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Page: 1/13

**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**REVIEW UNDER ARTICLE 24.2 OF THE APPLICATION OF THE
PROVISIONS OF THE SECTION OF THE TRIPS AGREEMENT
ON GEOGRAPHICAL INDICATIONS**

RESPONSES TO THE CHECKLIST OF QUESTIONS¹

UKRAINE

The present document contains responses to the Checklist of Questions which the Secretariat has received from the delegation of Ukraine on 9 August 2018.

1 SECTION A: GENERAL

1. Is protection for geographical indications provided through unfair competition law, e.g., passing off, false designation of origin; through a formal procedure for notification/registration before protection is available; or through both? Does the recognition of a geographical indication require registration?

The legal protection for geographical indications is provided through the procedure for their registration, and remains in force without time limitation from the registration date. Registration is carried out in accordance with the special Law of Ukraine "On the Protection of Rights to Indication of Origin of Goods" (hereinafter referred to as the Law)².

2. Is there one single regime of protection of geographical indications for all products? If not, identify the different regimes.

There is one single regime of legal protection of geographical indications for all products.

3. Do(es) the regime(s) of protection of geographical indications also extend to services?

The regime of legal protection of geographical indications does not extend to services.

4. What provisions of law or regulations are directed to the recognition of geographical indications required by Articles 22.2 and 23.1 of the TRIPS Agreement? Citations to laws should be provided and, if the texts of the laws have not been notified to the WTO, copies should be provided pursuant to Article 63.2.

According to Article 23 (1) of the Law, the infringement of rights to use the indication of origin of goods is the use of an indication which is not true (false), or an indication misleading consumers as to the real appellation of origin of goods. The protection of rights to an indication of origin of goods is performed in the court and other procedures prescribed by the Law.

¹ Documents IP/C/13 and IP/C/13/Add.1.

² The term "Qualified Indication of Origin of Goods" is used in the Law instead of the term "Geographical Indication".

An entity may gain unlawful advantage in competition, in particular, by disseminating misleading information. According to Article 15-1 of the Law of Ukraine "On Protection Against Unfair Competition", the misleading information includes, in particular, information containing untruthful, inaccurate or incomplete data about the origin of goods, manufacturer, seller, manufacturing method, sources and acquisition method, sales method, quantity, consumer properties, quality, completeness, suitability for use, standards, characteristics, goods (works and services) selling aspects, prices and discounts for them, as well as the essential terms of the contract.

Committing the acts defined by the Law "On Protection Against Unfair Competition" as unfair competition shall entail liability, in particular, the imposition of penalties, restitution, confiscation of unlawfully labeled goods and duplicated goods originating from a different business entity, and the refutation of untruthful, inaccurate or incomplete data (Articles 20-26).

The provisions of Article 23.1 of the TRIPS Agreement are provided for in Article 23 (3b) of the Law: the use of the registered indication of geographical origin of goods on goods not originating from the geographical place registered for that indication, even in the case of the real appellation of origin of goods or geographical indication of its origin being used in the translation, or being followed by the words *kind, type, style, brand, imitation, etc.*

5. If the required recognition of geographical indications is not provided through statutes or regulations, please explain, in detail, the mechanism or mechanisms through which the protection required is provided.

The recognition of geographical indications is provided through special laws in this sphere.

6. Please provide a few examples of domestic geographical indications protected in accordance with the means discussed above and indicate the means by which such protection is provided.

The recognition of geographical indications is provided through special laws in this sphere.

7. Is the higher level of protection required for wines and spirits under Article 23.2 of the TRIPS Agreement provided for any other product? If so, please specify such products and the law under which they are protected.

The level of protection required for wines and spirits under Article 23.2 of the TRIPS Agreement is also provided in Ukraine for all other product categories. According to Article 6 (3)(5) of the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services", designations shall not be registered as marks if they are identical or misleadingly similar to qualified indications of the origin of goods (including spirits and alcohol drinks) that are protected according to the Law "On the Protection of Rights to Indication of the Origin of Goods". Such signs may be used only as non-protected elements of the marks of the persons who have the right to use the said indications.

7(a). Does your economy's industrial property law and/or related law prevent the use of geographical indications identifying wines or spirits against products not originating in the place indicated by the geographical indication, 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?

