Geographical Indications of Goods (Registration and Protection) Rules, 2002

Notification.- G.S.R.176(E).-

In the exercise of the powers conferred by sub-section 87 of Geographical Indications of Goods (Registration & Protection) Act,1999, the Central Government makes the following rules, namely:

PART I

CHAPTER I: PRELIMINARY

1. Short title and commencement.- (1) These rules may be called the Geographical Indications of Goods (Registration and Protection) Rules, 2002

(2) They shall come into force on the date on which the Act comes into force.

2. Definitions.- (1) In these rules, unless the context otherwise requires, -

(a) "Act" means The Geographical Indications Of Goods (Registration & Protection) Act, 1999.

(b) "Agent" means a person authorised under Section 76;

(c) "Application for registration of a geographical indication" includes the geographical indication for goods contained in it;

(d) "Appropriate office of the Geographical Indications Registry" means the relevant office of the Geographical Indications Registry as specified in rule 4;

(e) "Business" includes the trading, dealing, production exploitation, making or manufacturing, as the case may be, of the goods to which geographical indication relates;

(f) "Class fee" means the fee prescribed under entry no.1 of the First Schedule;

(g) "Convention Country" means a country notified as such under sub-section (1) of section 84;

(h) "Convention Application" means an application for the registration of a geographical indication made by virtue of Section 84;

(i) “Divisional application” means a divided application made by the division of a single initial application for registration of a geographical indication for different classes of goods;

(j) “Divisional fee” means the fee so prescribed under the First Schedule;

(k) "Form" means a form set forth in either the Second or the Third Schedule;

(l) "Graphical representation" means the representation of a geographical indication for goods in paper form;

(m) "Journal" means the Geographical Indications Journal;

(n) "Notified date" means the date on which the rules come into force;

(o) “Opposition” includes an opposition to the registration of a geographical indication or authorised user as the case may be;

(p)"principal place of business in India" means the relevant place in India as specified in rule 3;

(q) "Publish" means publish in the Geographical Indications Journal;

(r) "Registered geographical indications agent" means a geographical indications agent whose name is actually on the Register of Geographical Indications Agent maintained under rule 102;

(s) “Renewal” means and includes renewal of a geographical indication by the registered proprietor of geographical indication or of the authorised user of a geographical indication as the case may be;

(t) "Schedule" means a Schedule to the rules;

(u) "Section" means a section of the Act;

(v) "Specification" means the designation of goods in respect of which a geographical indication is registered or proposed to be registered;

(w) All other words and expressions used but not defined in these rules and defined in the Act shall have the meaning assigned to them in the Act.

(2) In these rules, except as otherwise indicated, a reference to a section is a reference to that section in the Act, a reference to a rule is a reference to that rule in these rules, a reference to a Schedule is a reference to that

schedule to these rules and a reference to a form is a reference to that form mentioned in the second or third schedule, as the case may be.

3. Principal place of business in India.- "Principal place of business in India" meansi) where a person carries on business in the goods concerned bearing a geographical indication

(a) if the business is carried on in India at only one place, that place;

(b) if the business is carried on in India at more places than one, the place mentioned by him as the principal place of business in India;

(ii) where a person is not carrying on a business of the goods concerned bearing a geographical indication -

(a) if he is carrying on any other business in India at only one place, that place;

(b) if he is carrying on any other business in India at more places than one, the place mentioned by him as the principal place of business in India; and

(iii) where a person does not carry on any business in India but has a place of residence in India, then such place of residence in India.

4. Appropriate office of the Geographical Indications Registry.- (1) The "appropriate office of the Geographical Indications Registry" for the purposes of making an application for registration of a geographical indication under section 11(1) or registration as an authorised user under section 17(1) or for giving notice of opposition under sub-section (1) of section 14 or sub-section (3)(e) of Section 17, as the case may be or for filing an application for rectification under section 27 or for any other proceedings under the Act and the rules shall be – in relation to a geographical indication for which an application for registration is made on or after the notified date, the office of the Geographical Indications Registry within whose territorial limits -

(i) the principal place of business in India of the applicant as disclosed in his application or, in the case of an association of persons or producers the principal place of business in India of the applicant whose name is first mentioned in the application, as having such place of business is situate;

(ii) where neither the applicant nor any of the association of persons or producers, as the case may be, has a principal place of business in India, the

place mentioned in the address for service in India as specified in the application is situate.

(2) Notwithstanding anything contained in sub-rule (1) all applications, communications, documents or fee authorised or required by the Act or the rules to be sent, served, left or paid shall be sent or paid at or to the Head Office of the Registry notified by the Central Government initially and subsequently at the appropriate office as and when notified,.

5. Jurisdiction of appropriate office not altered by change in the principal place of business or address for service.- No change in the principal place of business in India or in the address for service in India, as the case may be, of an applicant or of any of the association of persons or producers for registration in relation to any geographical indication for which an application for registration is made on or after the notified date, made or effected subsequent to that date shall affect the jurisdiction of the appropriate office of the Geographical Indications Registry.

6. Entry of the appropriate office in the Register.- Subject to sub-rule (2) of Rule 4, in respect of every geographical indication registered after the notified date, the Registrar shall cause to be entered in the register the appropriate office of the Geographical Indications Registry and the Registrar may, at any time, correct any error in the entry so made.

