submitting a shorter application based on the earlier application. In these cases, the later application will be entirely dependent on the previous application. The contents of the two applications are given below:

PREVIOUSLY UNREGISTERED GEOGRAPHICAL INDICATION

For a geographical indication that has not previously been registered in Egypt, the application must include the following items.

1. Geographical indication to be protected
2. Goods to which the geographical indication applies
3. Geographic region in which goods are produced
4. Statement that the territory is a region within Egypt, a WTO Member, a Paris Convention country, another international convention under which protection of geographical indications may be claimed in Egypt, or another country or territory that grants reciprocal protection to Egypt.
5. Name and address of the entity seeking registration
6. Correspondence address if different from the above.
7. Nationality of the Applicant
8. Legal Status
9. Agent and agent’s address, if applicable
10. Whether the geographical indication is protected in the country of origin
11. Statement describing the basis on which the protection is claimed

OPTIONAL PROCEDURE: APPLICATION WHERE GEOGRAPHICAL INDICATION HAS PREVIOUSLY BEEN REGISTERED IN EGYPT

If the applicant takes advantage of the optional procedure relying on a previously registered geographical indication, the application must include the following items.

1. Geographical indication to be protected
2. Goods to which the geographical indication applies
3. Geographic region in which goods are produced
4. Name and address of the entity seeking registration
5. Correspondence address if different from the above.
6. Nationality of the Applicant
7. Legal Status
8. Agent and agent’s address, if applicable
9. Prior registration that forms the basis for the claim of protection
10. Statement that applicant’s goods are produced in the same region, and according to the same standards, as those mentioned in the prior registration, and that applicant has no knowledge of any reason that it should not be permitted to use the same geographical indication.

EVALUATING APPLICATION FOR REGISTRATION

In evaluating an application for registration of a geographical indication, the examiner should consider the following factors.

GEOGRAPHICAL INDICATION TO BE PROTECTED

The applicant is required to state the geographical indication to be protected. If the indication consists entirely of text (e.g., a name, words, numbers, or letters) without stylized representation, it is sufficient to provide the indication in typed format. In this case, the applicant should state that the geographical indication consists of the following name, words, numbers, etc., as appropriate. If the proposed geographical indication contains text in stylized form, or any other symbol or logo, the applicant should supply a clear copy of the stylized text, symbol, or logo.
GOODS TO WHICH THE GEOGRAPHICAL INDICATION APPLIES

The applicant should state the type of goods to which the geographical indication applies.
Note: The protection of geographical indications does not apply to services.

GEOGRAPHIC REGION IN WHICH GOODS ARE PRODUCED

The applicant is required to state the geographical region of the goods to which the geographical indication applies and the nature of the geographical region. For example, the applicant might state that this geographical region is a country; a city, governorate, state, department, or other governmental region within the country; or a region within a country. If the geographical region does not correspond to governmental boundaries, the applicant should describe the boundaries of the region, in sufficient detail to permit evaluation as to whether a product originates within the region, e.g., the southeastern portion of a country between the Green Mountains and Red River. It is permissible for a geographical region to include more than one governmental entity, provided that all of the geographic region encompassed by the application meets the statement of eligibility described in the following item, i.e. that the territory is a region within Egypt, a WTO Member, etc.

STATEMENT THAT THE TERRITORY IS A REGION WITHIN EGYPT, A WTO MEMBER, A PARIS CONVENTION COUNTRY, ANOTHER INTERNATIONAL CONVENTION UNDER WHICH PROTECTION OF GEOGRAPHICAL INDICATIONS MAY BE CLAIMED IN EGYPT, OR ANOTHER COUNTRY OR TERRITORY THAT GRANTS RECIPROCAL PROTECTION TO EGYPT

The applicant must state whether the applicable geographic region is within the territory of Egypt, a WTO Member, a Paris Convention country. If the region is not within one of those regions, the applicant must state the legal basis for claiming protection under Egyptian law.

Note that this requirement is in addition to the requirement of nationality for the applicant.

NAME AND ADDRESS OF THE ENTITY SEEKING REGISTRATION

The applicant should indicate the name and address of the association, the society, the ministry, or any other entity that the registration certificate will bear its name.

CORRESPONDENCE ADDRESS IF DIFFERENT FROM THE ABOVE
If there are no changes in the above address, the applicant should mention that there is no change in the address. Any changes in the correspondence address must be notified to the Trademark Office as soon as possible.

