

**REGULATION FOR THE USE AND CONTROL OF THE LUXEMBOURG LABEL OF
ORIGIN IN ACCORDANCE WITH ARTICLE 2.37 OF THE BENELUX CONVENTION ON
INTELLECTUAL PROPERTY OF 25 FEBRUARY 2005 AS AMENDED**

The purpose of this Regulation is to define the conditions and procedures for the exploitation of the collective trademark “MADE IN LUXEMBOURG”, hereinafter referred to as the “Luxembourg Label of Origin” or “Label”.

Article 1 Ownership of the Luxembourg Label of Origin

The Chambre de Commerce du Grand-Duché de Luxembourg [Chamber of Commerce of the Grand Duchy of Luxembourg] having its registered office in Luxembourg, 7, Rue Alcide de Gasperi, and

the Chambre des Métiers du Grand-Duché de Luxembourg [Chamber of Skilled Trades and Crafts of the Grand Duchy of Luxembourg] having its registered office in Luxembourg, 2, Circuit de la Foire Internationale,

hereinafter referred to individually as the “Holder” or collectively as the “Holders”,

have deposited and registered the collective trademark “MADE IN LUXEMBOURG” with the *Office Benelux de la Propriété Intellectuelle* [Benelux Office for Intellectual Property] (“OBPI”) under deposit number: 302.799. Registration number 0406160. They shall ensure that the registration of this trademark is maintained in accordance with the applicable legal provisions.

Figurative trademark:



Description: The delineation of the trademark of origin above represents a stylised crown.

The figurative trademark is to be used in black on a white ground or in white if the ground of the medium on which it is represented is dark.

The objective of the Luxembourg Label of Origin consists in promoting products and provisions of

services of undertakings established in Luxembourg wishing to mark themselves out abroad as part of a strategy of internationalisation.

The Label may also allow a Luxembourg undertaking to mark itself out in Luxembourg.

Article 2 Right of use

The Holders shall grant the right of use of the Luxembourg Label of Origin at the request of either the producer of the good or the provider of the service. The Beneficiary is bound to use the Luxembourg Label of Origin in accordance with the provisions of this Regulation.

Article 3 Power of decision with regard to the grant of the Label

The Luxembourg Label of Origin belongs to the Holders, which decide to grant it as follows:

any individual decision to grant the Label to an undertaking belonging to the Chambre de Commerce shall be taken by the Chambre de Commerce alone,

- any individual decision to grant the Label to an undertaking belonging to the Chambre des Métiers shall be taken by the Chambre des Métiers alone,
- any individual decision to award the Label to an undertaking affiliated to both the Chambre de Commerce and the Chambre des Métiers shall be taken jointly by the two Chambers.

Article 4 Conditions of eligibility for the Luxembourg Label of Origin

a) For undertakings

The provisions relating to the grant of the Luxembourg Label of Origin shall apply exclusively to individual undertakings and commercial companies, excluding non-profit associations and public interest establishments governed by the Law of 21 April 1928 on non-profit associations and public interest establishments, as amended.

An undertaking requesting the use of the Luxembourg Label of Origin must have existed for at least twelve months, without prejudice to duly justified exceptions, which shall remain at the free discretion of the Holders.

b) For products and services

The Luxembourg Label of Origin may be used only in connection with Luxembourg products or provisions of services to which the Label has been specifically granted.

The following may be recognised as Luxembourg products: goods obtained in the Grand Duchy of Luxembourg or goods which underwent their last, substantial, economically-justified processing or working by a Luxembourg provider equipped for that purpose and resulting in the manufacture of a new product or representing a significant stage of manufacture in the Grand Duchy of Luxembourg, the whole in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast).

The expression “substantial processing or working” is to be understood as a fundamental change in both the initial appearance and the form or nature of the product so that it is completely different at the end of the process.

As far as foodstuffs are concerned, the following in particular are not considered substantial changes:

- freezing, canning or other preservation processes;
- the mixing of ingredients when the result is not substantially different;
- seasoning;
- marinating;
- drying.

Provisions of services by a service provider lawfully established in the Grand Duchy of Luxembourg and having a fixed place of business there may be recognised as Luxembourg provisions of services. If the provision of services is limited to the design and development of a product and the provision of advice, the provider must prove that it has special expertise and complies with professional rules which are specific to the Grand Duchy of Luxembourg and constitute one of the particular characteristics of the said Luxembourg provision of services.

In the event that a company offers a service related to a specific product, the latter should be manufactured or processed in the Grand Duchy of Luxembourg.

- Other criteria of connection to the Grand Duchy of Luxembourg may be taken into account in particular to prove that the company is embedded in the Luxembourg economic fabric.

Services related to real estate and finance are not eligible.