7. Leaving of documents, etc.- Save as otherwise provided in sub-rule (2), of rule 4 all applications, notices, statements or other documents or any fee authorised or required by the Act or the rules to be made, served, left or sent or paid at or to the Geographical Indications Registry in relation to a geographical indication shall be made, served, left or sent or paid to the appropriate office of Geographical Indications Registry.

8. Documents etc. filed or left not at the appropriate office.- Subject to the provisions of rule 7, in an exceptional case where any application, statement or other document or any fee authorised or required by the Act or the rules is made, served, left or sent or paid, at or to an office inadvertently which is not the appropriate office of the Geographical Indications Registry as and when such an office is notified under this Act by the Central Government under sub-rule 2 of rule 4, the Registrar may on a written request return such application, statement or document to the appropriate office if he is satisfied that it was a bonafide error on the part of the applicant in such cases:

Provided the period for which such application, or statement or document is retained by the office which is not the appropriate office shall be excluded for the purposes of computing the period of limitation where any of such application, statement or document is required to be presented within the prescribed period.

Provided before declining any such request the Registrar shall provide an opportunity of being heard.

9. Issue of notices, etc.- Subject to sub-rule (2) of rule 4 any notice or communication relating to any application, matter or proceeding under the Act or the rules shall ordinarily be issued from the appropriate office of the Geographical Indications Registry but may, nevertheless, be issued by the Head of Office of any office of the Geographical Indications Registry.

10. Fees.- (1) The fees to be paid in respect of applications, oppositions, registration, renewal or any other matters under the Act or the rules shall be those specified in the First Schedule, hereinafter referred to as the prescribed fees.

(2) Where in respect of any matter a fee is required to be paid under the rules, the form or the application or the request of the petition, therefor, shall be accompanied by the prescribed fee.

(3) Fees may be paid in cash or sent by money order addressed to the Registrar of Geographical Indications or by a bank draft issued by, or by a cheque drawn on by a scheduled bank at the place where the appropriate office of the Geographical Indications Registry is situated and if sent through posts shall be deemed to have been paid at the time when the money order or the properly addressed bank draft or cheque would be delivered in the ordinary course of post.

(4) Bank drafts and cheques shall be crossed and made payable to the Registrar at the appropriate office of the Geographical Indications Registry and they shall be drawn on a scheduled bank at the place where the appropriate office of the Geographical Indications Registry is situate.

(5) Where a fee is payable in respect of filing of document and either the document is filed without fee or with insufficient fee, such document shall be deemed to have not been filed for the purposes any proceedings under the rules.

(6) Where any fee paid by a party is ordered to be returned by the Registrar under any of the provisions of the Act or the rules the amount may be

refunded by money order in which event money order commission shall be deductible from such amount.

(7) The Registrar may after notification in the Geographical Indications Journal make available electronic fee transfer facilities subject to such conditions as may be specified on that behalf.

11. Forms.- (1) The forms set forth in the Second and the Third Schedules shall be used in all cases to which they are applicable and may be modified as directed by the Registrar to meet other cases.

(2) Any form, when filed at the Geographical Indications Registry shall be accompanied by the prescribed fee.

(3) A requirement under this rule to use a form as set forth in the schedules is satisfied by the use either of a replica of that form or of a form which is acceptable to the Registrar and contains the information required by the form as set forth in the schedule and complies with any direction as to the use of such a form.

(4) The Registrar may after notification in the Geographical Indications Journal specify such forms as are required to be submitted in machine readable forms. Thereafter, such forms shall be completed in such a manner as may be specified as to permit an automated input of the content into a computer such as by character recognition or scanning.

12. Size, etc of documents.- (1) Subject to any other directions that may be given by the Registrar, all applications, notices, statements, or other documents except the geographical indication required by the Act or the rules to be made, served, left or sent, at or to the Geographical Indications Registry shall be typewritten, lithographed or printed in Hindi or in English in large and legible characters with deep permanent ink upon strong paper, and except in the case of affidavits, on one side only and of size of approximately 33 cms by 20 cms and shall have on the left hand part thereof a margin of not less than 4 centimetres.

(2) Duplicate documents including copies of geographical indications shall be filed at the Geographical Indications Registry if at any time so required by the Registrar.

(3) The Registrar may after notification in the Geographical Indications Journal alter the size of all applications, notices, statements or other document and forms required under the rules to make it compatible in machine readable form.

(4) The Registrar may after notification in the Geographical Indications Journal permit the filing of applications, statements, notices or other documents by electronic means subject to such conditions as he may specify either generally by published notice in the Journal or in any particular case by written notice to the persons desiring to file any such documents by such means.

13. Signing of documents.- (1) An application for the registration of a geographical indication purporting to be filed by an association of persons or producers shall be signed by the authorised signatory thereof to sign such documents and a document purporting to be signed by a body corporate or any organisation or any authority established by or under any law for the time being in force shall be signed by the Chief Executive, or the Managing Director or the secretary or other principal officer of such organisation. A document purporting to be signed by a partnership shall be signed by at least one of the partners. The capacity in which an individual signs a document on behalf of an association of persons or a body corporate shall be stated below his signature.

(2) Signatures to an application and any other documents shall be accompanied by the name of the signatory in English or in Hindi and in capital letters.