**NATIONALITY OF THE APPLICANT**

The applicant should state the nationality of the applicant. If not a national of Egypt, a Paris Convention country, a WTO Member, or other country or territory entitled to protection in Egypt, the applicant may indicate, if appropriate, that it has a real and effective establishment in one of those countries. Note that nationality of the applicant is separate from the requirement that the geographical region be within a territory that is entitled to have protection of its geographical indications.

**LEGAL STATUS**

The applicant must state whether the applicant is legal or natural person, government, private, syndicate, society, association, corporation or other entity.

**AGENT AND AGENT’S ADDRESS, IF APPLICABLE**

It is not required to appoint an agent. However, if the applicant has assigned an agent to undertake the responsibility of filing and prosecuting the geographical indication registration application, the name and address of the agent are to be mentioned in the power of attorney. It is preferable if the application also mentions the telephone, email, and fax numbers. Note: there is no requirement for a certified or other power of attorney. The applicant’s signature on the application form is sufficient. If the form will be signed by a person other than the applicant – who can be any interested party – then a power of attorney should be submitted, but there is no requirement for certification or other formalities.

**WHETHER THE GEOGRAPHICAL INDICATION IS PROTECTED IN THE COUNTRY OF ORIGIN**

The applicant is required to state whether the geographical indication is protected in the country of origin. If it is so protected, the applicant should attach evidence that the geographical indication is protected. The evidence required will depend on the circumstances. Normally, a copy of a registration in the country of origin will be sufficient evidence. Note that in some cases, protection may be as a certification mark. If a registration is not available, a copy of a court decision will also be sufficient evidence.

Note: If the item is already registered in Egypt, it may be unnecessary to submit an additional application. See above.
STATEMENT DESCRIBING THE BASIS ON WHICH THE PROTECTION IS CLAIMED

The applicant is required to state the reasons on which the applicant claims that the geographical indication is entitled to be protected and should be registered. Such reasons must be consistent with article 104 of law 82 of 2002 and any international convention to which Egypt is a party.

To be entitled to protection, the proposed geographical indication must consist of

- An indication
- That identifies a good
- As originating in a geographical region
- Where that region is in a territory of a WTO Member, Paris Convention country, or other territory that meets the requirements of eligibility for protection
- Where a given
  - quality,
  - reputation or
  - other characteristic
- of the good is essentially attributable to its geographical origin.

Note that this last factor states three separate grounds for claiming that a geographical indication is entitled to protection. These are described in more detail below.

In addition, the proposed geographical indication must not be

- The common or descriptive term used to describe the goods in Egypt.

The applicant can also attach any certificates, documents, or other evidence to substantiate the claim that the geographical indication is entitled to protection and enable the Trademark Office to make an adequate and proper evaluation of the application for registration.

QUALITY OF THE GOODS

If the claim for protection of a geographical indication is based on the quality of the goods, the application must state the quality criteria that must be met to entitle goods to bear the geographical indication and describe the quality control measures that are applicable. Acceptable evidence will depend on the circumstances but may include, as appropriate, a copy of the applicant’s quality standards and statement as to how these standards are enforced, representative results of laboratory tests of samples of the goods if applicable, and evidence of any other measures that can be used to authenticate the origin of the goods based on the geographical indication.

REPUTATION OF THE GOODS
If the claim for protection of a geographical indication is based on the reputation of goods, the application should present evidence demonstrating that the goods enjoy a special reputation based upon their geographic origin. This may be established by presenting evidence showing that the goods are thought to be of a particular quality or to have special characteristics, without regard to whether such quality or characteristics can be scientifically demonstrated. Acceptable evidence will depend on the circumstances but could include, for example, the results of consumer surveys showing that consumers recognize the indication as indicating not only geographic origin but also as indicating that the goods have special characteristics or quality; copies of internet sites or advertisements from other media showing goods advertised or described using the geographical indication, in such a way as to indicate that the goods enjoy a widespread reputation, copies of sales data showing that goods have been widely sold under the particular geographical indication, or dictionary listings indicating that the geographical indication has achieved popular recognition. Evidence that the goods sell for a higher price than other goods of the same or a similar type from other geographic regions, or not sold under the geographical indication, are also evidence of reputation.

Note that it is not necessary that all potential consumers recognize the geographical indication, which may enjoy a reputation only among a certain category of consumers. In this latter case, it may be sufficient to provide evidence relating only to this smaller group of consumers, in which case, the application should describe the group of consumers among which the reputation is recognized.

