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Diversification**

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Study of the Intellectual Property Protection Regulatory frameworks of the GCC

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Contents

Executive Summary	4
Introduction.....	9
Chapter 1. IP protection in the GCC countries.....	10
a. Copyright & Related Rights.....	11
b. Trademarks	22
c. Geographical indications	27
d. Patents	34
e. Industrial designs	39
Chapter 2. Membership of GCC countries to international IPR conventions and treaties.....	41
WIPO Administered Treaties.....	41
IP Protection.....	41
Global Protection System.....	44
Classification	46
The WTO TRIPS Agreement	46
UPOV, CBD and ABS	46
Chapter 3: Suggestions to enhance GCC laws based on EU best practice concerning IP protection, particularly in relation to laws and regulations that have an impact on inventions, technology, sciences.	48
Chapter 4. Recommendations for the harmonization of IP laws and policies in GCC member countries	53
Copyright & Related Rights.....	53
Patents	54
Trademarks	55
Geographical indications.....	56
Industrial Designs.....	56
GCC Intellectual Property Training Centre	56
Chapter 5. Benefits of the potential introduction of GIS protection in GCC countries	57
Scope of GIs protection in GCC countries	57
Membership of GCC countries in GIs related agreements	57
GIs legislation in GCC countries	58
Introduction of PDOs and TSGs schemes in the GCC GIs legislation	66
Potential GIs in GCC countries	67
Chapter 6. IP enforcement in GCC countries	69
Recommendations on enforcement of IP rights.....	74
7. Conclusions and Recommendations	77
Recommendations on improving IP protection	77
References	84
Annex 1	87
Annex 2	89

Tables	Page
Table 1: Entry into force of TRIPS in GCC countries	10 and 46
Table 2: Copyright Law provisions on computer programs/ software	13
Table 3: Protection of Technological Measures	15
Table 4: Protection of Rights Management Information	16
Table 5: Copyright Term of Protection	17
Table 6: Related Rights Term of Protection	19
Table 7: Provisions on CMOs under GCC copyright legislation	20
Table 8: Trademark Definition in GCC laws	22
Table 9: Grounds for refusal of the registration of trademark	23
Table 10: Cancellation of the trademark registration for non-use	25
Table 11: GIs scope of protection	27 and 57
Table 12: GIs Definition in GCC laws	27 and 59
Table 13: Main features of GCC GIs legislation	29 and 62
Table 14: Conditions for patentability	34
Table 15: Exclusions from patentability	35
Table 16: Definition of industrial designs	39
Table 17: Conditions of protection of industrial designs	39
Table 18: Membership of GCC countries to WIPO IP protection treaties	41
Table 19: Membership of GCC countries to WIPO global protection treaties	44
Table 20: Membership of GCC countries to WIPO international classification treaties	46
Table 21: Membership of GCC countries to UPOV, CBD and ABS	47
Table 22: Government Visions for Accelerating Human Capital Formation	49
Table 23: GCC initiatives on Innovation, R&D, Transfer of Technology	50
Table 24: GCC GIs legislation	58
Table 25: Potential GCC GIs Products	67
Table 26: Provisional measures under US FTAs with Bahrain and Oman	69
Table 27: Provisional Measures under GCC Unified Trademark Law	70
Table 28: Border measures under GCC Unified Trademark Law	71
Table 29: Border measures under the GCC Unified Customs Law	72
Table 30: Damages and other remedies under GCC trademark laws	73

Executive Summary

Intellectual property rights are driving tools for economic development and incentives for innovation and creativity. They serve as fundamental rules in any knowledge-based economy. Therefore, developed countries including the European Union (EU) were keen to develop advanced intellectual property (IP) systems to create a secure and competitive environment for businesses, promote investment in innovation and research and development (R&D), and establish effective means for IP enforcement.

The GCC countries' economic visions and innovation strategies aim at shifting from an oil-dependent economy to a knowledge-based economy. This transformation process requires an efficient IP protection system which constitutes an essential component of the business environment of a knowledge-based economy, fosters creativity and innovation and encourages R&Ds and foreign direct investments (FDIs). The ambitious framework and objectives of the said strategies and visions require a level of IP protection that goes beyond the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). It is therefore important for each GCC country to revisit its IP protection system in light of the objectives contained in each country's vision and economic development strategies.

This study seeks to identify the areas of continuing weakness in IPR protection in the GCC through conducting a 'GAP analysis' between EU best practice in IP protection and the current status of IP protection in the GCC countries. It underlines the importance of designing IP systems that are "conducive to social and economic welfare, and to a balance of rights and obligations". The efficiency of an IP system is not measured by the level of protection in its laws and regulations but by its acceptance and adoption by the population and the capacity of national authorities to enforce it. Therefore, any suggested new measure should be within the limitations of the country's operating systems and in line with its human resources, legal and technical capacities. Moreover, any changes to an existing regime should respond to the country's socio-economic needs and objectives.

The review of current IP protection regulatory frameworks in GCC countries shows that all IP legislation is to a large extent in line with the TRIPS Agreement, however, they are still behind EU and international standards regarding the adoption of rules necessary to face the challenges and to harness the opportunities generated by a knowledge-based economy. For instance, the GCC laws on **copyright and related rights** should be revisited to harmonize the protection of digital content taking into consideration the EU experience and practice in this field. Although the GCC **Trademark** Law has brought significant changes to trademark practices and aligned the existing systems with international standards, the trademark registration systems in all GCC countries are criticized for being very costly and time wasting. Moreover, the quality of substantive examination is sometimes questionable and hence GCC countries should invest more on the capacity building of its trademark examiners and harmonize the registration procedures with international standards. The **geographical indications** (GIs) legal system is not harmonized in GCC countries and there is no distinction between GIs and Appellations of origins. Oman is the only country that has an operational GIs system and an inventory of potential national GIs. Accordingly, it is recommended that the EU starts registering its GIs in Oman and tests the system's efficiency. Moreover, given its experience in this area, the EU can play a major role in helping GCC countries setting-up GIs systems that are similar to the ones operating in EU countries. The **patent** laws in GCC countries differ from one country to another. Inconsistencies with TRIPS are related to the grace period, compulsory licensing and the reversal of the burden of proof in respect of process patents. The Laws of Oman and Bahrain go beyond TRIPS especially with regard to pharmaceutical products. Lessons should be learned from the EU and other countries' experiences to benefit from TRIPS flexibilities and limit the harm of TRIPS plus provisions on the local industry. The **industrial designs** laws should all be revisited to include special protection for textile designs as required by TRIPS and to bring them in line with international standards and address the new challenges imposed by the digital environment (such as 3D printing).

GCC Countries are parties to several **conventions and treaties** administered by the World Intellectual Property Organization (WIPO). Most importantly they are all members of the TRIPS Agreement. The study supports the accession of GCC countries to international IP agreements, such as the WIPO internet treaties, the Singapore Treaty on the Law of Trademarks, the WIPO classification treaties, the Protocol Relating to the Madrid Agreement for the International Registration of Marks (Madrid Protocol), to be in line with international standards necessary to cope with a knowledge-based economy.

The GCC countries are in a race against time to implement their visions and strategies. Accordingly, many initiatives have been undertaken to create a competitive environment for businesses, attract FDIs, promote R&Ds and enhance IP protection. Despite all efforts made, the IP systems in GCC countries are still not up to the level needed for the establishment of a knowledge-based economy. IP is the tool that fosters **innovation and protects inventions, technologies, and R&Ds in sciences**. It has positive impacts on technological innovation in countries with high levels of human capital. Therefore, the implementation of the national visions and innovation strategies of the GCC countries requires not only an advanced technology-based infrastructure and an efficient IP protection system but also high levels of human capital. In recent years, the GCC countries have been active in the elaboration of legislation and initiatives on R&Ds, transfer of technology and innovation, as part of the implementation of their economic visions. Lessons can be learned from different EU experiences and success stories to ensure that legislation is designed in a way that creates the best possible conditions for innovation to succeed.

One of the main objectives of the GCC is to formulate similar regulations in various fields including legislative and administrative affairs. **Harmonizing IP laws and policies** was one of the first areas covered by this objective which led to the adoption of the Unified Patent Law establishing the GCC Unitary Patent and the Unified Trademark Law. With the end of the GCC unitary patent, GCC countries should consider signing a validation agreement between their patent offices and the European Patent Office (EPO) according to which European patents will have legal effect in GCC countries. Moreover, patent issues of impact on the GCC common market should be dealt with at a regional level. The GCC Patent Office can play an important role in this regard through the creation of specialized working groups to develop unified regulations on matters of common interests to all GCC countries. It is also time for GCC countries to develop a unified copyright law that harmonizes GCC copyright legislation and adopts measures to address the protection of copyright and related rights in the digital environment. On the other hand, building the capacity of the trademark examiners and training the judiciary on trademark cases will help harmonize the system and set the ground for a unitary trademark to be adopted when the countries become ready for such a step. It might be early for the GCC countries to work on a unified GIs law however, they can work on developing a GI legislation and a GI registry to protect those potential regional GIs products. It is recommended that a unified law on industrial designs is developed with the aim of harmonizing the system and modernizing it to pave the way for a unitary design. The GCC Intellectual Property Training Centre can also conduct research and studies on possible means for harmonizing IP laws and practices in the region, in particular by helping to establish regional CMOs, a regional GIs registry, a unified industrial design.