14. Service of documents.- (1) All applications, notices, statements, papers having representations affixed thereto, or other documents authorised or required by the Act or the rules to be made, served, left or sent, at or to the Geographical Indications Registry or with or to the Registrar or any other person may be sent through the post by a prepaid letter.

(2) Any application or any document so sent shall be deemed to have been made, served, left or sent at the time when the letter containing the same would be delivered in the ordinary course of post.

(3) In proving such sending it shall be sufficient to prove that the letter was properly addressed and put into the post.

15. Particulars of address etc. of applicants and other persons.- (1) Names and addresses of the association of persons, producers, authorised users and other persons shall be given in full, together with their nationality, calling and such other particulars as are necessary for identification.

(2) In the case of a body corporate the full name and nationality of the Board of Directors thereof shall be stated.

(3) In the case of foreign applicants and persons having no principal place of business in India, their addresses in their home country shall be given in addition to their address for service in India.

(4) In the case of a body corporate or any organisation or authority established by or under any law for the time being in force, the country of incorporation or the nature of registration, if any, as the case may be, shall be given.

16. Statement of principal place of business in India in an application.- (1) Every application for registration of a geographical indication or as an authorised user shall state the principal place of business in India, if any, of the applicant or the authorised user or in the case of association of persons or producers of goods such of them as have a principal place of business in India.

(2) Subject to the provisions of rules 17, 18, and 20, any written communication addressed to an applicant or his agent, or an authorised user or his agent or in the case of association of persons, the person authorised to act in the matter in connection with the registration of a geographical indication or their agent, at the address of his principal place of business in India given by him in the application shall be deemed to be properly addressed.

17. Address for service.- (1) An address for service in India shall be given.-

(a) by every applicant for registration of a geographical indication or by an authorised user of a geographical indication who has no principal place of business in India;

(b) in the case of an association of persons or producers for registration of a geographical indication if none of them has a principal place of business in India;

(c) by the applicant for a geographical indication who had his principal place of business in India at the date of making the application for registration but has subsequently ceased to have such place, and

(d) by every applicant or authorised user in any proceeding under the Act or the rules and every person filing a notice of opposition, who do not have a principal place of business is India.

(e) by every person granted leave to intervene under Rule 67 (the intervener)

(f) Every proprietor of a registered geographical indication which is the subject of an application to the Registrar for the invalidation or rectification of the registered geographical indication.

(g) by every applicant for cancelling, expunging and varying any entry on the register relating to a Geographical Indication or of an authorised user under sub-section (1) and (2) of Section 27

(2) Any written communication addressed to a person as aforesaid at an address for service in India given by him shall be deemed to be properly addressed.

(3) Unless an address for service in India as required in sub-rule (1) is given, the Registrar shall be under no obligation to send any notice that may be required by the Act or the rules and no subsequent order or decision in the proceedings shall be called in question on the ground of any lack or non-service of notice.

18. Address for service in application and opposition proceedings.- An applicant for registration of a geographical indication or as an authorised user or an opponent filing a notice of opposition may notwithstanding that he has a principal place of business in India, if he so desires, may furnish to the Registrar with an address in India to which communications in relation to the application or opposition proceedings only may be sent. Such address of the applicant or the authorised user or the opponent shall be deemed, unless subsequently cancelled, to be the actual address of the applicant or the authorised user or the opponent, as the case may be, and all communications and documents in relation to the application, or notice of opposition may be served by leaving them at, or sending them by post to such address of the applicant or the authorised user or the opponent, as the case may be.

19. Non-availability of an address for service.- The Registrar may, at any time when a doubt arises as to the continued availability of an address for service in India entered in the register, request the person for whom it is entered by letter directed to any other address entered in the register or if no such address is entered in the register to the address at which the Registrar considers that the letter would reach him to confirm the address for service in India and if within two months of making such a request the Registrar receives no such confirmation, he may strike the entry in the register of the address for service in India and require such person to furnish

a fresh address for service in India or his address at the principal place of business in India, if he has any at that time.

20. Agency.- (1) The authorisation of an agent for the purpose of Section 76 shall be executed on Form GI-10 or in such other written form as the Registrar may deem sufficient and proper.

(2) In the case of such authorisation, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so authorising him; all communications directed to be made to such person in respect of the proceeding or matter may be addressed to such agent, and all appearances before Registrar relating thereto may be made by or through such agent.

(3) In any particular case the Registrar may require the personal signature or presence of an applicant, opponent, proprietor, authorised user or other person.

21. Classification of goods.- (1) For the purposes of the registration of a geographical indication or as an authorised user, goods shall be classified in the manner specified in the Fourth Schedule.

(2) The goods mentioned in the Fourth Schedule only provide a means by which the general content of numbered international classes can be quickly identified. They correspond to the major content of each class and are not intended to be exhaustive in accordance with the International Classification of Goods. For determining the classification of particular goods and for full disclosure of the content of international classification, reference may be made to the alphabetical index of goods if any, published by the Registrar under sub-section (3) of section 8 or the current edition of International Classification of Goods for the purpose of registration of trade marks published by the World Intellectual Property Organisation or any subsequent edition as may be available.

(3) Where goods of more than one class are set out in an application for which only one application fee has been paid, the Registrar shall require the applicant to amend the application in order to restrict the goods to a single class.