OTHER CHARACTERISTIC OF THE GOODS

If the claim for protection of a geographical indication is based on other characteristics of the goods, the application must state that characteristic (or those characteristics) and specify criteria that must be met to entitle goods to bear the geographical indication. Acceptable evidence will depend on the circumstances but may include, as appropriate, a copy of the applicant’s control standards and statement as to how these standards are enforced, representative results of laboratory tests of samples of the goods if applicable, and evidence of any other measures that can be used to authenticate the origin of the goods based on the geographical indication.

COMMON OR DESCRIPTIVE TERM FOR THE GOODS IN EGYPT

An indication cannot be protected as a geographical indication in Egypt, even if it meets other criteria for protection, if it is the common or descriptive term in Egypt for a particular type of goods. Unlike other factors, which must be substantiated by the applicant, this determination is made solely by the examiner. To determine whether a term is the common or descriptive, the examiner should consult a reasonable number of sources. These may include official governmental certifying bodies, internet sites, dictionaries, and the like. Note that use of the geographical term in the local market does not necessarily demonstrate that a term is descriptive: it may simply indicate an instance of infringement. The determination of whether a term is a common or descriptive term should be made in the same manner as the determination of descriptiveness for trademarks.
ACCEPTABLE EVIDENCE

In general, the examiner should consider any evidence offered by the applicant. If there are serious doubts as to its authenticity or correctness, the examiner should request clarification from the applicant. If clarification is not sufficient to resolve doubts, the examiner should consult with the Head of the Commercial Registry to determine whether to require authentication of the evidence. Evidence should be examined in light of the claims made to determine whether it is relevant and whether it tends to substantiate the claims. Examiners should not insist on a high level of evidence, as the Trademark Office is not a scientific laboratory or other certifying body. The level of evidence should simply be sufficient to establish, with reasonable certainty, that the application meets the requirements for legal protection within Egypt.

OPPOSITION

Once the application has been examined, it should be published for opposition. Opposition procedures are the same as for trademarks. If no opposition is filed within 30 days, the registration can be made. If an opposition is filed, it should be considered according to trademark procedures and the above criteria.
LEGAL AUTHORITIES

Egyptian Law 82/2002 for the protection of Intellectual property rights provides the primary basis for protecting geographical indications in Egypt. Egypt is also bound to protect geographical indications by virtue of its membership in the World Trade Organization on the basis of provisions in the Agreement on Trade-Related Aspects of Intellectual Property Rights.

In addition to specific authority relating to geographical indications, there is legal authority to prevent the use of false or misleading indications of the source of goods, which may be present in some misuses of geographical indications, on the basis of the Madrid Agreement.

LEGAL AUTHORITY UNDER LAW 82/2002

Law 82/2002 Article 104

Where a geographical origin has become descriptive of the quality, reputation or other characteristics of a certain product so as to be largely instrumental in its marketing, such geographical indications shall be used to indicate the place of origin of such goods in a district or part in a country member in the World Trade Organization or a country according Egypt reciprocity.

The protection in the country of origin is required to protect such indications.

Law 82/2002 Article 105

A person residing in a place especially reputed for the production of a given product, may not affix on the products of his trade geographical indications in such a manner as to lead the public to believe that the products were produced in that place of special reputation.

Article 106

No means may be used to designate or present any products, in such a manner as to lead the public to believe that such products were produced in a geographical area other than its real place of origin.

Law 82/2002 Article 107

A person producing any products in a place especially reputed for the production of such products, may not affix the geographical indication of that place on similar products he produces in other places in such a way as to suggest that such products were produced in the reputed place.
Law 82/2002 Article 108
Where a geographical name has become descriptive, to indicate in a commercial sense the nature of any products and not their geographical place of origin, such geographical name may be used in connection with such products.

Law 82/2002 Article 109
The registration of a trademark including a geographical indication requires the continuous production, by the applicant, of the products in the reputed geographical area.

Law 82/2002 Article 110
A trademark including a geographical indication may not be registered, where such an indication is likely to mislead the public as to the real origin of the goods.

Law 82/2002 Article 111
A trademark including a geographical indication may be registered if the right conferred by the mark was acquired in good faith before the entry into force of this Law, or before the geographical indication has been granted in the country of origin.

Law 82/2002 Article 112
Any interested party may institute normal proceedings before the competent court of first instance to order prohibiting the use of any geographical indication not included in a registered trademark, where such use is likely to mislead the public as to the real origin of the products.