In order to assess the benefits of the potential introduction in GCC countries of **GIs protection**, the countries should have a least a potential list of GIs products. In addition to Oman which has an operational GIs system and registered GIs, Saudi Arabia has a list of potential GIs. The EU can play a major role in helping GCC countries setting-up GIs systems through cooperation projects that focus on preparing inventories of existing GIs, forming associations or groups of producers and developing technical specifications of each product. The GCC laws do not distinguish between GIs and protected designations of origin (PDOs). This distinction between GIs and PDOs can be sought when the GIs system is well established and well organized in GCC countries. Introducing PDOs in GCC countries is not an easy task as they cannot be developed on the basis of a one-size-fits-all regime.

The effectiveness of an **enforcement** system does not depend only on the available remedies and penalties to stop piracy and counterfeiting, but on a well-established and transparent IP system managed by well-informed human resources and competent enforcement bodies. The factors that can fail any IP enforcement system include the following:

- the lack of trained and experienced enforcement officers;
- the insufficient IP knowledge among judges; the lack of IP awareness among right holders and users;
- the adoption of IP legislation that does not take into consideration the specificity of the existing legal system and its capacity;
- the lack of coordination among enforcement bodies;
- the lack of transparency and coordination among administrative and enforcement bodies, and
- the high costs of infringement litigation with insufficient rights or procedures to recover litigation costs.

To face these challenges and enhance the effectiveness of enforcement of IP rights in the region, a number of actions can be taken, in particular, the following:

- raising IP awareness through IP campaigns and trainings;
- creating IP Task forces;
- creating of an IP Enforcement Portal;
- revisiting enforcement provisions in IP related laws;
- specialized IP judges;
- creating IP Unit within Customs; and
- capacity building of IP officers and enforcement bodies.

The study concludes with details of these key findings and recommendations for actions to be taken based on EU experience and best practice to improve IP protection both at the GCC and each country's levels.

Copyright and related rights

- To introduce a GCC **unified law on “resale right”** or “droit de suite” for the benefit of authors of original works of art and to preserve works of art and culture in the GCC.
- **To enhance the protection of computer programs** in GCC laws with regard to “*decompilation*” or “interoperability”.
- **To protect non-original databases and advanced data processing systems.**
- **To harmonize** GCC laws relating to the protection of **digital content.**
- To **not extend the general term of copyright** protection to all GCC countries to benefit from a strong public domain.
- To **use the EU experience in the field collective management organizations (CMOs)** to elude any misconception about CMOs and to help GCC countries to build the system to benefit users and right holders of copyright and related rights.
- To **join the Beijing Treaty on Audiovisual Performances** in order to improve the protection of their performers.
- **Bahrain, Kuwait and Oman to join** the Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (**Marrakesh VIP Treaty**).

Trademarks

- To bring the national **trademark laws in conformity with TRIPS.** In particular, the UAE to allow for multiclass applications and to adopt a six-month grace period; and Qatar to amend its reciprocity treatment to become a national treatment.
- To **define “use”** under the GCC trademark laws.
- To **invest on the capacity building of trademark examiners and harmonize the registration procedures** with international standards.
- To **adhere to the Singapore Treaty on the Law of Trademarks** to modernize the existing system and harmonize the trademark procedures with those of other signatory countries and resolve procedural problematic issues for national and foreign applicants.
- To **adhere to the Madrid Protocol, the Nice Agreement** Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, and the **Vienna Agreement** Establishing an International Classification of the Figurative Elements of Marks.

Geographical indications

- Kuwait and the UAE **to adopt a sui generis system for the protection of GIs.**
- All GCC countries **to adhere to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods.**
- Oman **to provide additional protection for wines and spirits.**
- GCC countries **to establish inventories for potential GIs** products in each country.
- **EU to help** GCC countries in **setting-up GIs systems** that are similar to the ones operating in EU countries.
- **EU to help** GCC countries **to define and implement a national strategy** for an effective protection of GIs and **to initiate GIs pilot projects.**
- To **conduct a study to identify potential Traditional Specialities Guaranteed (TSG)** and evaluate the need for such protection in GCC countries.

Patents

- **Oman** to revisit its patent law in order to **limit the scope of the provisions that extend patent protection to “any new uses for, or new methods of using, a known product, including new uses and new methods for the treatment of particular medical conditions”** and their impact on the generic sector.
- **Oman and Bahrain** to benefit from the **EU practice known as the supplementary protection certificates** to make their laws less harmful to their local industry.
- GCC countries, with the exception of Bahrain and Oman, to **amend the grace period for the payment of the fees prescribed for the maintenance of industrial property rights** to be in line with TRIPS.
- **Kuwait, Qatar and the UAE** to provide for the **reversal of the burden of proof** in respect of process patents as required by Article 34 of the TRIPS.
- **Qatar and the UAE** to bring their patent laws in line with TRIPS by prohibiting the discrimination of patents as to whether products are imported or locally produced.
- Kuwait and the UAE to **join the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure**.
- GCC countries to **join the Strasbourg Agreement Concerning the International Patent Classification**.

Industrial designs

- The **definition of industrial design to be improved** to cover all categories of designs.
- To **include a special protection for textile designs** as required by Article 25.2 of TRIPS.
- To **bring GCC laws on industrial designs in line with international standards** and address the new challenges imposed by the digital environment (such as 3D printing).
- GCC countries to **join the Hague Agreement Concerning the International Registration of Industrial Designs, and the Locarno Agreement Establishing an International Classification for Industrial Designs**.

IP & inventions, technology and sciences

- To **implement the four strategies suggested by the World Bank to respond to human capital challenges**, in particular:
 - Investing in high-quality early childhood development;
 - Preparing healthier, better educated, and skilled youth for the future;
 - Enabling greater adult labor force participation;
 - Creating an enabling environment for human capital formation.
- To **support research and innovation** activities in universities and research centres; **fund innovative techniques; transfer and localize technology**; and **enhance the legislative and institutional framework**.
- To **use technological knowledge in a manner conducive to social and economic welfare**, and **benefit from TRIPS flexibilities** regarding IP and public health and IP and access to knowledge.
- To **take into account the effect of each new initiative on innovation** to ensure that GCC policy and regulations support innovation and that innovation and competitiveness are not suppressed with rigid and detailed regulations.

Harmonization of IP laws and policies

- Copyright & related rights
 - To **develop a Unified Law/ regulation that covers only the copyright and related rights in the digital environment** without addressing conflictual copyright issues such as the term of protection.
 - To **create a task force** to address the deficiencies in national legislation relating to the protection of Copyright in the digital age and their impact on the GCC Common Market.
- Patents
 - To **sign a validation agreement** between GCC patent offices and the European Patent Office (EPO) according to which European patents will have legal effect in GCC countries.
 - To **adopt efficient modalities of work sharing** such as:
 - Patent Prosecution Highway (PPH)
 - The PCT-Patent Prosecution Highways Pilots (PCT-PPH)
 - SHARE- Strategic Handling of Application for Rapid Examination Project

- The GCC Patent Office to **create specialized working groups to develop unified regulations on matters of common interests** to all GCC countries, in particular those that have **direct impact on the GCC common market**.
- The GCC Patent Office
 - To contribute to the **capacity building of GCC patent professionals, help SMEs on IP protection and commercialization, and initiate projects on regional collaboration among GCC countries**.
 - Trademarks
 - To **build the capacity of the trademark examiners and train the judiciary on trademark cases** with the aim of harmonizing the GCC trademarks systems.
 - Geographical indication
 - To **develop a GI legislation and a GI registry to protect potential regional GIs products** (products that are found in all GCC countries).
 - Industrial designs
 - To **develop a unified law on industrial designs** with the aim of harmonizing the system and modernizing it to pave the way for a unitary design.
 - GCC Intellectual Property Training Centre
 - To **build the capacity of IP professionals and academics** from all GCC countries in areas of common interests to the region.
 - To **conduct research and studies on possible means for harmonizing IP laws and practices** in the region, in particular by helping to establish regional CMOs, a regional GIs registry, a unified industrial design, etc.

Enforcement

- **Raising IP awareness** through IP campaigns and trainings
- **Creation of a national IP task force** for each of the GCC countries in order to coordinate IP enforcement cases and to conduct joint raids and enforce the IP Laws more efficiently.
- **Creation of an IP Enforcement Portal** in order to enhance national coordination between rights holders and enforcers to share information in a secure way, to collect data on enforcement for further analysis, and to inform about third party infringements and the GCC activities in the area of IP crime.
- **Revisiting enforcement provisions in IP related laws** including the following:
 - Providing for the payment by the infringer of the legal costs as required by TRIPS
 - Harmonizing enforcement procedures and penalties between different laws.
 - Providing new legal solutions to enhance IP protection and combat infringements in the online environment.
- **Specialized IP judges**
 - The formation of a core group of specialized and competent national judges. The judiciary is the third source of law and hence, investing in a new generation of specialized and educated national judges is crucial for ensuring an effective enforcement system.
 - The judicial system should find practical and long-lasting solutions for the costly and time-consuming infringement litigations.
- **Creation of IP Unit within Customs**, with well-trained enforcement officers, to stop counterfeiting and piracy at the borders; monitor the destruction of infringing goods and equipment used; coordinate with IP offices on IP infringing cases; and help establish a common database between the Customs and national IP Offices on registered IP rights; cooperate with right holders and other stakeholders on counterfeiting and piracy; and exchange experience with other IP Units and task forces at the national, regional and international levels.
- **Capacity building of IP officers** to have a knowledgeable and competent IP administrative body capable of managing efficiently IP offices.
- **Capacity building of IP enforcement bodies** on IP principles as enshrined in national laws and the value of and its socio-economic impact on the development of countries.