22. Request to Registrar for search.- (1) Any person may request the Registrar on form GI-5 to cause a search to be made in respect of specified goods classified in any one class in the Fourth Schedule in order to ascertain whether any geographical indication is on record which resembles a trade mark or geographical indication of which two representations accompany the

form. The Registrar shall cause a search to be made and inform the applicant of the result of such search.

(2) If within three months from date of communication of the result of the search aforesaid an application is made for the registration of the trade mark or geographical indication in question and the Registrar takes objection on the ground that the mark or the geographical indication resembles a geographical indication, which was not disclosed in the search, but was on record on the last of the date on which the search was made the applicant shall be entitled, after withdrawal of the application for the registration of the said trade mark or the geographical indication, to have repaid to him the fee paid for search in Form GI-5

CHAPTER II: PROCEDURE FOR REGISTRATION OF GEOGRAPHICAL INDICATIONS

23. Form and signing of application.- (1) Every application for the registration of a geographical indication shall be made in the prescribed form and shall be signed by the applicant or his agent and must be made in triplicate alongwith three copies of a Statement of Case.

(2) An application to register a geographical indication for a specification of goods included in any one class shall be made in Form GI-1;

(3) An application to register a geographical indication under section 84(1) for a specification of goods included in any one class from a convention country shall be made in Form GI- 1;.

(4) A single application for the registration of a geographical indication for different classes of goods from a convention country under section 84(1) shall be made in Form GI-1;

(5) A single application for the registration of a geographical indications for different classes of goods shall be made in Form GI-1;

(6) Every application for the registration of a geographical indication for goods must satisfy the following conditions:

(a) The geographical indication must be defined with sufficient precision so that the right to obtain relief in respect of infringement of geographical indication can be determined;

(b) The graphical representation must be able to stand in place of the geographical indication without the need for supporting samples;

(c) It must be reasonably practicable for persons inspecting the Register or reading the Geographical Indications Journals to understand from the graphical representation what the geographical indications is

(d) An application for the registration of a three dimensional geographical indication shall not be acted upon as such unless the application for registration contains a statement to that effect;

(e) Where a colour combination is claimed as an element of a geographical indication in an application for the registration, it shall not be acted upon as such unless the application contains a statement to that effect and specifies the colours;

(7) An amendment to divide an application under proviso to section 15 shall be made in Form GI-5;

(8) Every application shall be in respect of one geographical indications only for as many class or classes of goods as may be made.

(9) The Registrar may require a more concise description of a geographical indications if relates to colour combination, a three-dimensional geographical indication, design which are symbols of definite concepts, a configuration of goods or packaging to evaluate the substantive rights in the geographical indications.

(10) Where an applicant files a single application for one or more classes and the Registrar determines that the goods applied for fall in class or classes in addition to those applied for, the applicant may restrict the specification of goods to the class applied for or amend the application to add additional class or classes on payment of the appropriate class fee and the divisional fee. The new class created through a division retains the benefit of original filing date or in the case of an application from a convention country, the convention application date under sub-section (1) of section 84 provided the claim was otherwise properly asserted in the original application.

24. Application under convention arrangement.- (1) Where an application for registration of a geographical indications is filed by an applicant from a convention country under section 84, a certificate by the Registry or competent authority of the Geographical Indications Office of the convention country shall be included in the application for registration under sub-rule (3) or (4) of Rule 23, as the case may be, and it shall include the particulars of the geographical indication, the country and the date or dates of filing of the first application in the convention country and such other particulars as may be required by the Registrar.

(2) Unless such certificate has been filed at the time of the filing of the application for registration, there shall be filed, within two months of the filing of the application under sub-rule (3) or (4) of rule 23, as the case may be, certifying or verifying to the satisfaction of the Registrar the date of the filing of the application, the country, the representation of geographical indication, the class and goods covered by the application.

(3) The application relied under sub-rule (1) must be the applicants' first application in a convention country for the same geographical indications and for all or some of the goods under that application. The application must include a statement indicating the filing date of the foreign application relied upon, the convention country where it was filed, the serial number, if available and a statement indicating the convention application date as claimed.

(4) Where a single application under sub section (3) of section 11 from a convention country is received in respect of a geographical indications for one or more classes of goods, the applicant must establish a continuous valid basis for the convention application date in all classes.

25. Statement of user in applications.- An application to register a geographical indication or as an authorised user shall, contain a statement of the period during which, and the person by whom it has been used in respect of the goods mentioned in the application. The applicant shall file an affidavit testifying to such user with exhibits showing the geographical indication as used, the volume of sales under that geographical indication, the definite territory of the country, region or locality in the country to which geographical indication relates and such other particulars as the Registrar on perusal of the application may call for from the applicants.

26. Representation of Geographical Indication.- Every application for the registration of a geographical indication and where additional copies of the application are required every such copy, shall contain a representation of the geographical indication in the space provided on the application form for that purpose provided the size of such representation shall not exceed 33 centimetres by 20 centimetres with a margin of 4 cm. on the left hand side.

27. Additional representations.- (1) Every application for the registration of a geographical indication shall, except as hereinafter provided, be made in triplicate and shall be accompanied by five additional representations of the geographical indication. The representations of the geographical indication on the application and each of its copies and the additional representations shall correspond exactly with one another. The additional representations

shall in all cases be noted with the specification and class of goods for which registration is sought, the name and address of the applicant, together with the name and address of his agent, if any, the period of use, and such other particulars as required under sub-rule 1 to rule 32 by the Registrar and shall be signed by the applicant or his agent.