The competent court of first instance shall be the court having jurisdiction at the place where the geographical indication is used.

Law 82/2002 Article 113
Without prejudice to any more severe punishment under any other law, shall be punishable by imprisonment for a period of not less than two months and by a fine of not less than 5,000 pounds and not more than 20,000 pounds, or by either punishment, any person who:

1. counterfeits a trademark registered in accordance with the law or imitates it in a manner which is likely to mislead the public;
2. fraudulently uses counterfeit or imitated trademarks;
3. fraudulently affixes to his products a trademark belonging to a third party;
4. Knowingly sells, offers for sale or distributes, or acquires for the purpose of sale, products bearing a counterfeit or imitated mark, or on which the mark was unlawfully affixed.

In case of repetition, the offence shall be punishable by imprisonment for a term of not less than two months and by a fine of not less than 10,000 pounds and than 50,000 pounds.

In all cases, the court shall order the confiscation of the infringing products, the revenue and the returns of such products as well as the implements used in the infringement.

The court may, when issuing a condemnation, order the closure of the enterprise used to commit his infringement, for a period not exceeding six months. In the event of repetition the enterprise shall imperatively be closed down.

**Law 82/2002 Article 114**

Without prejudice to any more severe punishment under any other law, shall be punishable by imprisonment for a period of not less than one month and by a fine of not less than 2,000 pounds and not more than 10,000 pounds or by either punishment any person who:

1. affixes a false trade indication to his products, on or inside his shops or warehouses, on signboards, packaging, invoices, correspondence, advertisements or any other means used for offering the products to the public;

2. fraudulently places on his marks or commercial documents an indication that leads to believe that such mark has been registered;

3. uses a mark that has not been registered, in the cases provided for in paragraphs 2, 3, 5, 7 and 8 of Article 67;

4. mentions medals, diplomas, awards or other honorary distinctions of any kind whatsoever, in relation to the products in respect of which such distinctions do not apply, or in relation to the persons or commercial names who did not acquire them;

5. participates with others in exhibiting products and uses for his own private products the distinctions granted to the jointly exhibited products, unless he indicates in a clear manner the source and nature of such distinctions;

6. affixes on the products of his own trade, in a place especially reputed for the production of a certain product, geographical indications in such a manner as to mislead the public to believe that those products were produced in that place;

7. uses any means for the designation or exhibition of products in a manner that may mislead the public as to the production of those goods in a geographical place especially reputed rather than the real place of origin of such products;
(8) manufactures a product in a place especially reputed for its production and who affixes a geographical indication on similar products he produces in other places in such a way as to suggest that such goods were produced in the said place.

In case of repetition, such an offence shall be punishable by imprisonment for a period of not less than one month and by a fine of not less than 4,000 pounds and not more than 20,000 pounds.

**Law 82/2002 Article 115**

The president of the competent court considering the merits of the case may, upon a request by an interested party, and on petition, order one or more appropriate conservatory measures, and in particular:

1. Establish the infringement of a protected right.
2. Draw up an exhaustive inventory and detailed description of all the machines and implements used or may have been used in the infringement, as well as the products, goods, signboards of shops, packaging, invoices, correspondence, advertisements or the like, on which the mark or the geographical indication, subject of the offence, might have been affixed, as well as the products imported, on their arrival.
3. Order the seizure of the articles stated in item (2).

In all cases, the President of the court may order the assignment of one or more experts to assist the bailiff in charge of the execution. He may order the requesting party to provide an appropriate security.

The requesting shall submit the merits of the case to the competent court, within 15 days of issuing the order, failing which such order shall cease to have effect.

**Law 82/2002 Article 116**

The convicted person may, within 30 days from the date of the issue or notification, appeal such an order to the president of the court. The president may confirm or revoke the order, totally or partly.

**Law 82/2002 Article 117**

The court may, in any civil or penal action, order the sale of the articles distrained, or to be distrained, and deduct their value from the amounts of the compensation or fines, or dispose of them by any other means the court may deem appropriate.

The court may also order the destruction of the illegal marks and, where necessary, the destruction of the products, goods, signboards, packaging, invoices, correspondence, advertisements or other items bearing these marks or bearing illegal description or geographical indications, infringing the provisions of this Book.
may also order the destruction of the machines and implements used specifically in
the act of infringement.

The court may further order that its judgement be published in one or more
newspapers - at the expense of the convicted party.