Yes, the mentioned provisions are provided by Article 23 (3b) of the Law: the infringement of the rights of the owner of a certificate for the registration of rights to use a registered qualified indication of origin of goods is the use of a registered indication of a geographical origin of goods, if this goods does not originate from the geographical place registered for this indication, even if the real place of origin of the goods or the geographical indication of its origin is used in translation or accompanied by the words *kind, type, style, brand, imitation, etc.*

2 SECTION B: DEFINITION AND CRITERIA FOR RECOGNITION

8. How are geographical indications defined?

Under the Law, *qualified indication of origin of goods* means the term incorporating such terms: appellation of origin of goods and geographical indication of origin of goods.

Appellation of origin of goods means a geographical place name used for marking of goods originating from the indicated geographical place and having particular properties that are exclusively or essentially due to the natural conditions specific for that geographical place or to the combination of these natural conditions with human factor specific for this geographical place.

Geographical indication of origin of goods means any wording or figurative (graphic) indication directly or indirectly denoting the geographical place of the origin of goods which possesses certain qualities, reputation or other characteristics mainly due to natural conditions or human factor or a combination of these natural conditions and human factor.

9. Would such a definition comprise geographical indications identifying products of a certain quality or reputation which are indirectly linked to a specific region?

A geographical indication of origin of goods has an indirect link with a geographical place since the goods designated by this name has certain qualities, reputation or other characteristics, partly due to natural conditions and/or human factors specific for that geographical place. The law requires that at least the main component of the goods designated by this name be produced and/or processed within the boundaries of the designated geographical place.

10. In determining whether recognition should be given a geographical indication, what criteria are considered?

Under Article 7 (3) of the Law, the legal protection is provided for the appellation of origin of goods, for which the following conditions are met:

- a. it is the name of the geographical place from which goods originate;
- b. it is used as a name of goods or as a component part of that name;
- c. in the geographical place specified by that name the specific natural conditions or the combination of the natural conditions and human factor providing particular properties to the goods in comparison with similar goods from the other geographical places exist objectively;
- d. the goods marked with that name have respective properties that are exclusively, or essentially, due to the natural conditions specific for that geographical place or the combination of these conditions and human factor specific for that geographical place;
- e. the production and processing of goods marked with this name are performed within the designated geographical place.

Irrespective of the conditions provided for by this Part, the name of a geographical place is considered the appellation of origin of goods in case when the raw materials for the manufacturing of the goods originate from a geographical place other than the geographical place of manufacturing of goods, if the geographical place of manufacturing (extraction) of the raw materials is determined, special conditions for manufacturing of such raw material exist and are controlled.

According to Article 7 (4) of the Law, the legal protection is provided for geographical indication of origin of goods for which the following conditions are met:

- a. it is a name of the geographical place from which these goods originate;
- b. it is used as a name of the goods or as a component part of that name;
- c. in the geographical place specified by that name there are the specific conditions and/or human factor providing the good with the certain properties or other characteristics;
- d. the goods marked with that name have certain properties, reputation or other characteristics that are mostly due to the natural conditions and/or human factor specific for that geographical place;
- e. at least the main component of the goods marked with that name is produced and/or processed within the boundaries of the designated geographical place.

11. Is there any human creativity involved in the making of specific products under protection by the system of geographical indications? If so, how much? And do these products involve any human factors?

Special properties of goods may be conditional, in particular, upon a human factor characteristic of a particular geographical location. Human factor means the presence of people (a team), able to manufacture goods in a traditional way, their skills and experience.

12. Are there any other intellectual property rights involved, such as patents for example?

The existence of other intellectual property rights related to the goods is not a condition for the provision of legal protection for geographical indication.

13. What authority, if any, may define the geographic region or area for which rights are claimed and on what basis is such definition made?

On the basis of the Government of Ukraine Decree No. 149-p of 23 April 2001, the State Service of Ukraine for Geodesy, Cartography and Cadaster is authorized to define the geographic region or area associated with special properties, certain qualities and other characteristics of goods.

14. Does your legislation contain criteria for homonymous geographical indications for wines?

The provisions on the protection of homonymous geographical indications shall apply to all categories of goods.