Introduction

In 2018, the EU initiated a project entitled “EU-GCC Dialogue on Economic Diversification” with the countries of the cooperation Council for the Arab States of the Gulf (GCC), i.e., Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. The project aims to support the GCC countries’ ongoing process to shift from primarily being an oil-dependent economy to a knowledge-based economy. In this context, the EU is engaging in a number of activities to foster the government-to-government dialogues and to promote dialogue and cooperation between public and private stakeholders from EU and GCC at regional and country levels. This is consolidating the EU’s position as a partner of choice for GCC countries for cooperation on economic diversification strategies, macroeconomic stability, trade and investment, and research and innovation.

Intellectual property (IP) is a key factor for any knowledge-based economy. It fosters creativity and innovation, protects research and investments, and plays a major role in the management of research and development (R&D). The EU is a major player in shaping international intellectual property laws and systems and a main negotiator at international IP fora. The EU’s experience and knowledge in the protection of IP and the enforcement of IP rights can be used to help GCC countries to modernize their IP protection regimes and adopt appropriate rules and regulations for a knowledge-based economy.

The purpose of this report is to identify the areas of potential improvements in IPR protection in the GCC through conducting a ‘GAP analysis’ between EU best practices in IP protection and the current status of IP protection in the GCC, both at individual country and supranational levels to assist GCC member countries to improve IP protection for both indigenous and European businesses, in order to help them achieve their economic diversification objectives through a move to establishing knowledge-based economies.

The report is based on legal research (using available internet resources and specialized IP publications) and interviews/online meetings with representatives of the GCC Patent Office, the public sectors in GCC countries, namely, the UAE, Saudi Arabia, Kuwait and Oman, as well as representatives of the private sector in addition to the French National Institute for Industrial Property (INPI) Regional Consultant at the French Embassy in the UAE.

The report contains the following 7 chapters:

Chapter 1 reviews current IP protection regulatory frameworks in the GCC member states and on the basis of international (and in particular EU best practices), highlights areas of improvement on all IPRs.

Chapter 2 reviews GCC countries’ current membership to international IPR Conventions and Treaties and provides information that could support the accession of GCC Members to the main international agreements.

Chapter 3 proposes enhancements to GCC laws based on EU best practices concerning IP protection, particularly in relation to laws and regulations that have an impact on inventions, technology, and sciences.

Chapter 4, on the basis of EU experience in IP protection, proposes recommendations for the harmonization of IP laws and policies in the GCC member states and identifies suitable legal and other means to achieve these goals.

Chapter 5 highlights the benefits of the potential introduction in GCC countries of geographical indications protection such as protected designation of origin (PDO) and protected geographical indication (PGI). In addition, it provides examples of products that could be protected by GI.

Chapter 6 assesses procedures and practices of IP enforcement in the GCC identifying areas for improvement and provides recommendations to enhance the effectiveness of enforcement of IP rights in the region, including assessing the activities of judges, police and customs.

Chapter 7 concludes with key findings of the study and recommendations on improving IP protection both at the GCC and each country’s levels taking into consideration the EU experience, success stories and best practices.

Chapter 1. IP protection in the GCC countries

Intellectual property rights are driving tools for economic development and incentives for innovation and creativity. They serve as fundamental rules in any knowledge-based economy. Therefore, developed countries including the European Union (EU) were keen to develop intellectual property (IP) systems reflecting their level of advancement while maintaining a balance between rewarding creativity and disseminating knowledge. The European Commission (EC) harmonized its IP laws at a higher level of agreed international standards. The system is meant to create a secure and competitive environment for businesses, promote investment in innovation and research and development (R&D), and establish effective means for IP enforcement. The EU experience can serve as a model for growing knowledge-based economies, provided the level of development of concerned countries is taken into consideration.

The GCC countries were not among the first countries in the region to adopt IP regimes or to adhere to basic IP treaties. However, the establishment of the World Trade Organization (WTO) and the entry into force of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was a turning point for IP protection in GCC countries. As founding Members of the WTO, Bahrain, Kuwait, Qatar and the UAE became automatically signatories to TRIPS. The situation was different for Oman and Saudi Arabia who had to undergo the whole accession process to the WTO which entailed a full examination of their IP legislation and practice and commitments to meet at least the TRIPS level of protection. Today, IP legislation in GCC countries is to a large extent in line with the TRIPS Agreement (See table 1 on “Entry into force of the TRIPS Agreement in GCC countries”).

BAHRAIN	KUWAIT	OMAN	QATAR	Saudi Arabia	UAE
January 1, 1995	January 1, 1995	November 9, 2000	January 13, 1996	December 11, 2005	April 10, 1996

The TRIPS Agreement places intellectual property in a world trade context and obliges WTO Members to abide by its minimum standard for IP protection covering Copyright, Related Rights, Trademarks, Industrial Designs, Patents, Geographical Indications and Undisclosed Information (Trade Secrets). It works in addition to existing conventions and does not replace them. It provides for effective enforcement procedures against any act of infringement of intellectual property rights covered by the Agreement and obliges WTO Members to abide by the non-discrimination rules of the multilateral trading system, i.e., the national treatment principle (NT) and the most favoured nation principle (MFN), according to which countries cannot discriminate their trading partners. Unlike other WTO Agreements, TRIPS does not exempt Free Trade Agreements (FTAs) from the application of NT and MFN.

The NT principle forbids GCC countries from treating their own nationals better than they treat foreigners (nationals of other WTO Members). However, they are allowed to treat foreigners better than their own nationals. The meaning of NT under TRIPS differs from NT under WIPO treaties which means treating nationals and foreigners equally. Under the MFN principle, all advantages, privileges, or special treatments that GCC countries grant to any other country, even if the said country is not a member of the WTO, should be granted immediately and unconditionally to all WTO Members. While the NT principle is reflected in most of the GCC IP Laws, the MFN principle is rarely reflected properly. It is rather replaced by reciprocal treatment or similar provisions. However, it is to be mentioned that even if not enshrined in the laws, both principles are respected in practice.

The TRIPS objectives and principles¹ set the fundamental rules under which WTO Members should design their IP protection systems,² that is to be “in a manner conducive to social and economic welfare, and to a balance of rights and obligations”. Unfortunately, these golden rules are not always implemented properly or taken into consideration when enacting new laws or concluding trade agreements which are often dictated by foreign political pressures. Implementation and enforcement problems are often caused by the transposition into national legislation of IP provisions that do not

¹ See Articles 7 and 8 of the TRIPS Agreement

² The Doha Declaration on TRIPS and Public Health provides that “In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles”
https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm

respond to the market needs³ or that are “alien” to the concerned population. The main factor for a smooth and successful implementation of a new rule or legislation is its acceptance by the sectors that are most affected by its adoption. This practice is ensured by rules of good governance and transparency in developed countries including the EU. It is also becoming a new practice in certain GCC countries namely Saudi Arabia. For instance, the Saudi Authority for Intellectual Property (SAIP) is applying the principle of transparency when adopting new IP legislation by making available to the public’s consultation draft laws and IP treaties. The public’s suggestions and comments are then collected and shared again on SAIP’s website including SAIP’s feedback on the relevance of each of the received comments. Such practice paves the way for the acceptance by the society of the legislation in question and facilitates its implementation.

The efficiency of an IP system is not measured by the level of protection in its laws and regulations but by its acceptance and adoption by the population and the capacity of national authorities to enforce it. Therefore, any suggested new measure should be within the limitations of the country’s operating systems and in line with its human resources, legal and technical capacities. Moreover, any changes to an existing regime should respond to the country’s socio-economic needs and objectives.

The GCC countries’ economic visions and innovation strategies aim at shifting from an oil-dependent economy to a knowledge-based economy. The transformation process requires an efficient IP protection system which constitutes an essential component of the business environment of a knowledge-based economy, fosters creativity and innovation and encourages R&Ds and foreign direct investments (FDIs). The ambitious framework and objectives of the said strategies and visions require a level of IP protection that goes beyond TRIPS. It is therefore important for each GCC country to revisit its IP protection system in light of the challenges imposed by the country’s vision and strategies. This chapter will highlight areas of improvement in GCC laws that constitute a challenge for the countries to meet their objectives. The EU best practice will be used as benchmark.

a. Copyright & Related Rights

The Copyright Laws in GCC countries (Annex 2: GCC Copyright legislation) are similar but not identical. They are all at a large extent in line with the TRIPS Agreement. However, there is a need today to go beyond TRIPS especially in matters related to the protection of copyright and related rights in the digital environment. Some of these laws go beyond TRIPS in particular the Laws of Oman and Bahrain which were amended to reflect the IP obligations under their respective free trade agreements (FTAs) with the United States. All GCC countries are members of the Berne Convention for the Protection of Literary and Artistic Property (Berne Convention) and they are either members or in the process of joining the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT).⁴

GCC countries comply with Articles 1 through 21 of the Berne Convention including Article 6bis on moral rights which is not a requirement of TRIPS. GCC countries provide for more extensive moral rights than required by the Berne Convention. They extend copyright protection to computer programs and databases provided their arrangement or selection is creative and provide for rental rights. The laws provide also for limitations and exceptions in line with TRIPS in particular those related to computer programs. While Kuwait and Oman make all **limitations and exceptions** to exclusive rights of copyright subject to the three-step test,⁵ Bahrain, Qatar, Saudi Arabia and the UAE provide for exceptions and limitations that are in line with Berne and TRIPS without mentioning of the test conditions.