(2) Where an application contains a statement to the effect that the applicant wishes to claim combination of colours as a distinctive feature of the geographical indication , the application shall be accompanied with three reproduction of the geographical indication in black and white and five reproduction of the geographical indication in colour.

(3) (i) Where an application for the registration of a geographical indication consist of shape of goods or its packaging, the reproduction furnished shall consist of at least three different view of the geographical indication and a description by word of the geographical indication.

(ii) If the Registrar considers the different views and description of the geographical indication in sub-para (i) still does not sufficiently show the particulars of the shape of goods or its packaging he may call upon the applicant to furnish a specimen of the goods or packaging, as the case may be, as sold in respect

28. Representations to be durable and satisfactory.- (1) All representations in respect of a geographical indication shall be of a durable nature, and each additional representation required to be filed with an application for registration shall be mounted on a sheet of strong paper of the size of approx. 33 cm by 20 cm leaving a margin of not less than 4 centimetres on the left hand part of the sheet.

(2) If the Registrar is not satisfied with any representation of a geographical indication he may at any time require another representation satisfactory to him to be substituted before proceedings with the application.

29. Transliteration and translation.- (1) Where a geographical indication contains a word or words in characters other than Devnagari or Roman, there shall be endorsed on the application form and the additional representation thereof, a sufficient transliteration and translation to the satisfaction of the Registrar of each of such words, and every such endorsement shall state the language to which the word belongs and shall be signed by the applicant or his agent failing which the Registrar shall be under no obligation to take any action on the application.

(2) Where an application for a geographical indication or authorised user contains a word or words in a language other than Hindi or English, the Registrar may ask for an exact translation thereof together with the name of the language, and such translation and name, if he so requires, shall be endorsed and signed as aforesaid.

30. Name or description of goods on a Geographical Indication.- Where the name or description of any goods appears on a geographical indication, the Registrar may refuse to register such geographical indication.

31. Deficiencies.- Subject to sub-rule (2) of rule 10, where an application for registration of a geographical indication does not satisfy requirements under section 11 or rule 23, the Registrar shall send notice thereof to the Applicants to remedy the deficiencies and if within one month from the date of receipt of the notice, the applicants fails to remedy any deficiency so notified by him the application may be treated as abandoned.

PROCEDURE ON RECEIPT OF APPLICATION FOR REGISTRATION OF A GEOGRAPHICAL INDICATION

32. Content of application.- (1) Every application for the registration of a geographical indication shall be made in the prescribed forms and shall contain the following:

(1) a statement as to how the geographical indication serves to designate the goods as originating from the concerned territory of the country or region or locality in the country, as the case may be, in respect of specific quality, reputation or other characteristics which are due exclusively or essentially to the geographical environment, with its inherent natural and human factors, and the production, processing or preparation of which takes place in such territory, region or locality as the case may be;

(2) the class of goods to which the geographical indication relates shall apply;

(3) the geographical map of the territory of the country or region or locality in the country in which the goods are produced of originate or are being manufactured;

(4) the particulars regarding the appearance of the geographical indication as to whether it is comprised of the words or figurative elements or both;

(5) A statement containing such particulars of the producers of the concerned goods proposed to be initially registered. The statement may contain such other particulars of the producers mentioned in Section 11(2)(f) including a collective reference to all the producers of the goods in respect of which the application is made.

(6) the statement contained in the application shall also include the following:

(a) an affidavit as to how the applicant claim to represent the interest of the association of persons or producers or any organization or authority established by or under any law;

(b) The standards benchmark for the use of the geographical indication or the industry standard as regards the production, exploitation, making or manufacture of the goods having specific quality, reputation, or other characteristic of such goods that is essentially attributable to its geographical origin with the detailed description of the human creativity involved, if any or other characteristic from the definite territory of the country, region or locality in the country, as the case may be;

(c) the particulars of the mechanism to ensure that the standards, quality, integrity and consistency or other special characteristic in respect of the goods to which the geographical indication relates which are maintained by the producers, maker or manufacturers of the goods, as the case may be;

(d) three certified copies of the map of the territory, region or locality showing the title, name of publisher and date of issue along with the application;

(e) the particulars of special human skill involved or the uniqueness of the geographical environment or other inherent characteristics associated with the geographical indication to which the application relates;

(f) the full name and address of the association of persons or organisation or authority representing the interest of the producers of the concerned goods;

(g) particulars of the inspection structure, if any, to regulate the use of the geographical indication in respect of the goods for which application is made in the definite territory region or locality mentioned in the application;

(h) where the geographical indication is a homonymous indication to an already registered geographical indication, the material factors differentiating the application from the registered geographical indications

and particulars of protective measures adopted by the applicant to ensure consumers of such goods are not confused or mislead or confused in consequence of such registration;

(2). Acknowledgement of receipt of applications.- Every application for the registration of a geographical indication in respect of any goods shall, on receipt , be acknowledged by the Registrar. The acknowledgement shall be by way of return of one of the additional representations of the geographical indication filed by the applicant along with his application with the official number of the application duly entered thereon.