According to Article 7 (5) of the Law, the legal protection can be provided to identical indications of origin of goods used for indication of similar goods differing by their properties under the condition of granting of the differences sufficient for the prevention of misleading of consumers as for real identification of goods.

Under Article 7 (6) of the Law, the legal protection is provided to homonymic indications of origin of goods under the condition of prevention of consumers' being misled as regards the real identification of goods, geographical place of origin of goods or its boundaries.

15. Does your national legislation provide for recognition and protection of geographical indications or appellations of origin of foreign countries?

The Law provides for the legal protection of a geographical indication related to a geographical place in a foreign state, if the rights to this indication, or another designation corresponding in content to the notion of a qualified indication of origin of goods, are protected in the relevant foreign state (Article 2 (8)).

16. Is there any specific prohibition in the legislation/regulations/rules/procedures covering geographical indications not protected in the country of origin? If so, please specify the relevant statutory provision.

The Law provides for the legal protection of a geographical indication related to a geographical place in a foreign state, if the rights to this indication, or another designation corresponding in content to the notion of a qualified indication of origin of goods, are protected in the relevant foreign state (Article 2 (8)).

16(a). Is there a clear distinction among the terms "geographical indications", "appellations of origin" and "indications of source" in your economy's industrial property law and/or related law, or are there any substantive criteria to distinguish these terms?

The Law defines such terms which correlate to such terms as *indication of source*, *appellation of origin* and *geographical indication*:

- *a simple indication of origin of goods* means any wording or image (graphical) designation that directly or indirectly points to geographical place of origin of goods. This can be a name of a geographical place used for marking goods or as a part of such designation;
- *a qualified indication of origin of goods* is a term covering (incorporating) such terms:
 - appellation of origin of goods;
 - geographical indication of origin of goods;
- *an appellation of origin of goods* means a geographical place name used for marking of goods originating from the indicated geographical place and having particular properties that are exclusively or essentially due to the natural conditions specific for that geographical place or to the combination of these natural conditions with human factor specific for this geographical place;
- *a geographical indication of origin of goods* means any wording or figurative (graphic) indication directly or indirectly denoting the geographical place of the origin of goods which possess certain qualities, reputation or other characteristics mainly due to natural conditions or human factor or a combination of these natural conditions and human factor.

16(b). Does your legislation contain criteria for homonymous geographical indications for wines and spirits?

In accordance with Article 7 (6) of the Law, legal protection is provided to homonymic indications of origin of goods under the condition of prevention of consumers' being misled as to the real identification of goods, geographical place of origin of goods or its boundaries.

2.1 SECTION C: PROCEDURE FOR RECOGNITION

17. With respect to any formal system for recognition of geographical indications, must the applicant be a governmental organization or can a private entity own the rights to a geographical indication?

According to Article 9 of the Law, the right to register a qualified indication of origin of goods is vested in:

- a. a person or a group of persons that in the claimed geographical place manufacture goods, the particular properties, certain qualities, reputation or other characteristics of which are related to that geographical place;
- b. consumers' associations;
- c. institutions directly related to production or investigation of relevant products, articles, technological processes or geographical places.

18. What are the competent authorities where the protection of a geographical indication can be obtained?

The Ministry of Economic Development and Trade of Ukraine organizes the acceptance of applications, their examination, makes decisions on applications, registers indications of origin of goods and/or the right to use them and publishes information about them in the official bulletin "Industrial Property".

19. Do the procedures which lead to the recognition of a geographical indication take place *ex officio* or must they be based on the initiative of an entity or person?

The recognition and registration of geographical indication in Ukraine is carried out by the Ministry of Economic Development and Trade on the basis of an application filed by a person having the right to registration in accordance with Article 9 of the Law.

20. What, if any, fees are involved in the application and maintenance of rights in a geographical indication?

The state fee for filing an application for registration of a qualified indication of origin of goods and/or for the maintenance of rights amounts to UAH 1,200. Since the action of legal protection of a qualified indication of origin of goods is in force without time limitation from the date of registration, no fees for maintenance of rights is provided for.

21. If criteria must be set out in an application for recognition of a geographical indication, are those criteria purely geographic in nature?