Although “**resale right**” or “*droit de suite*” is optional under the Berne Convention and the TRIPS Agreement, Saudi Arabia is the only GCC country that provides for such right.⁶ GCC countries are encouraged to adopt this non-compulsory right for the benefit of authors of original works of art in the GCC. This can be done at a regional level through a unified law to preserve works of art and culture in

³ See Principles for Intellectual Property Provisions In Bilateral And Regional Agreements, Max Planck Institute for Innovation and Competition Law (MPI).

⁴ For membership of GCC countries to Copyright and related rights treaties, see Chapter 2 of this report.

⁵ The so-called three-step test is provided under Article 13 of TRIPS which states that: “Members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder”.

⁶ See Article 6 of Copyright Law No. M/41of 2003.

the GCC. The EC Directive 2001/84/EC on the resale right for the benefit of the author of an original work of art can serve as a model for a unified law.

Certain copyright laws address the protection of **computer programs** in a comprehensive way providing provisions similar to the ones found under the EU Directive 2009/24/EC on the legal protection of computer programs. The following table summarizes certain provisions on computer programs in GCC copyright laws (Table 2). Provisions on “decompilation” or “interoperability” can complement these provisions. The Computer Programs Directive can serve as a model.⁷

⁷ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32009L0024>

Table 2: Copyright Law provisions on computer programs/ software						
	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
Exclusive rights of the rights-holder of a computer program	An author shall enjoy the following exclusive economic rights: Rental for commercial purposes of an original or copies of his work embodied in a phonorecord, cinematographic work or his work that is in the form of computer software ⁸ .	The law prohibits to store or download any copy of the computer programs, applications or databases on the computer without authorization from the author or the related right holder or their successors ⁹ .	The author or his general successor shall have the right to enjoy the following economic rights: Rental of the original or a copy of his work embodied in sound recording, of his movie work, or computer program, for commercial purposes ¹⁰ .	The Author or the owner of the copyright shall have the exclusive right to carry out or to authorize any of the following acts: rental to the public of audiovisual works or computer programs.	It shall be deemed an infringement of copyright any use of the programs different from that specified by the owner of the right, such as: (1) Reproduction of software and game programs. (2) Renting the software or game programs or licensing their collective use in the absence of documents authorizing the renting person to exercise this right upon obtaining the approval of the Authority. (3) Loading the local networks or the equipment with reproduced software ¹¹ .	The law prohibits Loading or storing any copy of the programs, applications, or databases in the computer before having a license from the author, the right holder of their successor ¹² .
Authorship of computer programs	If an employee creates a computer program in the course of his duties or following the instructions given by his employer, the employer exclusively has the economic rights relating to that computer program.		If the work is created for the benefit of another person, the copyrights belong to the creator unless otherwise agreed in writing. If the worker creates a work related to the activities of the employer or uses the expertise, information, tools, machinery or materials of the employer, the copyrights belong to the employer. However, if a worker does a work that is not related to the			

⁸ See Article 6 of Law No. 22 of 2006 on the protection of Copyright and Related Rights.

⁹ See Article 44 of Law No. 75 of 2019 on Copyright and Related Rights.

¹⁰ See Article 6 of Law on Copyright and Related Rights.

¹¹ See Article 16 of the Implementing Regulations of Copyright Law – 2019.

¹² See Article 38 of Law No. 7 of 2002 on Copyright and Related Rights.

Table 2: Copyright Law provisions on computer programs/ software						
	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
			employer and does not use his expertise, information or tools to access this innovation, intellectual property rights belong to the worker ¹³ .			
Special measures of protection	The following are prohibited: Trading in or design of forged labels to display them on a phonorecord, a copy of computer software, documents or cases of computer software, a copy of a movie film or any video works if he knows the same. Trading in forged documents or cases of computer software if he is aware thereof ¹⁴ .	The law prohibits to store or download any copy of the computer programs, applications or databases on the computer without authorization from the author or the related right holder or their successors ¹⁵ .	The following acts are prohibited: Knowingly traffics in counterfeit labels affixed or designed to be affixed to: a sound recording, a copy of a computer program, documentation or packaging for a computer program, or an audio-visual work. Knowingly traffics in counterfeit documentation or packaging for a computer program ¹⁶ .	The reproduction, in a single copy, or the adaptation of a computer program by the rightful owner of a copy of that computer program shall be allowed to the extent justified by the initial purpose, or for the purpose of preservation or replacement of an original copy or an adaptation thereof; this right shall expire in the event that the possession of the computer program ceases to be lawful ¹⁷ .	It shall be deemed an infringement of copyright any use of the programs different from that specified by the owner of the right, such as: (1) Reproduction of software and game programs. (2) Renting the software or game programs or licensing their collective use in the absence of documents authorizing the renting person to exercise this right upon obtaining the approval of the Authority. (3) Loading the local networks or the equipment with reproduced software ¹⁸ .	Any person using computer programs or its application without a prior permission from the author or his successors will be punished by payment of fine not less than ten thousand dirhams but not exceeding thirty thousand dirhams against each program, application or database ¹⁹ .

¹³ See Article 27 of Law No. 75 of 2019 on Copyright and Related Rights.

¹⁴ See Article 65 of Law 22 of 2006 on the protection of Copyright and Related Rights.

¹⁵ See Article 44 of Law No. 75 of 2019 on Copyright and Related Rights.

¹⁶ See Article 52 of Law on Copyright and Related Rights.

¹⁷ See Article 20 of Law No. 7 of 2002 on the protection of Copyright and Related Rights.

¹⁸ See Article 16 of the Implementing Regulations of the Copyright Law of 2019.

¹⁹ See Article 39 of Law No. 7 of 2002 on the protection of Copyright and Related Rights.

Databases or collections of works are protected in GCC countries as copyrightable subject-matters provided the selection or arrangement of their contents constitutes an intellectual creation. In other words, databases should be original to enjoy copyright protection. The GCC countries lack any protection for databases and advanced data processing systems that do not fall within the subject-matters of copyright. Whether original or not, databases are essential products in a knowledge-based economy. The realization of certain databases engenders substantial investments in terms of money, time and human efforts. The EU has found a solution for this kind of products by offering a sui generis protection for the “substantial investment (financial and in terms of human resources, effort and energy) in obtaining, verifying or presenting the contents of a database”.²⁰ Accordingly, Directive 96/9/EC on the legal protection of databases can be used as a starting point reference for GCC countries if they decide to protect non-original databases. GCC countries can benefit from the economic and legal analysis as well as the evaluation reports related to the effect of the Directive especially with regard to non-original databases. The Directive provides legal protection for original databases and a sui generis system provides the creator of the database with transferrable economic rights and allows him to prohibit others from extracting and/or reusing the database contents without his authorization. The protection is available for 15 years from the date of the creation of the database. Exceptions are allowed provided the legitimate interests of the creator of the database or of a person providing the works or services it contains are not unreasonably harmed.²¹

Protecting **copyright in a digital environment** becomes more and more challenging. The rapid development of new technologies and internet tools and infrastructure necessitate constant changes to copyright laws to cope with the development pace of the digital age. The GCC countries’ visions and innovation strategies have set the framework of an information-based society the implementation of which requires strong copyright laws. GCC countries are either members or in the process of joining the so-called WIPO internet treaties, i.e., the WCT and WPPT.²² While technological protection measures and rights management information are protected in all GCC countries, the liability of internet service providers is covered by the laws of Bahrain and Oman only.

The GCC laws provide different levels of protection for technological protection measures (Table 3) and rights management information (Table 4). The UAE’s copyright law does not mention specifically technological protection measures or rights management information but provides a protection that is in line with the WCT and WPPT. The limited protection found under Qatar’s copyright is strengthened by the provisions of their Law on the Prevention of Cybercrimes.²³

Extensive provisions on the liability of internet service providers are found under Bahrain and Oman Copyright laws and other related laws. These provisions are the reflection of Bahrain and Oman obligations under their respective FTA with the United States.

Table 3: Protection of Technological Measures

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
The law provides adequate protection against breaking or rendering defective any effective technological measure ²⁴ .	The following acts are prohibited: Circumvent the technological protection measures, or to penetrate the	The Law prohibits the unauthorized circumvention of any effective technological measure as well as the manufacture, import, distribution or providing	All competent bodies shall adopt the necessary measures and procedures to protect any devices, tools, information technology equipment, information systems, electronic data or information placed under seizure until the competent judicial authorities issues a	The following is prohibited: <ul style="list-style-type: none"> Removing and cracking any protective electronic code that guarantees the use of original copies of the work, such as coding or data recorded by 	The law prohibits the following: <ol style="list-style-type: none"> 1. Manufacturing or importation without having a right, for the purpose of sale or rental of any equipment, instruments or apparatus designed or prepared for the purpose of fraud against any technology used by the author or the holder

²⁰ <https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:31996L0009>

²¹ An economic and legal analysis of the Database Directive as well as an evaluation report are available at the following address: <https://ec.europa.eu/digital-single-market/en/news/study-support-evaluation-database-directive>

²² More details about WIPO internet treaties are provided under Chapter 2 of this study.