33. Examination of application.- Upon receipt of an application, the Registrar shall examine the application and the accompanying Statement of Case as required under rule 32(1) as to whether it meets the requirements of the Act and the Rules and for this purpose, he shall ordinarily constitute a Consultative Group of not more than seven representatives chaired by him from organization or authority or persons well versed in the varied intricacies of this law or field to ascertain the correctness of the particulars furnished in the Statement of Case referred to in rule 32(1) which shall ordinarily be finalised within three months from the date of constitution of the Consultative Group. Thereupon, the Registrar shall issue a Examination Report on the application to the applicant.

34. Objection to acceptance-Hearing.- (1) If, on consideration of the application on merits and of any evidence of use or of a given quality, reputation or other characteristic of such goods that are essentially attributable to its geographical origin or of any other matter relevant which the applicant may be required to furnish, the Registrar has any objection to the acceptance of the application or proposes to accept it subject to such conditions, amendments, modifications or limitations as he may think right to impose, the Registrar shall communicate such objection or proposal in writing to the applicant.

(2) If within two months from the date of communication mentioned in sub-rule (1), the applicant does not amend his application according to the proposal aforesaid, or submit his observations to the Registrar or apply for a hearing or fails to attend the hearing, as the case may be, the application shall be dismissed.

35. Decision of Registrar.- (1) The decision of the Registrar under rule 34 or rule 37 after a hearing or without a hearing if the applicant has duly communicated his observations in writing and has stated that he does not desire to be heard, shall be communicated to the applicant in writing and if the applicant intends to appeal from such decision he may within one month

from the date of receipt of such communication request the Registrar to state in writing the grounds of, and the materials used by him in arriving at his decision.

(2) In a case where the Registrar makes any requirements to which the applicant does not object the applicant shall comply therewith before the Registrar issues a statement in writing under sub-rule (1).

(3) The date when the statement in writing under sub-rule (1) is sent shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

36. Correction and amendment of application.- An applicant for registration of a geographical indication may, whether before or after acceptance of his application but before the registration of the geographical indication, apply on Form GI-5 accompanied by the prescribed fee for the correction of any error in or in connection with his application or any amendment of his application provided such proposed amendment does not relates to amendment of the geographical indication or amendment in the description of goods or to the definite, territory, region or locality, as the case may be, that would have the effect of substantially altering or substituting the original application.

37. Withdrawal of acceptance by the Registrar.- (1) If, after the acceptance of an application but before the registration of the geographical indication , the Registrar has any objection to the acceptance of the application on the ground that it was accepted in error, or that the geographical indication ought not to have been accepted in the circumstances of the case, or proposes that the geographical indication should be registered only subject to conditions or limitations, or to conditions additional to or different from the conditions or limitations subject to which the application has been accepted, the Registrar shall communicate such objection in writing to the applicant.

(2) Unless within thirty days from the date of the communication mentioned in sub-rule (1) the applicant amends his application to comply with the requirements of the Registrar or applies for a hearing , the acceptance of the application shall be deemed to be withdrawn by the Registrar, and the application shall proceed as if it had not been accepted.

(3) Where the applicant intimates the Registrar within the period mentioned in sub-rule (2) that he desires to be heard, the Registrar shall give notice to the applicant of a date when he will hear him. Such appointment shall be for a date at least 15 days after the date of the notice, unless the applicant

consents to a shorter notice. The applicant may state that he does not desire to be heard and submit such submissions as he may consider desirable.

(4) The Registrar may, after hearing the applicant and on considering the submissions, if any, of the applicant pass such orders as he may deem fit.

ADVERTISEMENT OF APPLICATION

38. Manner of Advertisement.- (1) An application for the registration of a geographical indication required or permitted to be advertised by sub-section (1) of section 13 or to be re-advertised by sub-clause (2) of that section shall be ordinarily advertised in the Journal within three months of the acceptance of an application for advertisement.

(2) The Registrar may after notification in the Journal put the published Geographical Indications Journal on the internet, website or any other electronic media.

(3) The Registrar may after notification in the Journal make available the Geographical Indications Journal in CD-ROM on payment of the cost thereof.

39. Notification of correction or amendment of application.- In the case of an application to which Para (b) of sub-section (2) of section 13 applies, the Registrar may if he so decides, instead of causing the application to be advertised again, insert in the Journal a notification setting out the number of the application, the class in which it was made, the name and address of the principal place of business in India, if any, of the applicant or where the applicant has no principal place of business in India his address for service in India, the number of the Journal in which it was advertised and the correction or amendment made in the application.

40. Request to Registrar for particulars of advertisement of a Geographical Indication.- Any person may request the Registrar on Form GI-7 to be informed of the number, date and page of the Journal in which a geographical indication specified in the form was advertised and the Registrar shall furnish such particulars to the person making the request.

OPPOSITION TO REGISTRATION

41. Notice of Opposition.- (1) A notice of opposition to the registration of a geographical indication under sub-section (1) of section 14 or an authorised user under section 17(3)(e) shall be given in triplicate on Form GI-2 within three months or within such further period not exceeding one month in the aggregate from the date when such Journal was made available to the public (which date shall be certified as such by the Registrar) as the case may be, of the application for registration in the Journal. The notice shall include a statement of the grounds upon which the opponents objects to the registration of the geographical indication or of the authorised user, as the case may be.

(2) Where a Notice of Opposition is filed in respect of single application for the registration of a geographical indication it shall bear the fee in respect of each class in relation to which the opposition is filed.