The application for registration of the qualified indication of origin of goods should contain the following information regarding the connection of the goods with the geographical place of origin:

- the name and boundaries of the geographical place where the goods is manufactured and to which the particular properties, certain qualities, reputation or other characteristics of goods are related;
- the description of the particular properties, certain qualities, reputation or other characteristics of goods;
- the data on interconnection of the particular properties, certain qualities, reputation or other characteristics of goods to the natural conditions and/or human factor of the specified geographical place.

22. What other criteria, if any, must be set out in an application for recognition of a geographical indication?

The application should also contain other information:

- a request for registration of the appellation of origin of goods or the geographical indication of origin of goods and/or the right to use the registered relevant qualified indication of origin of goods with information about an applicant and his/her address;
- the claimed appellation of origin of goods or the claimed geographical indication of origin of goods;
- the name of the goods for which an applicant requests registration of the specified indication of origin of goods and/or the right to use registered relevant qualified indication of origin of goods;
- the data on the use of the claimed qualified indication of origin of goods on the label and markings of goods.

23. What information must be supplied in an application for rights in a geographical indication?

Along with the application the following documents are filed:

- the document confirming the fact that the applicant manufactures goods for which he/she/it claims registration of the appellation of origin or the geographical indication of origin of goods and/or the right to use the registered corresponding qualified indication of origin of goods;
- the conclusion of a Specially Authorized Body on the fact that the particular properties, certain qualities or other characteristics of goods identified in the application are objectively due to or related to the natural conditions and/or human factor of the named geographical place of production of goods;
- the conclusion of a Specially Authorized Body on the boundaries of the geographical place to which particular properties, certain qualities or other characteristics of goods are related.

24. Must the goods or services with respect to which a geographical indication is claimed be set out?

The application shall indicate the name of the goods for which an applicant requests registration of the specified indication of origin of goods and/or the right to use the registered corresponding qualified indication of origin of goods.

25. What mechanisms are provided to oppose the recognition of a geographical indication? How is an investigation conducted after such a complaint?

According to Article 11 (8) of the Law, if by the results of the examination it is determined that the application meets the requirements provided by Articles 7, 8 and 9 of this Law, the information on the application is published in the official bulletin "Industrial Property".

Within six months from the date of publication of official data on the application, any person can submit an objection against the registration of the claimed appellation of origin of goods or the claimed geographical indication of origin of goods and/or right to use the registered relevant qualified indication of origin of goods. A fee (amounts to UAH 1,000) is paid for the submission of an objection (Article 11(10) of the Law).

The copy of the objection submitted and information on the person having filed that objection are sent to the applicant. Within two months from the date of having received the copy of the objection the applicant shall send a substantiated reply to the objection. In the case when a response to objections from the applicant does not received, the objection is considered in the prescribed order on the basis of the available materials. An objection and response on it are examined within two months from the day of the expiration of the term established for the response (Article 11 (11-12) of the Law).

26. Who can oppose the recognition of a geographical indication?

Any interested person can submit an objection against the registration of the claimed qualified indication of origin of goods.

27. If your national legislation provides for recognition and protection of geographical indications or appellations of origin of foreign countries, what is the procedure that has to be followed in order to obtain such recognition and consequent protection?

Under Article 10 (6), along with the application, instead of the conclusions of the specially authorized bodies, foreigners submit documents confirming:

- the legal protection of the claimed qualified indication of origin of goods in the relevant foreign state or the acquisition of rights to such indication on the basis of use, if so provided for by the legislation of this state;
- the right of the foreign applicant or a person authorized by them to use the relevant qualified indication of origin of goods.

The documents provided for by this paragraph can be filed in foreign language and their translation into Ukrainian shall be filed not later than three months from the filing date of the application.

Foreign geographical indications may also be protected on the territory of Ukraine on the basis of bilateral international treaties.

3 SECTION D: MAINTENANCE

28. How long does recognition for a geographical indication continue?

The legal protection of qualified indications of origin of goods remains in force without limitation as to time from the registration date.

29. If recognition of a geographical indication must be renewed or reaffirmed, what information must be provided in order to effect such a renewal or reaffirmation? Specify any fees involved in renewal or reaffirmation.

The registration of qualified indications of origin of goods is non-renewable.