²³ See David Price and AlHanoof AlDebasi, “Protecting Intellectual Property in the Arabian Peninsula”, Routledge Research in Intellectual Property, 2018.

²⁴ See Article 45 of Law No. 22 of 2006 on the protection of Copyright and Related Rights.

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
	technological protection measures ²⁵ .	services for the purpose of circumvention of any effective measure ²⁶ .	decision regarding the same. ²⁷ The Qatari copyright law does not provide clear protection of technological measures, however in the chapter regarding preventive measures and sanctions, article 51 states the following: (devices or instruments preventing or limiting the reproduction of a work, a sound recording, or a broadcast) Or (devices that can enable the reception of codified programs broadcast or communicated to the public in any other way, including programs communicated through satellite, or if they facilitate such transmission to persons not entitled to receive such programs) Or remove or modify any electronic data relating to copyright administration, without authorization) Or distribution, transmission or communication to the public works, or provide them to the public without authorization, knowing that electronic data relating to copyright administration were removed or modified without authorization)	the use of laser or other means. • Manufacturing or importing tools –for the purpose of sale or rental- of any means which facilitate the reception or exploitation of works through means other than those determined by the owner of the rights ²⁸ .	of the related right to arrange or administer such rights or for preservation of specific standard of quality of the copies. 2. Delaying or disgracing, without having a right, any technological protection or electronic information meant to arrange and administer the rights stipulated in this law. 3. Loading or storing any copy of the programs, applications, or databases in the computer before having a license from the author, the right holder of their successor ²⁹ .

It is to be noted that internet-based copyright crimes are found under GCC laws on cybercrimes, namely, Bahrain's Law on Combating Cybercrime in the Kingdom of Bahrain of 2014, Kuwait's Law on Combating Information Technology Crimes of 2015, Qatar's Law on Combating Information Technology Crimes of 2014, Oman's Sultanate Decree on Information Technology Crimes of 2011, Saudi Arabia's Law on Combating Information Technology Crimes of 2007 and UAE's law on Combatting Cyber Crimes.³⁰

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
Bahraini law provides legal protection against the alteration of any information on the management of	Defect any technical protection or electronic information	The law prohibits without obtaining written authorization	All competent bodies shall adopt the necessary measures and procedures to protect any devices, tools, information technology equipment,	The following is prohibited: Removing any written or electronic information	Prohibited: Delaying or disgracing, without having a right, any technological protection or

²⁵ See Article 44 of Law No. 75 of 2019 on Copyright and Related Rights.

²⁶ See Article 40 of Law No. 65/2008 Law Copyright and Related Rights.

²⁷ See Article 19 of Law No. 14 of 2014 on Cybercrimes Prevention Law.

²⁸ See Article 21 of Copyright Law (2003).

²⁹ See Article 38 of Law No. 7 of 2002 on Copyright and Related Rights.

³⁰ See Federal Decree No 5 on Combatting Cyber Crimes of 2012

Table 4: Protection of Rights Management Information

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
rights, as well as the distribution or importation any information on the management of rights for distribution purposes ³¹ .	aimed at organizing and managing the information ³² .	from the rights owner the removal or alteration of rights management information ³³ .	information systems, electronic data or information placed under seizure until the competent judicial authorities issues a decision regarding the same. ³⁴	that may lead to forfeiting the owner's copyrights ³⁵ .	electronic information meant to arrange and administer the rights stipulated in this law ³⁶ .

GCC countries should join their efforts to harmonize their laws relating to the protection of digital content. In this regard they can rely on the experiences and practices of other countries.³⁷ The EU Directive 2019/790 on copyright in the digital single market³⁸ provides good guidance on the online content-sharing service providers and the fair remuneration for authors and performers. The EU Regulation (EU) 2017/1128 on the portability of online content services throughout the EU, can be used as model to ensure that subscribers to an online content service in their own GCC country, such as films, sports events, eBooks, video games and music, can access it when they are temporarily staying in other GCC countries³⁹.

The general **term of protection** for copyright in GCC countries is 50 years *post mortem auctoris* (*p.m.a.*) i.e., after the death of the author except for Oman and Bahrain which provide for a general term of 70 years after the death of the author following their respective FTAs with the United States. This new standard is becoming the new benchmark in free trade agreements. In the late 1990s, the US amended its copyright law to extend the term of protection for most of works to 70 years *p.m.a.* so that some important American works do not fall into the public domain in particular the Mickey Mouse Cartoons. The extended term clearly benefits American entertainment companies that are leading in the music and film industries. However, this is done potentially to the detriment of consumers worldwide including in GCC countries who will have to pay additional royalties for 20 more years. This will also delay their free access to learning materials and other useful works. In 2011, the EU followed the US steps by adopting a new Directive extending the term of protection to 70 years *p.m.a.*⁴⁰ For the time being, it is not recommended that GCC countries extend their 50-year term of protection so that the copyright industry in GCC countries can still benefit from a strong public domain. It is to be noted that the differences between the terms of protection of the GCC countries may constitute an obstacle for a unified copyright law in the future. It is likely that the term will be extended if an agreement is reached.

The table below summarizes the copyright terms of protection for the different categories of works in GCC countries (Table 5).

Table 5: Copyright Term of Protection

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
<ul style="list-style-type: none"> The term of protection of the author's rights is during his lifetime and seventy years after his death. Audiovisual and collective work is 	<ul style="list-style-type: none"> The term of protection of the author's economic rights over his life-long work and for fifty years after his death or the 	<ul style="list-style-type: none"> The term of protection for the economic copyrights is the life of the author and 70 years after his death. 	<ul style="list-style-type: none"> The economic rights are protected during the life of the author and 50 years 	<ul style="list-style-type: none"> The copyright period is the life of the author and 50 years after his death or the death of the last author 	<ul style="list-style-type: none"> The economic rights are protected during the life of the author and 50 years after his death or the death of the last

³¹ See Article 45 of Law No. 22 of 2006 on the protection of Copyright and Related Rights.

³² See Article 44 of Law No. 75 of 2019 on Copyright and Related Rights.

³³ See Article 40 of Law on Copyright and Related Rights.

³⁴ See Article 19 of Law No. 14 of 2014 on Cybercrimes Prevention Law.

³⁵ See Article 21 of Copyright Law (2003).

³⁶ See Article 38 of Law No. 7 of 2002 on Copyright and Related Rights.

³⁷ See the French experience regarding the HADOPI Law which is criticized for being anti-privacy and anti-freedom of expression. See https://cs.stanford.edu/people/eroberts/cs181/projects/2010-11/FreeExpressionVsSocialCohesion/france_policy.html.

³⁸ <https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:32019L0790&qid=1613514683799>

³⁹ <https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:32017R1128>

⁴⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0077>

Table 5: Copyright Term of Protection

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
<p>set at 70 years after the year of their first publication in a legal manner</p> <ul style="list-style-type: none"> • Economic rights of the works that are published without mention of their author's name or under a pseudonym shall be protected for a period of seventy years. • Economic rights in respect of works of applied arts shall be protected for a period of seventy years commencing from the beginning of the financial year following the year of completion of every individual work⁴¹. 	<p>death of the last surviving author.</p> <ul style="list-style-type: none"> • The term of protection of collective works and audiovisual works shall be fifty years from the first publication. • The protection period for applied arts and photographic works shall be fifty years from the date of the first presentation or publication of the work of the work, regardless of the republication • The period of protection of published works without mentioning the name of the author or the name of a pseudonym, shall be fifty years after the publication of the work⁴². 	<ul style="list-style-type: none"> • The economic rights of the audiovisual works, the collective works, works of applied arts and works published anonymously or under a pseudonym is protected for 95 years after the legal publication of the work, and if such works were not published during twenty-five years starting from the date they were completed, the economic rights of these works is protected for one hundred twenty years after their creation⁴³. 	<p>after his death or the death of the last author in case on joint authorship.</p> <ul style="list-style-type: none"> • Audiovisual or collective work is set at fifty years after the year of their first publication. • Work published under a pseudonym or published anonymously; the rights shall be protected for fifty years after the publication of the work⁴⁴. 	<p>in case on joint authorship.</p> <ul style="list-style-type: none"> • The copyright period for audio works, audiovisual works, films, collective works, and computer programs shall be 50 years from the date of the first show or publication of the work, regardless of republication. • The copyright period for applied art works (handcrafted or manufactured) and photographs is 25 years from the date of publication⁴⁵. 	<p>author in case on joint authorship.</p> <ul style="list-style-type: none"> • The economic rights of the authors of the applied art works are 25 years after the first publication of the work. • The economic rights of the authors of collective works except the authors of applied arts shall be protected for a period of fifty years after the first publication. • The economic rights of the works published anonymously or pseudonymously shall be protected for fifty years after the first publication⁴⁶.

Related or Neighboring rights are the rights of performing artists in their performances; the rights of producers of sound recordings or phonograms in their recordings or phonograms; and the rights of radio and television broadcasting organizations in their radio and television programs. The protection of these rights is in line with the provisions of the TRIPS Agreement and the WPPT. Bahrain, Qatar and the UAE are the only GCC countries members of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. All GCC countries are either members or in the process of joining the WPPT. Recently Qatar and the UAE became members of the Beijing Treaty on Audiovisual Performances which modernizes and updates the Rome Convention and complement the WPPT. The Treaty strengthens the rights of performers in the audiovisual industry by providing incentives and compensation in regard to the international use of their performances especially in the online age.⁴⁷ The UAE is amending its Copyright and Related Rights Law to reflect its obligations under the Treaty. It is important for the rest of the GCC countries, in particular Kuwait, which is considered to be the Hollywood of the GCC, to join the treaty in order to improve the protection of their performers.