The court may order some or all of the above measures, even in the event of
acquittal.

Law 82/2002 Article 118

The Minister of Justice shall, in agreement with the competent minister, appoint
persons with judiciary powers for the implementation of the provisions of this Part.

LEGAL AUTHORITY UNDER TRIPS AGREEMENT

TRIPS Article 22
Protection of Geographical Indications

1. Geographical indications are, for the purposes of this Agreement, indications
which identify a good as originating in the territory of a Member, or a region or locality
in that territory, where a given quality, reputation or other characteristic of the good is
essentially attributable to its geographical origin.

2. In respect of geographical indications, Members shall provide the legal means
for interested parties to prevent:

   (a) the use of any means in the designation or presentation of a good that
       indicates or suggests that the good in question originates in a geographical
       area other than the true place of origin in a manner which misleads the public
       as to the geographical origin of the good;

   (b) any use which constitutes an act of unfair competition within the meaning
       of Article 10bis of the Paris Convention (1967).

3. A Member shall, ex officio if its legislation so permits or at the request of an
interested party, refuse or invalidate the registration of a trademark which contains or
consists of a geographical indication with respect to goods not originating in the
territory indicated, if use of the indication in the trademark for such goods in that
Member is of such a nature as to mislead the public as to the true place of origin.

4. The protection under paragraphs 1, 2 and 3 shall be applicable against a
geographical indication which, although literally true as to the territory, region or
locality in which the goods originate, falsely represents to the public that the goods
originate in another territory.
TRIPS Article 23

Additional Protection for Geographical Indications for Wines and Spirits

1. Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.

2. The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated, ex officio if a Member's legislation so permits or at the request of an interested party, with respect to such wines or spirits not having this origin.

3. In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

4. In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system.

TRIPS Article 24

International Negotiations; Exceptions

1. Members agree to enter into negotiations aimed at increasing the protection of individual geographical indications under Article 23. The provisions of paragraphs 4 through 8 below shall not be used by a Member to refuse to conduct negotiations or to conclude bilateral or multilateral agreements. In the context of such negotiations, Members shall be willing to consider the continued applicability of these provisions to individual geographical indications whose use was the subject of such negotiations.

2. The Council for TRIPS shall keep under review the application of the provisions of this Section; the first such review shall take place within two years of the entry into force of the WTO Agreement. Any matter affecting the compliance with the obligations under these provisions may be drawn to the attention of the Council, which, at the request of a Member, shall consult with any Member or Members in respect of such matter in respect of which it has not been possible to find a satisfactory solution through bilateral or plurilateral consultations between the Members.
Members concerned. The Council shall take such action as may be agreed to facilitate the operation and further the objectives of this Section.

3. In implementing this Section, a Member shall not diminish the protection of geographical indications that existed in that Member immediately prior to the date of entry into force of the WTO Agreement. Notwithstanding the first sentence of Article 42, Members may, with respect to these obligations, instead provide for enforcement by administrative action.

4. Nothing in this Section shall require a Member to prevent continued and similar use of a particular geographical indication of another Member identifying wines or spirits in connection with goods or services by any of its nationals or domiciliaries who have used that geographical indication in a continuous manner with regard to the same or related goods or services in the territory of that Member either (a) for at least 10 years preceding 15 April 1994 or (b) in good faith preceding that date.

5. Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either:

(a) before the date of application of these provisions in that Member as defined in Part VI; or

(b) before the geographical indication is protected in its country of origin; measures adopted to implement this Section shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.

6. Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in the territory of that Member. Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in the territory of that Member as of the date of entry into force of the WTO Agreement.

7. A Member may provide that any request made under this Section in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Member or after the date of registration of the trademark in that Member provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Member, provided that the geographical indication is not used or registered in bad faith.

8. The provisions of this Section shall in no way prejudice the right of any person to use, in the course of trade, that person’s name or the name of that person’s predecessor in business, except where such name is used in such a manner as to mislead the public.
9. There shall be no obligation under this Agreement to protect geographical indications which are not or cease to be protected in their country of origin, or which have fallen into disuse in that country.

RELATED LEGAL ISSUES

In addition to specific legal protection for geographical indications, there is long-standing protection against the use of false or deceptive indications of source on goods and other acts of unfair competition. Since an indication of source is one element of a geographical indication, goods that improperly apply a geographical indication also often violate protections against false or deceptive indications of source. These requirements are addressed in the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, an international agreement concluded in 1891 and of which Egypt has been a member since 1952, and in the Paris Convention, concluded in 1883 and of which Egypt has been a member since 1951. In addition, the Paris Convention specifically addresses the use of false regional indications as an act of unfair competition.