30. Must a geographical indication be used in order to maintain rights? If so, how is such use determined?

An application for the registration of a qualified indication of origin of goods and/or the right to use a registered qualified indication of origin of goods must contain the data on the use of the claimed qualified indication of origin of goods on the label and when marking the goods. The Law does not contain other provisions on the necessity to use the indication.

31. Is there a specified limit for non-use before rights in a geographical indication cease and, if so, what is that limit?

The Law does not provide a grace period for non-use of qualified indications of origin of goods.

32. Who monitors the use of geographical indications to determine if the criteria identified in the application continue to be met?

The matter of monitoring particular properties, specific qualities and other characteristics of goods and compliance with the requirements of provision of legal protection to registered qualified indications of origin of goods lies within the scope of authority of designated bodies appointed by the Government of Ukraine Decree No. 149-p of 23 April 2001: the Ministry of Agrarian Policy and Food – on the agricultural products, the Ministry of Culture – on the folk artistic crafts, the Ministry of Health – on the foodstuffs, food raw and natural mineral waters.

33. If a government entity is responsible for monitoring the use of geographical indications, what are its procedures for doing so?

The matter of monitoring particular properties, specific qualities and other characteristics of goods and compliance with the requirements of provision of legal protection to registered qualified indications of origin of goods lies within the scope of authority of designated bodies appointed by

the Government of Ukraine Decree No. 149-p of 23 April 2001: the Ministry of Agrarian Policy and Food – on the agricultural products, the Ministry of Culture – on the folk artistic crafts, the Ministry of Health – on the foodstuffs, food raw and natural mineral waters.

34. Are there means by which interested parties may request termination of a geographical indication based on non-use or failure to maintain the criteria identified in the application? Describe the procedure.

According to Article 21 of the Law, the validity of the registration of a qualified indication of origin of goods can be terminated by court in the case of loss of specific conditions for a given geographical place and the capacity to produce the goods described in the Register, as well as recognition of this indication as a generic name for goods.

The right to use a registered qualified indication of origin of goods can also be terminated by the court's decision due to the fact that those goods have lost particular properties or other characteristics described in the Register, from the date fixed by the court.

Any person has the right to file a claim in court on the termination of the validity of a registration or a certificate, on the clarification of the correspondence of a qualified indication of origin of goods to its geographical place, as well as on the recognition of this indication as a generic name of goods.

35. Do the procedures which lead to forfeiture of a geographical indication take place ex officio or must they be based on the initiative of an entity or person?

The procedure of the termination of the validity of a qualified indication of origin of goods is conducted at the initiative of concerned legal entities or natural persons. The Law does not provide the termination of the registration validity by the Office's initiative.

4 SECTION E: SCOPE OF RIGHTS AND USE

36. May anyone who meets the criteria submitted to obtain recognition of a geographical indication use that geographical indication after recognition is given or must additional criteria or procedures be followed by that party before use is permitted?

In accordance to Article 9 of the Law, the right to use a registered name of a place of origin of goods or a registered geographical indication of origin of goods is vested, subject to the registration of that right, in the manufacturers, which in the geographical place designated in the Register, produce goods whose particular properties, certain qualities or other characteristics correspond to those included in the Register. The right to use is registered under the same procedure as the qualified indication of origin of goods. The registration of the right to use a qualified indication of origin of goods is authenticated by a certificate valid for ten years from the date of filing the application.

37. Who makes the determination regarding use of a geographical indication by particular parties, the entity responsible for the recognition or the entity that obtained the recognition?

The Ministry of Economic Development and Trade of Ukraine registers the rights to use a qualified indication of origin of goods and issues the certificate.

38. Are there fees involved in receiving authorization to use a particular geographical indication and, if so, what are those fees and how are they established?

The state fee for filing an application for the registration of the rights to use a qualified indication of origin amounts to UAH 1,200.

39. If there is a dispute regarding use of a geographical indication by a particular party, what procedures are followed to resolve it?

In accordance to Article 25 of the Law, enforcement of the rights to use a qualified indication of origin is performed in court and by other procedures prescribed by the Law. Courts resolve disputes on determination of the use of a qualified indication of origin of goods, owner rights infringement.

40. Must individual authorized users of a geographical indication use that geographical indication continually to retain their right to use it and, if so, how is their use determined and how long will disuse be permitted?

The Law does not lay down the requirements as to the obligatory continuous use of a registered geographical indication.