⁴¹ See Chapter Seven, Section One of Law No. 22 of 2006 on the Protection of Copyright and Related Rights (as amended up to Law No. 5 of 2014).

⁴² See Chapter 3 of Law No. 75 of 2019 on Copyright and Related Rights.

⁴³ See Chapter 7 of Law on Copyright and Related Rights.

⁴⁴ See Article 15 of Law No. 7 of 2002 on the Protection of Copyright and Related Rights.

⁴⁵ See Article 19 of Copyright Law (2003).

⁴⁶ See Article 20 of Law No. 7 of 2002 on Copyright and Related Rights.

⁴⁷ See https://www.wipo.int/beijing_treaty/en/

The table below summarizes the related rights terms of protection for performers, producers of sound recordings and broadcasting organizations in GCC countries (Table 6).

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
<ul style="list-style-type: none"> • Economic rights of performing artists and phonorecord producers shall be protected for a period of seventy years commencing from the beginning of the calendar year following the year of their first publication in a legal manner. If such works have been published during fifty years from the date of their completion, their financial protection shall lapse seventy years from the beginning of the calendar year following the year of their performance. • Broadcasting corporations' rights in respect of their broadcasting programs are protected for a period of 20 years⁴⁸. 	<ul style="list-style-type: none"> • The protection period for performers shall be fifty years after the performance took place, or after the performance was fixed in a phonogram. • The period of protection for producers of phonograms shall be fifty years after the phonogram is published if it is not published within fifty years from the installation of the phonogram. • The term of protection of broadcasting organizations shall be twenty years after their programs were first broadcast⁴⁹. 	<ul style="list-style-type: none"> • The economic rights of the performers as well as the producers of sound recordings is protected for 95 years after the work is legally published for the first time. • The rights of broadcasting programs of the broadcasting organizations shall be protected for twenty years after program was broadcasted for the first time⁵⁰. 	<ul style="list-style-type: none"> • The rights of performers are protected until the end of the fiftieth year following the fixation of the performance in a sound recording or in the absence of such fixation, from the end of the year in which the performance took place. • The rights of the producers of sound recordings are protected for until the end of the fiftieth year following the year of publication or, if the sound recording has not been published, from the fixation of the sound recording until the end of the fiftieth year, following the year of fixation. • The rights of the broadcasting organizations shall be protected for twenty years as from the year following the year in which the broadcast takes place. 	<ul style="list-style-type: none"> • The protection period for broadcasting organizations shall be 20 years from the date of the first transmission of programs or broadcast materials. • The protection period for the producers of audio recordings and performers shall be 50 years from the date of performance or its first recording, as the case may be⁵¹. 	<ul style="list-style-type: none"> • The economic rights of the performers shall be protected for a period of fifty years after the performance was accomplished • The economic rights of the producers of phonograms shall be protected for fifty years after the publication of the phonogram. • The rights of the broadcasting organizations shall be protected for twenty years after the first transmission of these programs was made⁵².

The role of **Collective Management Organizations (CMOs)** is important to help right holders collect their rights and to improve copyright and related rights enforcement. The role of CMOs is gaining more importance in the digital age where it is becoming more difficult for right holders to manage their rights individually. The knowledge-based economy that GCC countries aim to achieve should be equipped with systems that protect right holders and enforce their rights.

Bahrain, Kuwait, Oman and the UAE are the only countries in the GCC that have included in their copyright and related rights laws provisions on the legal framework for establishing a CMO (Table 7). However, to date, no CMO has been established in these countries. CMOs are still not operational in Bahrain and Kuwait, as the needed regulations for the implementation of the laws have not been issued

⁴⁸ See Chapter Seven, Section two of Law No. 22 of 2006 on the Protection of Copyright and Neighboring Rights (as amended up to Law No. 5 of 2014).

⁴⁹ See Chapter 3 of Law No. 75 of 2019 on Copyright and Related Rights.

⁵⁰ See Chapter 7 of Law on Copyright and Neighboring Rights.

⁵¹ See Article 19 of Copyright Law (2003).

⁵² See Article 20 of Law No. 7 of 2002 on Copyright and Neighboring Rights.

yet. Kuwait is finalizing the implementing regulation related to CMOs and welcomes any assistance in this regard to develop this sector. Oman and the UAE are the only countries to have issued the related implementing regulations. The UAE is in the process of establishing a CMO for literary works only. At a first stage, a license will be issued by the Ministry of Economy for the creation of one association “the Reproduction Centre for Books and Literary Works”, that will serve as a CMO model for future ones. The CMO should be operational by end of 2021. Regarding the creation of CMOs for artistic works, the UAE is still studying the economic, cultural and social impacts of such organizations on users and the society. They want to make sure that this practice will be accepted by the society and that it will not incur the users with burdensome charges in their everyday life (restaurants, hotels, music festivals, etc.). The UAE is benefiting from WIPO’s assistance in this field as well as other countries’ experiences such as Switzerland and Algeria. Contacts have been made with the International Federation of Reproduction Rights Organisations (IFRRO) and the Society of Authors, Composers and Publishers of Music (SACEM) to share their experience in their respective fields.

The CMOs concept is still new and not well assimilated in GCC countries. There is a misconception that CMOs will benefit foreign right holders on the detriment of users and national right holders. GCC countries refuse the one-size-fits- all approach and they want to implement a system that is socially accepted and that it benefits local authors and right holders and do not constitute an impediment for users to access literary and artistic works and enjoy a cultural life. EU’s experience in this field can be used to correct any misconception regarding CMOs and to train governmental officers and national right holders on different existing systems. Trainings can include workshops; study visits as well as internships at European CMOs.

Table 7: Provisions on CMOs under GCC copyright legislation

	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
Collective Management Organizations	<ul style="list-style-type: none"> The copyright law allows the author to grant exclusive licenses with respect to the management of all or some of their economic rights to a professional society. The Minister shall issue an order with respect to organizing the business of collective management of the economic rights of authors and owners of attendant rights and methods of supervision and control of 	<ul style="list-style-type: none"> The Kuwaiti Law allows the owners of copyright and related rights, and their private and public successors, to entrust the management of all their rights provided for in this law and collect compensation. The organization of the license issuance and the work mechanism of the CMOs are subject to the implementing regulation of the law.⁵⁵ To date the Implementing Regulation has not been issued yet and hence no CMOs in Kuwait yet. 	<ul style="list-style-type: none"> Copyright Law covers CMOs⁵⁶ Implementing regulation issued⁵⁷ Authors and related rights owners have the option of authorizing one or more professional associations or other authorities to manage all or some of their economic rights, according to exclusive or non-exclusive authorizations, for a fee to be deducted by the association or authority from their dues according to the terms agreed upon in writing.⁵⁸ The management of economic rights for authors and related rights owners shall be subject to control and supervision of the Ministry⁵⁹ 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> The law allows holders to assign their economic rights to specialized professional societies to administer them. The Ministry of Information and Culture issued a Ministerial Decision No. 133 of 2004 on Collective Management of Copyright and Related Rights. The Collective Management organization shall not be carried on except by a license from the Ministry. This

⁵⁵ See Article 34 of Law No. 75 of 2019 on Copyright and Related Rights.

⁵⁶ See Articles 35 to 39 of the Law on Copyright and Related Rights.

⁵⁷ See Articles 18 to 34 of the Implementing Regulation No. 103 of 2008

⁵⁸ See Article 36 of the Law No. 65 of 2008 on Copyright Law and Related Rights

⁵⁹ See Article 38 of Law No. 65 of 2008 on Copyright Law and Related Rights

Table 7: Provisions on CMOs under GCC copyright legislation						
	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
	<p>such business.⁵³</p> <ul style="list-style-type: none"> To date, the ministerial decision has not been issued yet and hence no CMOs in Bahrain⁵⁴. 		<ul style="list-style-type: none"> To date, No CMOs has been established yet. 			<p>regulation deals with the process of licensing the organizations and the payable fees.⁶⁰</p> <ul style="list-style-type: none"> Work in progress for the establishment of one CMO that will cover literary works

⁵³ See Article 61 of Law No. 22 of 2006 on the Protection of Copyright and Related Rights

⁵⁴ See Chapter Ten of Law No. 22 of 2006 on the protection of Copyright and Related Rights.

⁶⁰ See Section Six of Federal Law No. 7 of 2002 on the protection of Copyright and Related Rights.

b. Trademarks

Trademark protection in GCC countries is ensured through specific legislation on trademarks or industrial property rights, the GCC Unified Trademark Law of 2013⁶¹ and the countries' membership to international treaties, in particular the Paris Convention for the protection of Industrial Property (Paris Convention) and the TRIPS Agreement.⁶² The GCC countries, with the exception of Oman, Qatar and the UAE, have adopted and implemented the GCC Unified Trademark Law as their national law. Oman and Qatar have ratified the GCC law, however, they haven't issued implementing regulations yet. The GCC Law will operate in Qatar alongside its Law of 2002 provided that provisions that are inconsistent with the GCC Law shall be void. The applicable law in Oman is the GCC Law along with the Royal Decree No. 67/ 2008 on Industrial Property Rights which in case of conflictual provisions supersedes the former. The UAE is in the process of issuing the necessary legislation to officially adopt the Trademark GCC Law as its national law. According to UAE officials, the law will not be adopted as is.