Article 5 Conditions for the grant of the Luxembourg Label of Origin

The grant of the right of use of the Luxembourg Label of origin is governed by the following requirements:

- a) The right of use may be granted only for Luxembourg products and services within the meaning of Article 4 of this Regulation, designated in each particular case;
- b) The right of use is granted for a period of 5 years, renewable at the request of the Beneficiary. The Holders have the right to carry out checks or have them carried out;
- c) The right of use is not granted if the use of the Luxembourg Label of origin is liable to mislead the consumer or may discredit the Label;
- d) The right of use may be refused to or withdrawn from undertakings for products within the meaning of Article 4 of this Regulation if they simultaneously import identical or similar products and if they are unable to provide the necessary guarantees with a view to protecting consumers against possible risks of confusion or misuse of the Luxembourg Label of Origin;
- e) Unless expressly authorised by the Holders, the Luxembourg Label of Origin may not be used in conjunction with foreign emblems or similar foreign indications; no geographical indication other than that of Luxembourg may appear on products alongside the Label.

Article 6 Rights and obligations of the Beneficiary

The rights and obligations of the Beneficiary regarding the use of the Luxembourg Label of Origin are regulated by the following provisions:

- a) The Beneficiary may cause the Luxembourg Label of Origin to appear on the authorised products including the packaging in an appropriate manner using seals, labels and woven, printed, painted, cast, pressed, stamped and other markings. In the case of undertakings providing services, the affixing of the Luxembourg Label of Origin depends on the media in relation to the labelled service: website, brochures and others.
- b) The Beneficiary may use the Luxembourg Label of Origin on its letterheads, envelopes, invoices, commercial offers, website, catalogues, advertising material and as part of its advertisements, etc., provided however, that these media are directly related to the product(s) or the provision or provisions of service for which the use of the Luxembourg Label of Origin was authorised.
- c) The crown and the designation “Made in Luxembourg” must be delineated in accordance with the description of the Luxembourg Label of Origin in the second paragraph of Article 1 - “Figurative trademark” of this Regulation.

- d) The Beneficiary, after having been authorised by the Holders, may use its own trademark in combination with the Luxembourg Label of Origin during the period for which the right of use is granted to it.
- e) The undertaking authorises the publication of its contact details on the websites of the Holders and in the brochures drawn up by the Holders. It authorises the Holders to communicate those contact details to other institutions, administrations or associations wishing to promote undertakings holding the Luxembourg Label of Origin. The undertaking benefits by the grant by the Holders of a certificate mentioning the attribution of the right of use of the Luxembourg Label of Origin. The right of use is valid for a period of 5 years.
- f) In the event that the undertaking goes bankrupt or ceases to trade, the right of use of the Luxembourg Label of Origin is withdrawn.
- g) In the event of a change of name and/or status on the part of the Beneficiary with the Trade and Companies Register and in accordance with the provisions of Article 8 of this Regulation, the Holders reserve the right to withdraw the Luxembourg Label of Origin, taking into account the criteria for access to the Label provided for in Article 5 of this Regulation.

Article 7 Other decision-making powers of the Holders

The Holders shall decide in particular:

- a) on the withdrawal of the right of use of the Luxembourg Label of Origin;
- b) on the arrangements for and the control of the use of the Luxembourg Label of Origin, in accordance with the provisions of Article 9 of this Regulation;
- c) on the taking of legal action in the event of unlawful use of the Luxembourg Label of Origin, as well as protective measures relating thereto.
- d) on the fixing by mutual agreement of the amount of the fees to be paid by the Beneficiary by way of consideration for the use of the Luxembourg Label of Origin.

Article 8 Protection of personal data

Identity of joint data controllers. The Chambre de Commerce du Grand-Duché de Luxembourg, incorporated in the form of a public establishment, established and having its registered office at L-1615 LUXEMBOURG, 7, rue Alcide de Gasperi, and the Chambre des Métiers du Grand-Duché de Luxembourg, a legal person governed by public law located at 2 Circuit de la Foire Internationale, L-1347 Luxembourg, are jointly responsible for the processing of personal data communicated to them in connection with the application for the use of the Luxembourg Label of Origin (hereinafter “the joint controllers”).

Categories of personal data processed. The personal data processed consist of the data communicated by the contact person in the application form for the use of the Luxembourg Label of Origin. The joint controllers shall ensure that only personal data which are appropriate and relevant having regard to what is necessary for the pursuit of the stated purposes are collected, processed and stored.

Purposes of the processing. The data are collected in order to allow the joint controllers to process the application for the grant of the Luxembourg Label of Origin and to ensure perfect communication with the holding undertakings concerning the exercise of their right of use.

Basis for legality. The basis for the legality of processing is the performance of a contract to which the data subject is a party (Article 6(1)(b), GDPR).