41. If there is a dispute over continuity of use by a particular party, how is it resolved?

Any disputes connected with the use of a geographical indication are resolved in the court.

42. Does the regime for protection of geographical indications allow geographical indications to be licensed and, if so, what conditions are imposed on such licenses? If such conditions are not met, what is the effect on the geographical indication?

The regime for protection of geographical indications in Ukraine does not prescribe issuing licenses for their use.

43. How is "grandfathered use" of a geographical indication, under Article 24.4 of the TRIPS Agreement, applied in your country?

There have been no instances of "grandfathered use" under Article 24.4 of the TRIPS Agreement.

5 SECTION F: RELATIONSHIP TO TRADEMARKS

44. What steps are taken to ensure that, in recognizing a geographical indication, the obligations of Article 16.1 of the TRIPS Agreement are not nullified and impaired?

The provisions of Article 16.1 of the TRIPS Agreement are contained in Article 16(5) of the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services", according to which a trademark certificate gives its owner an exclusive right to prohibit other persons to use without their permission:

- a registered mark with respect to the goods and services listed in the certificate;
- a registered mark with respect to the goods and services akin to the ones listed in the certificate, if such a use may result in deception as to the person manufacturing the goods or providing the services;
- a designation that is similar to the registered mark in respect to the goods and services listed in the certificate, if such use may result in confusion of this designation and this mark;
- a designation that is similar to the registered mark in respect to the goods and services akin to the ones listed in the certificate, if such use may result in deception as to the person manufacturing the goods or providing the services, or in confusion of this designation and this mark.

On the ground of the above provisions of the Law the owner of the earlier registered mark may file an opposition against the registration of the claimed qualified indication of origin of goods and/or the right to use.

45. What steps are taken to ensure that, in recognizing a geographical indication, the obligations of Article 16.2 and 16.3 of the TRIPS Agreement are not nullified and impaired?

The Law accommodates the provisions of Articles 16.2 and 16.3 of the TRIPS Agreement. In accordance with Article 8(1) of the Law, legal protection is not provided to a qualified indication of origin of goods which is identical or similar to the degree of confusion with the mark for goods and services, the rights for which have been recognized in Ukraine, if, taking into consideration the reputation, distinctiveness and duration of the use of this mark, such legal protection may mislead consumers as to the identity of the goods.

46. What procedures are foreseen in case of a conflict of a geographical indication with a trademark?

In case of a conflict between a trademark and a geographical indication, disputes are resolved in a judicial procedure.

46(a). Does your economy's industrial property law and/or related law provide the refusal or invalidation of a trademark registration, which consists of or contains geographical indications identifying wines or spirits with respect to such wines or spirits not originating in the indicated territory?

According to Article 6(2)(5) of the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services", legal protection shall not be granted to marks that are deceptive or able to mislead as to goods, services, or the person producing the goods or rendering services. A by-law document (Guidelines for drawing-up, filing and examination of an application for the issuance of a certificate of Ukraine for a mark for goods and services, paragraph 4.3.1.9) establishes that designations that are deceptive or able to mislead as to goods, services, or the person producing goods or rendering services include designations that evoke associations in the consumer's mind connected with a certain quality, geographical origin of goods or services or with a certain manufacturer, which are not true.

According to passage five of Article 6(3) of this Law, designations shall not be registered as marks if they are identical or confusingly similar to qualified indications of origin of goods (including alcohols and spirits) protected under the Law of Ukraine "On the Protection of Rights to Indication of Origin of Goods". Such designations may only serve as non-protectable elements of marks belonging to persons eligible to use the mentioned indications.

6 SECTION G: ENFORCEMENT**47. How are rights in the geographical indication enforced? Are provisions available under unfair competition law? Trademark law? Other laws? Provide citations to the laws and, if they have not been notified under Article 63.2 of the TRIPS Agreement, please provide copies.**

According to Article 25 of the Law, the enforcement of the right to use a qualified indication of origin is performed in court and by other procedures prescribed by the Law. Courts resolve disputes on the determination of the use of a qualified indication of origin of goods, and infringement of owner rights.

48. Who has the right to enforce a geographical indication?

The control for a registered qualified indication of origin of goods may be exercised by designated authorities controlling the presence of particular properties and other characteristics in the goods, and the owner of the corresponding certificate.