All GCC legislation on trademarks are to a large extent in line with the TRIPS Agreement. Some provisions are even beyond TRIPS. The GCC Trademark Law has brought significant changes to trademark practices and aligned the existing systems with international standards. For instance, the definition of a trademark has been extended to include single colors, combinations of colors, sound and smell marks. Although three-dimensional marks are not explicitly mentioned however, they are implicitly covered by the definition of trademarks which includes packaging. Other non-traditional marks such as taste marks, holograms and motion marks are not covered by this law (Table 8).

Bahrain/ Kuwait/ Saudi Arabia	Oman	Qatar	UAE
Trademark: Shall be considered a trademark anything having a distinctive form such as names, words, signatures, letters, figures, drawings, logos, titles, hallmarks, seals, pictures, engravings, packs or any other mark or group of marks if used or intended to be used either to distinguish goods, products or services of a facility or other facilities or to indicate the rendering of a service or the control of inspection of goods or services. The voice or odor shall be considered as part of the trademark ⁶³ .	Any sign susceptible of being specifically represented graphically that is capable of distinguishing goods ("trademark") or services ("service mark") of one undertaking from those of other undertakings. A mark may, in particular, consist of words (including personal names), designs, letters, colors or combinations of colors, numerals or the shape of goods or their packaging, holograms, geographical indications, sounds, scents and tastes. Slogans, where they are not long enough to be protected by copyright, shall be protected as marks ⁶⁴	Trademark is a clear visible sign that can distinguish the goods of a specific enterprise of a trader, manufacturer, or service provider ⁶⁵ . A mark shall be considered worthy of registration in particular if it takes a distinctive form of any of the following: Names, signatures, words, letters, numerals, designs, pictures, symbols, stamps, seals, vignettes, reliefs and any other sign or a variety of colours, a non-functional single colour, sound, or smell, or a combination of signs, if used or intended to be used to distinguish the products of enterprises in the fields of industry, handicraft or agriculture, or private enterprises in the fields of forestry or mining or to distinguish goods sold or services performed in the course of trade. ⁶⁶	Shall be considered a trade mark anything having a distinctive form such as names, words, signatures, letters, figures, drawings, logos, titles, hallmarks, seals, pictures, engravings, advertisements, packs or any other mark or group of marks if used or intended to be used either to distinguish goods, products or services whatever their source or to indicate that the goods or products belong to the trade mark's owner due to its manufacturing, selection or trading or to indicate the rendering of a service. The voice shall be considered as part of the trademark if it accompanies it ⁶⁷ .

⁶¹ The GCC Unified Trademark Regulation of 2006 was amended in 2013 as the Trademark Law.

⁶² For membership of GCC countries to Patent and Industrial Property treaties, see Chapter 2 of this report.

⁶³ See Article 2 of GCC Trademark Law.

⁶⁴ See Article 1 of Royal Decree No. 67/ 2008 on Industrial Property Rights

⁶⁵ See Article 1 of Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs.

⁶⁶ See Article 6 of Law No. 9 of 2002 on Trademarks.

⁶⁷ See Article 2 of Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 8 of 2002).

The GCC Trademark law allows for the **filing of multiclass applications**,⁶⁸ which is considered to be a major change in trademark practices in GCC countries that adopted the “one-single-class application” for years. The UAE is the only GCC country that is still requiring that the application for the registration of a trademark is limited to one category.⁶⁹ This practice should be ended with the new UAE trademark law.

All GCC countries use the international classification for the registration of marks as set forth in the **Nice Agreement Concerning the International Classification** of Goods and Services for the Purpose of Registration of Marks, however, only Bahrain and Oman are members of the said Agreement. Certain countries provide in their implementing regulations of the trademark laws the exclusion of certain classes or sub-classes of goods and services, in particular those related to alcoholic beverages (classes 32 and 33) and pork-based products (class 29). For instance, Kuwait, Qatar and Saudi Arabia exclude class 33 and restrict class 32 to “non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other non-alcoholic preparations for making beverages”.⁷⁰ There are no restrictions regarding the classes under the implementing regulations of the Laws of Bahrain and Oman. However, any GCC country can refuse the registration of products that are contrary to Islamic Shariaa as being contrary to public order or morality as allowed by Paris Convention and the TRIPS Agreement.

The GCC Laws provide for the **grounds for refusal** of the registration of a trademark including marks identical or confusingly similar to **well-known marks** regardless if the well-known mark is registered or not (Table 9). The GCC Laws reflect the TRIPS level of protection with regard to the protection of well-known marks. For instance, the GCC Trademark Law provides a protection for a trademark that has international notoriety beyond the boundaries of its country of origin. The Well-known mark may not be registered in the GCC unless the owner or his representative has requested registration. The well-known mark and its notoriety can be determined by the public’s awareness, whether by promotions or long period of registration or use or the number of countries in which the trademark is registered or renowned; and by the value of trademark and its effect on promoting the goods or services distinguished by the trademark. Moreover, a trademark with a notoriety, may not be registered to distinguish products or services that are not similar or compliant with those distinguished by the trademark if the use of the trademark indicated a link between the goods and services to be distinguished and the goods or services of the original trademark owner; and if the use led to a potential prejudice to the owner of the renowned trademark owner.⁷¹

Table 9: Grounds for refusal of the registration of trademark

Bahrain/ Kuwait/ Saudi Arabia	Oman	Qatar	UAE
The following should not be registered: <ul style="list-style-type: none"> It is not distinctive. Breaching public morals or public order. Flags/logos of the State, other countries, or International Institutions. Marks similar to religious symbols. Geographical names if use to create confusion about the origin. 	A trade mark can be refused prior to registration for a number of reasons including the following: <ul style="list-style-type: none"> It is not distinctive. if it is contrary to public order or morality; it is of such a nature as to mislead the public, for instance, as to the nature, quality or geographical origins of the product or service. 	A trade mark can be refused prior to registration for a number of reasons including the following: <ul style="list-style-type: none"> It is not distinctive. Any sign contrary to public order or morality. Official signs or hallmarks 	A trade mark can be refused prior to registration for a number of reasons including the following: <ul style="list-style-type: none"> It is not distinctive. Breaching public morals or public order. Public emblems, flags or logos. Geographical names if their use would create confusion with regard to the origin or source of goods, products and services.

⁶⁸ See Article 9 of GCC Trademark Law which states that “It is possible to register for one or more categories for the products or services”.

⁶⁹ See Article 3 of Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 8 of 2002) which states that “A trademark may be registered for one or more categories of the products or services. However, the application for the registration of a trademark may not include more than one category”.

⁷⁰ See David Price and AlHanoof AlDebasi, “Protecting Intellectual Property in the Arabian Peninsula”, Routledge Research in Intellectual Property, 2018.

⁷¹ See Article 4 of the GCC Trademark Law.

Table 9: Grounds for refusal of the registration of trademark

Bahrain/ Kuwait/ Saudi Arabia	Oman	Qatar	UAE
<ul style="list-style-type: none"> Name/logo/picture of a third party unless they agree. Particulars of honorary degrees to which a registration applicant does not prove his legal entitlement Marks that may mislead the public. The marks deemed as just a reproduction, imitation or translation for a renowned mark or a part thereof already owned by third parties to be used to distinguish similar or identical goods or services to the one distinguished by the renowned trademark. The marks deemed as just a reproduction, imitation or translation for a renowned mark or a part thereof already owned by third parties to be used to distinguish similar goods or services that are not similar to the one distinguished by the renowned trademark, if such use indicates that there is a connection between such goods or services and between the renowned trademark, or prejudices the interests of the renowned trademarks owner. Marks owned by natural or legal persons with whom it is prohibited to deal If it is identical or similar to a trade mark that has been registered previously Marks including the following words or expressions: Concession, Concessionaire, Registered, Registered Drawing, Copyright, or such similar words and expressions.⁷² 	<ul style="list-style-type: none"> Flags/logos of the State, other countries, or International Institutions. Marks identical or confusingly similar to well-known marks if it is identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in Oman for identical or similar goods or services of another enterprise, or if it is well-known in Oman for goods or services which are not identical or similar to those in respect of which registration is applied for, provided, in the latter case, that use of the mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known mark and that the interests of the owner of the well-known mark are likely to be damaged by such use; A trade mark is also refused if it is identical or similar to a trade mark that has been registered previously.⁷³ 	<ul style="list-style-type: none"> of any country. Signs which are identical or confusingly similar to the public, to a mark already registered or for which an application was filed by a third party for identical or similar goods or services, or signs that are widely famous even though an application was not filed for them or they were not registered in Qatar, regardless of the extent to which the associated goods or services or those for which a registration application was made are identical or similar⁷⁴. 	<ul style="list-style-type: none"> Marks that may mislead the public or include misstatements on the origin or source of products or services The marks deemed as just a translation for a renowned mark or another mark already registered, if the registration would confuse the consumers, with regard to products distinguished by the mark or similar products.⁷⁵ The trademarks having an international goodwill beyond the boundaries of the mother country, may not be registered unless authorized by the owner or by his official attorney. It is the public's awareness about the trademark that determines its goodwill. A trademark with a goodwill, may not be registered to distinguish products or services that are not similar or compliant with those distinguished by the trademark if: (1) The use of the trademark indicated a link between the goods and services to be distinguished and the goods or services of the original trademark owner. (2) The use led to a potential prejudice to the owner of the original trademark owner.⁷⁶

Trademarks are **protected for ten years** in GCC countries renewable indefinitely for an additional ten-year period at the request of the owner provided he applies for renewal during the last year of protection and pays the renewal fee. According to the UAE Law the owner of the Trademark will be informed by the Ministry of the expiry of his trademark during the month following that expiry date. The GCC Unified Trademark Law lacks a similar provision which is in line with EU standard.