Transfers of personal data processed. Processing is carried out pursuant to individual decisions, and in the same way as the taking of the individual decisions to which the processing relates. The personal data are processed internally by the joint controllers by duly authorised persons, within the limits of their respective attributions. In order to fulfil the aforementioned purposes, the joint controllers may, to the extent as is strictly necessary and subject to the existence of contractual guarantees designed to ensure the security and confidentiality of the data, transfer personal data to their institutional partners and to service providers and subcontractors, such as website managers.

Data security and data retention period. The joint controllers undertake to implement such technical and organisational security measures as to ensure the protection of the personal data against the risks associated with the use of information systems. The period of retention of these data is the duration of the right of use of the Label, to which is added the legal period of prescription of claims under this contract. Once this period has expired, the data will be erased by the joint controllers.

Rights of the data subject. The data subject may exercise his right of access to his personal data and of rectification of inaccurate data, as follows:

- for those belonging to the Chambre des Métiers, by email to dataprotect@cdm.lu
- for those belonging to the Chambre de Commerce, by email to dataprotection@cc.lu
- for dual affiliations, the exercise of the rights is carried out by email to either one of those email addresses.

In addition, the data subject has the right to lodge a complaint with the *Commission Nationale pour la Protection des Données* (National Commission for Data Protection), 1 Avenue du Rock'n'Roll, at L-4361 ESCH / ALZETTE (www.cnpd.lu) or with the competent supervisory authority of the State of residence or the place of the alleged infringement.

Article 9 Supervisory Board

High supervision over the Label shall be exercised by a Supervisory Board comprising a representative of each of the Holders and a representative to be appointed by the Minister whose responsibilities include Foreign Trade. The Supervisory Board shall meet at least once a year. It may be seized on an extraordinary basis at the initiative of the Holders for any such problem as they consider it useful to submit to it.

Within the limits of its powers, the Supervisory Board may take any measure of conformity control that it deems appropriate and, in particular, appoint any natural or legal person with sufficient guarantees of impartiality and professional competence necessary to ensure the control of the sound use of the Luxembourg Label of origin. The refusal of the Beneficiary to submit to the control measures decided by the Supervisory Board as well as the decisions taken by the bodies in charge of their enforcement shall be deemed equivalent to the recognition by the latter of the infringement attributed to it.

In the event that an infringement is found, the costs resulting from the exercise of the control measures taken shall be borne by the infringer.

Article 10 Sanctions

In the event of non-compliance by the Beneficiary with the obligations imposed on it by this Regulation, sanctions may be imposed on it. The decision imposing the sanctions will be effective and enforceable from the date of its notification to the Beneficiary by registered letter with a form for acknowledgment of receipt, as attested by the date of the postmark.

These sanctions may be the following:

a) Warning

If the Holder to which the Beneficiary belongs finds that the latter has not fulfilled certain of its obligations, the Holder may issue a warning to the Beneficiary requiring it to comply with its obligations and take the necessary corrective measures within a prescribed period.

b) Suspension of the right of use

After consulting the Supervisory Board, the Holder to which the Beneficiary belongs may suspend the right of use of the Label pending the receipt of proof from the Beneficiary that it has remedied the deficiencies found.

c) Withdrawal of the right of use

After consulting the Supervisory Board, the Holder to which the Beneficiary belongs may

withdraw the right of use of the Label from the Beneficiary in the event of a serious breach of its obligations or in case of failure to comply with the deadlines imposed on it to remedy the deficiencies found.

d) Fine

In the event that the Beneficiary fails to comply with one of the provisions of this Regulation, the Holder to which the Beneficiary belongs may, after consulting the Supervisory Board, impose on the Beneficiary the payment of a contractual fine in an amount of 150 to 4 000 euros, without prejudice to the payment of any damages of a higher amount to be fixed by the arbitral tribunal or the competent courts.

An appeal against the decisions of the Holders may be lodged with the Arbitration Centre referred to in Article 11 of this Regulation within no more than one month from the date of notification of the decision.

In the event that the Beneficiary belongs to both professional Chambers, each Holder may apply the sanctions mentioned above provided that it has previously notified the other Holder.

Article 11 Disputes

Any dispute concerning the attribution, use or withdrawal of the Luxembourg Label of Origin as well as the application of the sanctions provided for in Article 10 of this Regulation shall be submitted to the Arbitration Centre of the Chambre de Commerce. The dispute shall be settled definitively in accordance with the arbitration rules of the Arbitration Centre of the Chambre de Commerce.

Article 12 Entry into force

The provisions of this Regulation for the use and control of the Luxembourg Label of Origin shall enter into force on the date of notification of this Regulation to the Benelux Office for Intellectual Property.

Luxembourg, 02|01|2019

The original version of this text was written in French and thus is binding in its French version.

This translation is for guidance and better understanding only.