49. What judicial or administrative bodies have jurisdiction over enforcement actions related to geographical indications? Are there fees involved and, if so, what are those fees?

The authority for the enforcement actions related to geographical indications are vested in: national courts, National Police, Antimonopoly Committee, Customs Service and other bodies according to their competence.

50. Must the public be notified of the existence of a geographical indication and, if so, how and how often?

According to Article 14(6) of the Law, the data on registration of a qualified indication of origin of goods and/or the right to use a registered qualified indication of origin of goods is published in the official bulletin of Ministry of Economic Development and Trade of Ukraine – "Industrial Property".

51. Is unauthorized use of a geographical indication subject to criminal action and, if so, describe the procedures. If the law has not been notified pursuant to Article 63.2 of the TRIPS Agreement, please provide a copy.

The Criminal Code of Ukraine (Article 229) establishes liability for the unlawful use of a mark for goods and services, brand name, qualified indication of origin of goods:

1. An unlawful use of a mark for goods and services, brand name, qualified indication of origin of goods or another intentional infringement of rights to these objects, if this caused material loss on a significant scale, are punishable with fines from one thousand up to two thousand tax-free minimum incomes of individuals.

2. The same actions, when recidivated or committed in collusion with a group of individuals, or if this caused material loss on a large scale, - are punishable with a fine from three thousand to ten thousand tax-free minimum incomes of individuals.

3. The actions provided for by parts one and two of this Article, committed by a public servant taking advantage of their job position, or committed by an organized group, or if they caused material loss on an especially large scale, - are punishable with a fine from ten thousand to fifteen thousand tax-free minimum incomes of individuals with deprivation of the right to hold specified posts or prohibition to engage in specified activity for up to three years, or without such deprivation or prohibition.

Note: Material loss is considered to be caused on a significant scale if its amount exceeds the tax-free minimum income of individuals by a factor of twenty or more, on a large scale - if its amount exceeds the tax-free minimum income of individuals by a factor of two hundred or more, and on an especially large scale - if its amount exceeds the tax-free minimum income of individuals by a factor of one thousand or more.

7 SECTION H: INTERNATIONAL AGREEMENTS

52. Is your government party to an international, including bilateral or plurilateral, agreement for the notification and/or registration of geographical indications? If so, please name the international agreement and explain the relationship between it and your national legislation.

Article 4 of the Law establishes that, if an international agreement of Ukraine, a consent to be bound by which is given by the Verkhovna Rada of Ukraine, lays down rules other than the ones provided for by this Law, the rules of such international agreement shall apply.

On 1 September 2017, the Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part, signed on 21 March 2014 and 27 June 2014, in Brussels and ratified by the Law of Ukraine 1678-VII of 16 September 2014, (further – the Association Agreement), entered into full force and effect.

According to the Association Agreement, Ukraine undertook to ensure the legal protection of geographical indications for the agricultural products and foodstuffs of the EU listed in Annex XXII-C to this Agreement and the geographical indications for EU wines, aromatized wines and spirit drinks listed in Annex XXII-D to this Agreement.

In compliance with the provisions of Article 202 (3) of the Association Agreement, as of 1 January 2016, the information on the EU geographical indications listed in the annexes to the Association Agreement, have been included in the Ukraine State Register containing the names of places of origin and geographical indications of origin of goods and the rights to use registered qualified indications of origin of goods (further – the State Register).

Since 7 November 2007, the Agreement between Ukraine and Georgia on mutual legal protection of geographical indications for wines, spirit drinks and mineral waters signed on 1 March 2007, has been in force on the territory of Ukraine.

According to this Agreement Ukraine ensures legal protection of geographical indications of wines, spirit drinks and mineral waters originating from the territory of Georgia. Since 12 October 2015, as much as 22 geographical indications of Georgia have been included in the State Register.

53. What other international agreements, if any, have been entered into? What do those agreements provide?

Also, the multilateral intergovernmental Agreement on Measures for the Prevention and Repression of the Use of False Trademarks and Geographical Indications, signed on 4 June 1999, and ratified by the Verkhovna Rada of Ukraine on 21 September 2000, is in force on the territory of Ukraine.