(3) Where an opposition is filed only for a particular class or classes in respect of a single application made under sub-section (3) of section 11, the application shall not proceed to registration until a request in Form GI-5 for division of the application together with the divisional fee is made by the applicant.

(4) Where in respect of a single application for the registration of a geographical indication no notice of opposition is filed in any class or classes, the application in respect of such class or classes shall proceed to registration after the division of the application in the class or classes in respect of which an opposition is pending.

(5) An application for an extension of the period within which a notice of opposition to the registration of a geographical indication or an authorised user may be given under subsection (1) of section 14, shall be made on Form GI-2 accompanied by the prescribed fee before the expiry of the period of three months under sub-section (1) of section 14.

(6) A copy of notice of opposition shall be ordinarily served by the Registrar to the applicants within two months of the receipt of the same by the appropriate office.

42. Verification of Notice of Opposition.- (1) The notice of opposition shall be verified by the opponent.

(2) The verification shall specifically state by reference to the numbered paragraphs of the notice of opposition, what is verified of his own knowledge and what is verified upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date and the place at which it was signed.

43. Counterstatement.- (1) The counter-statement required by sub-section (2) of section 14 shall be sent in triplicate on Form GI-2 within two months from the receipt by the applicant of the copy of the notice of opposition from the Registrar and shall set out what facts, if any, alleged in the notice of opposition, are admitted by the applicant. A copy of the counter-statement shall be served by the Registrar on the person giving notice of opposition ordinarily within two month from the date of receipt of the same.

(2) The counterstatement shall be verified in the same manner as the notice of opposition as stated in rule 42.

44. Evidence in support of opposition by the opponents.- (1) Within two months from services on him of a copy of the counterstatement or within such further period not exceeding one month in the aggregate thereafter as the Registrar may on request allow, the opponent shall either leave with the Registrar such evidence by way of affidavit as he may desire to adduce in support of his opposition or shall intimate to the Registrar and to the applicant in writing that he does not desire to adduce evidence in support of his opposition but intends to rely on the facts stated in the notice of opposition. He shall deliver to the applicant copies of any evidence that he leaves with the Registrar under this sub-rule and intimate the Registrar forthwith in writing of such delivery.

(2) If an opponent takes no action under sub-rule (1) within the time mentioned therein, he shall, be deemed to have abandoned his opposition.

(3) An application for the extension of the period of one month mentioned in sub-rule (1) shall be made in Form GI-9 accompanied by prescribed fees before the expiry of the period of two months mentioned therein.

45. Evidence in support of application by the applicant.- (1) Within two months or within such further period not exceeding one months thereafter in the aggregate as the Registrar may on request allow, on the receipt by the applicant of the copies of affidavits in support of opposition or of the intimation that the opponent does not desire to adduce any evidence in support of his opposition, the applicant shall leave with the Registrar such evidence by way of affidavit as he desires to adduce in support of his application and shall deliver to the opponent copies thereof or shall intimate to the Registrar and the opponent that he does not desire to adduce any evidence but intends to rely on the facts stated in the counterstatement and

or on the evidence already left by him in connection with the application in question. In case the applicant relies on any evidence already left by him in connection with the application, he shall deliver to the opponent copies thereof.

(2) An application for the extension of the period of one month mentioned in sub-rule (1) shall be made in Form GI-9 accompanied by prescribed fees before the expiry of the period of two months mentioned therein.

46. Evidence in reply by opponent.- Within one month from the receipt by the opponent of the copies of the applicant's affidavit or within such further period not exceeding one month in the aggregate thereafter as the Registrar may on request on Form-GI 9 accompanied by the prescribed fee allow, the opponent may leave with the Registrar evidence by affidavit in reply and shall deliver to the applicant copies thereof. This evidence shall be confined to matters strictly in reply.

47. Further evidence.- No further evidence shall be left on either side, but in any proceedings before the Registrar, he may at any time, if he thinks fit, give leave to either the applicant or the opponent to leave any evidence upon such terms as to costs or otherwise as he may think fit.

48. Exhibits.- Where there are exhibits to affidavits filed in an opposition, a copy of the exhibit or impression of each exhibit shall be sent to the other party on his request and at his expense, or, if such copies or impression cannot conveniently be furnished, the original shall be left at the Registry in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

49. Translation of documents.- Where a document in a language other than Hindi or English is referred to in the notice of opposition or any other proceedings before the Registrar, counter-statement or an affidavit filed in an opposition, an attested translation thereof in English or Hindi shall be furnished in duplicate.

50. Hearing and decision.- (1) Upon completion of the evidence (if any), the Registrar shall give notice to the parties of a date when he will hear the arguments in the case. Such notice shall be ordinarily given within three months of completion of the evidence. The date of hearing shall be for a date at least one month after the date of the first notice, unless the parties consent to a shorter notice. Within fourteen days from the receipt of the first notice, any party who intends to appear shall so notify the Registrar. Any party who does not so notify the Registrar within the time last aforesaid shall

be treated as not desiring to be heard and the Registrar shall proceed ex-parte in the matter.

(2) If sufficient cause is shown, not more than two request for adjournment for one month each by either the opponent or the applicant to the proceeding may be considered by the Registrar on a request in Form GI-9 accompanied with the grounds for such request.