LEGAL AUTHORITY UNDER THE MADRID AGREEMENT

Madrid Agreement Article 1

(1) All goods bearing a false or deceptive indication by which one of the countries to which this Agreement applies, or a place situated therein, is directly or indirectly indicated as being the country or place of origin shall be seized on importation into any of the said countries.

(2) Seizure shall also be effected in the country where the false or deceptive indication of source has been applied, or into which the goods bearing the false or deceptive indication have been imported.

(3) If the laws of a country do not permit seizure upon importation, such seizure shall be replaced by prohibition of importation.

(4) If the laws of a country permit neither seizure upon importation nor prohibition of importation nor seizure within the country, then, until such time as the laws are modified accordingly, those measures shall be replaced by the actions and remedies available in such cases to nationals under the laws of such country.

(5) In the absence of any special sanctions ensuring the repression of false or deceptive indications of source, the sanctions provided by the corresponding provisions of the laws relating to marks or trade names shall be applicable.

Madrid Agreement Article 2
(1) Seizure shall take place at the instance of the customs authorities, who shall immediately inform the interested party, whether an individual person or a legal entity, in order that such party may, if he so desires, take appropriate steps in connection with the seizure effected as a conservatory measure. However, the public prosecutor or any other competent authority may demand seizure either at the request of the injured party or ex officio; the procedure shall then follow its normal course.

(2) The authorities shall not be bound to effect seizure in the case of transit.

**Madrid Agreement Article 3**

These provisions shall not prevent the vendor from indicating his name or address upon goods coming from a country other than that in which the sale takes place; but in such case the address or the name must be accompanied by an exact indication in clear characters of the country or place of manufacture or production, or by some other indication sufficient to avoid any error as to the true source of the wares.

**Madrid Agreement Article 3bis**

The countries to which this Agreement applies also undertake to prohibit the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods, and appearing on signs, advertisements, invoices, wine lists, business letters or papers, or any other commercial communication.

**Madrid Agreement Article 4**

The courts of each country shall decide what appellations, on account of their generic character, do not fall within the provisions of this Agreement, regional appellations concerning the source of products of the vine being, however, excluded from the reservation specified by this Article.

**LEGAL AUTHORITY UNDER PARIS CONVENTION**

**Paris Convention, Article 10**

*False Indications: Seizure, on Importation, etc., of Goods Bearing False Indications as to their Source or the Identity of the Producer*

(1) The provisions of the preceding Article shall apply in cases of direct or indirect use of a false indication of the source of the goods or the identity of the producer, manufacturer, or merchant.

(2) Any producer, manufacturer, or merchant, whether a natural person or a legal entity, engaged in the production or manufacture of or trade in such goods and
established either in the locality falsely indicated as the source, or in the region
where such locality is situated, or in the country falsely indicated, or in the country
where the false indication of source is used, shall in any case be deemed an
interested party.

**Paris Convention Article 10bis**

*(Unfair Competition)*

(1) The countries of the Union are bound to assure to nationals of such countries
effective protection against unfair competition.

(2) Any act of competition contrary to honest practices in industrial or commercial
matters constitutes an act of unfair competition.

(3) The following in particular shall be prohibited:

1. all acts of such a nature as to create confusion by any means whatever with
   the establishment, the goods, or the industrial or commercial activities, of a
   competitor;

2. false allegations in the course of trade of such a nature as to discredit the
   establishment, the goods, or the industrial or commercial activities, of a competitor;

3. indications or allegations the use of which in the course of trade is liable to
   mislead the public as to the nature, the manufacturing process, the characteristics,
   the suitability for their purpose, or the quantity, of the goods.

**Paris Convention, Article 10ter**

*(Marks, Trade Names, False Indications, Unfair Competition: Remedies, Right to
Sue)*

(1) The countries of the Union undertake to assure to nationals of the other countries
of the Union appropriate legal remedies effectively to repress all the acts referred to
in Articles 9, 10, and 10bis.

(2) They undertake, further, to provide measures to permit federations and
associations representing interested industrialists, producers, or merchants, provided
that the existence of such federations and associations is not contrary to the laws of
their countries, to take action in the courts or before the administrative authorities,
with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so
far as the law of the country in which protection is claimed allows such action by
federations and associations of that country.