(3) If the applicant is not present at the adjourned date of hearing and has not notified his intention to appear at the hearing, the Registrar may treat the application as dismissed.

(4) If the opponent is not present at the adjourned date of hearing and has not notified his intention to appear at the hearing, the Registrar may treat the opposition as dismissed for want of prosecution and the application may proceed to registration.

(5) In every case of adjournment the Registrar shall fix a day for further hearing of the case and shall make such order as to cost occasioned by the adjournment or such higher costs as the Registrar deems fit.

(6) The fact that the agent or advocate on record of a party is engaged in another court, shall not be a ground for adjournment.

(7) Where illness of an advocate on record or agent or his inability to conduct the case for any reason is put forward as a ground for adjournment, the Tribunal shall not grant the adjournment unless it is satisfied that the advocate on record or agent, as the case may be, could not have engaged another agent or advocate in time.

(8) The Registrar shall take on record written arguments if submitted by a party to the proceeding.

(9) The Registrar shall have powers to limit time for oral arguments.

(10) The decision of the Registrar shall be notified to the parties in writing.

51. Security for costs.- The security for costs which the Registrar may require under sub-section (6) of section 14 may be fixed at any amount which he may consider proper, and such amount may be further enhanced by him at any stage in the opposition or other proceedings.

Notice of Non-Completion of Registration

52. Procedure for giving notice.- The notice which the Registrar is required by sub-section(3) of section 16 to give to an applicant, shall be sent on Form –O1 to the applicant at the address of his principal place of business in India or if he has no principal place of business in India at the address for service in India as stated in the application but if the applicant has authorised an agent for the purpose of the application, the notice shall be sent to the agent and a duplicate thereof to the applicant. The notice shall specify twenty one days time from the date thereof or such further time as the Registrar may allow on a request made in the prescribed Form GI-9 for completion of the registration.

Registration

53. Entry in the Register.- (1) Where no Notice of Opposition is filed to an application for the registration of a geographical indication advertised or re-advertised in the Journal within the period specified in subsection (1) of section 14 or where an opposition is filed and it is dismissed and the appeal period is over, the Registrar shall, subject to the provisions of sub-section (1) of section 16 enter the geographical indication in Part A of the register on receipt of a request.

(2) The entry of a geographical indication in the register shall specify the date of filing of application, the actual date of the registration, the goods and the class in respect of which it is registered, and all particulars required by sub-section (1) of section 6 including -

(a) the name and description of the applicant, the address of the principal place of business in India, if any, of the proprietor of the geographical indication or in the case of an association of persons of such of the association of persons as have a principal place of business in India.

(b) where the proprietor of the geographical indication has no place of business in India his address for service in India as entered in the application for registration together with his address in his home country.

(c) in the case of an association of persons or producers, where none of the association of persons or producers has a principal place of business in India, the address for service in India as given in the application together with the address of each of the association of persons or producers in his home country.

(d) particulars of the trade, business, profession, occupation or other description of the proprietor or of the association of persons or producers of the geographical indication as entered in the application for registration;

(e) particulars affecting the scope of the registration or the rights conferred by the registration;

(f)The priority date ,if any, to be accorded pursuant to claim to a right of a convention application made under section 84;

(g) A summary of the particulars furnished under rule 32 as finally accepted by the Registrar; and;

(h) the appropriate office of the Geographical Indications Registry in relation to the Geographical Indication.

54. Death of applicant before registration.- In case of death of any applicant for the registration of a geographical indication after the date of his application and before the geographical indication has been entered in the register, the Registrar may, on proof of the applicant's death and on proof of the transmission of the interest of the deceased person, substitute in the application his successor in interest in place of the name of such deceased applicant and the application may proceed thereafter as so amended.

55. Certificate of registration.- (1) The certificate of registration of a geographical indication or an authorised user to be issued by the Registrar under sub-section (2) of section 16 shall be on Form-O2, with such modification as the circumstances of a case may require, and the Registrar shall annex a copy of the geographical indication or authorised user to the certificate.

(2) The Registrar may issue a duplicate or further copies of the certificate of registration of a geographical indication on request by the registered proprietor on Form GI-7 accompanied by the prescribed fee. An unmounted representation of the geographical indication exactly as shown in the form of application for registration thereof at the time of registration shall accompany such request.

(3) The certificate of registration referred to in sub-rule (1) shall not be used in legal proceedings or for obtaining registration abroad.

CHAPTER III: AUTHORISED USER

56. Authorised User.- (1) An application to the Registrar for the registration under Section 17 by a producer as an authorised user of the registered geographical indication shall be made jointly by the registered proprietor and the proposed authorised user in Form GI-3 and shall be accompanied by a Statement of Case of how he claims to be the producer of the registered geographical indication along with an affidavit.

(2). A copy of the letter of consent from the registered proprietor of the geographical indication may accompany the application and where such consent letter is not furnished, a copy of the application shall be endorsed to the registered proprietor for information and the Registrar shall be intimated of due service by the proposed authorised user.

57. Upon receipt of an application for the registration as an authorised user in respect of a registered geographical indication, the Registrar shall cause it to be examined and shall issue a report.

58. Thereupon, the provision of Rule 34 to 52, and 54 and 55 shall apply mutatis mutandis to further proceedings in respect of an application for the registration of an authorised user of a registered geographical indication.