⁷² See Articles 3 and 4 of GCC Trademark Law.

⁷³ See Article 36 of Law Royal Decree No. 67/ 2008 on Industrial Property Rights

⁷⁴ See Article 8 of Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs.

⁷⁵ See Article 3 of Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 9 of 2002).

⁷⁶ See Article 4 of Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 9 of 2002).

The UAE is the only GCC country that does not respect the **grace period** for the payment of the fees prescribed for the maintenance of trademark right referred to in Article 5bis of the Paris Convention.⁷⁷ Accordingly, instead of the six-month period, the UAE applies a three-month period which is in contradiction with TRIPS and Paris Convention's obligations. This incompatibility with international standards will be addressed in the new UAE Trademark Law which adopts a six-month period.

All GCC Laws provide for the **striking off the registration of a trademark that has not been seriously used** for a period of five consecutive years without a valid reason. In the case of Oman, this period is three consecutive years or longer (Table 10). All GCC laws lack provisions on what constitute **use** within the meaning of the related provisions of the trademark laws. This creates confusion in the implementation of the laws and leaves the interpretation of use to the full discretion of judges. It is important in this regard to follow the EU example as stipulated under Article 16(5) of the EU Directive 2015/2436 on the approximation of the laws of the Member States relating to trademarks which provides that the following shall constitute use within the meaning of paragraph 1 of the same Article:

- use of the trade mark in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered, regardless of whether or not the trade mark in the form as used is also registered in the name of the proprietor
- affixing of the trade mark to goods or to the packaging thereof in the Member State concerned solely for export purposes.

Table 10: Cancellation of the trademark registration for non-use

	Bahrain/ Kuwait/ Saudi Arabia	Oman	Qatar	UAE
Non-Use	The court of jurisdiction may at the request of any concerned person rule in favour of striking off the registration of a trademark if it is established to the court that such mark has not been seriously used for (5) consecutive years unless the mark owner proves that the lack of its use, is due to a reason beyond his control. ⁷⁸	Any interested person may request the Registrar to remove a mark from the Register, in respect of any of the goods or services in respect of which it is registered, on the ground that up to one month prior to filing the request the mark had, after its registration, not been used by the registered owner or a licensee during a continuous period of three years or longer, provided that a mark shall not be removed if it is shown that special circumstances prevented the use of the mark, such as import restrictions or other government or market impediments to commercialization, and that there was no intention not to use or to abandon the same in respect of those goods or services. ⁷⁹	Any concerned person to request the court to cancel the mark if the owner has failed to use the mark or to cause it to be used by a third party in Qatar for 5 consecutive years without reasonable justification. The request for cancellation may apply to the whole or part of the goods or services for which the mark was registered. ⁸⁰	The competent civil court may at the request of any interested person rule in favour of striking off the registration of a trade mark if it is established to the court that such mark has not been seriously used for (5) successive years unless the mark owner proves that the lack of its use, is due to a reason beyond his control, such reasons are the import restrictions, and other government conditions imposed on the goods and services. ⁸¹

The protection under the GCC Trademark Law is based on **national treatment**, while it is based on **reciprocity** under the Qatari Law. Accordingly, the GCC Trademark Law applies to GCC natural or legal persons carrying out any commercial, industrial, handicraft or services activity; foreigners who reside in any GCC country and are authorized to carry out any commercial, industrial, handicraft or services activity; foreigners who belong to any State that is a member of a multilateral convention in which a GCC State is a party therein or who reside in such State; and public authorities.⁸² The reciprocal treatment under the Qatari Law stating that "foreigners shall have the same rights as nationals of Qatar,

⁷⁷ Article 5bis of the Paris Convention states that "A period of grace of not less than six months shall be allowed for the payment of the fees prescribed for the maintenance of industrial property rights, subject, if the domestic legislation so provides, to the payment of a surcharge".

⁷⁸ See Article 24 of GCC Trademark Law.

⁷⁹ See Article 42 of the Royal Decree No. 67/ 2008 on Industrial Property Rights.

⁸⁰ See Article 24 of Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs.

⁸¹ See Article 22 of Federal Law No. 37 of 1992 on Trademarks as amended by Law No. 19 of 2000 and Law No. 9 of 2002

⁸² See Article 5 of the GCC Trademark Law.

provided that they are nationals of or residents in states that grant the nationals of and residents in Qatar reciprocal treatment” is not in conformity with international standards.⁸³

The GCC Trademark Law is not a unitary law, and hence it does not unify the filing system in the GCC countries. Accordingly, trademarks are registered on a national basis in each GCC country. The trademark registration systems in all GCC countries provide for formal and substantive examinations as well as an opposition procedure. The systems are criticized for being very costly and time wasting when it comes to the obligation of notarizing and legalizing all documents required for the registration of foreign trademarks. In practice, this affects the right of priority which is often missed. Moreover, the quality of substantive examination is sometimes questionable and hence GCC countries should invest more on the capacity building of its trademark examiners. The GCC countries can benefit from the EU Directive 2015/2436 on the approximation of the laws of the Member States relating to trademarks, as a model to improve their existing systems.

Oman and Bahrain are the only countries members of the Protocol Relating to the Madrid Agreement for the International Registration of Marks and the WIPO Trademark Law Treaty (TLT).⁸⁴ The Madrid Protocol will increase the number of filings for foreign trademarks and will facilitate the protection of national trademarks in countries members of the Madrid Protocol. The Trademark Law Treaty ensures that their registration systems are up to international standards. Saudi Arabia, Kuwait and the UAE are considering joining the Madrid Protocol. It is recommended that the GCC countries adhere to the Singapore Treaty on the Law of Trademarks which builds on the TLT but has a wider scope of application as it addresses more recent developments in the field of communication technologies.⁸⁵ The adherence of the GCC countries to the Singapore Treaty will modernize the existing system and harmonize the trademark procedures with those of other signatory countries and will resolve problematic issues for national and foreign applicants, namely, the adoption of the Nice Classification, the elimination of the single class per application, and the elimination of the requirement that documents be notarized and legalized before they are accepted by certain national trademark offices which constitute one of the greatest procedural difficulties in the GCC.

⁸³ See Article 2 of Law No. 9 of 2002.

⁸⁴ The adherence of Bahrain and Oman to the aforementioned agreements came as a result of their obligations under their FTAs concluded with the US.

⁸⁵ More details on the Singapore Treaty are available under Chapter 2 of this study.

c. Geographical indications

Geographical indications (GIs) are defined as “indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin”.⁸⁶ In other words, GIs are used to indicate that the reputation or quality of the product is linked essentially to its geographical origin. GIs protection in GCC countries varies from one country to another. While Bahrain, Qatar and Oman apply a sui generis system for GIs protection, the remaining GCC countries, i.e., Saudi Arabia, Kuwait and the UAE protect GIs as certification or collective marks in implementation of the unified Trademark Law. Saudi Arabia is paving the way for adopting a sui generis system through its new draft law on GIs. It is important to note that the laws of GCC countries do not distinguish between GIs and appellations of origin which are special kinds of geographical indications generally consisting of a geographical name or a traditional designation used on products which have a specific quality or characteristics that are essentially due to the geographical environment in which they are produced.⁸⁷

The scope of protection includes agricultural and non-agricultural products including handicrafts (Table 11).

Bahrain	All agricultural and industrial products ⁸⁸
Kuwait	All goods classes available for trademarks in Kuwait
Oman	Any natural or agricultural product or any product of handicraft or industry ⁸⁹
Qatar	All goods classes available for trademarks in Qatar ⁹⁰
Saudi Arabia	All goods classes available for trademarks in Saudi Arabia
UAE	All goods classes available for trademarks in UAE

The protection of GIs is covered by different international agreements in particular, the Paris Convention for the Protection of Industrial Property (Paris Convention), the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (Madrid Agreement), the Lisbon Agreement on the Protection of Appellations of Origin and their Registration (Lisbon Agreement), and the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The GCC countries are only members of the Paris Convention and the TRIPS Agreement. Oman is in the final phase of adhering to the Geneva Act of the Lisbon Agreement. GCC countries are all members of the WTO and hence are bound by the provisions of the TRIPS Agreement, including Section 3 (Articles 22 to 24) on Geographical Indications. The definition of GIs in GCC countries that provide a sui generis system of protection (Oman, Qatar and Bahrain) is similar or identical to the TRIPS definition. The countries adopting the Unified Trademark Law do not define GIs (Table 12).

Bahrain	Geographical indications shall mean any sign that may have originated in the territories of a WTO member-state, or in a region or area or location of that region thereof wherein the product quality, good will or other characteristics essentially attributed to its geographical origin. The geographical indication may be a sign or a group of signs in any form like words – including geographical and personal names – alphabets, numbers, three-dimensional elements, colour or combination of colours”. ⁹¹
Kuwait	No definition
Oman	Geographical indication is an indication that identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. ⁹²
Qatar	Geographical indication means any expression or sign indicating the geographical name of a country, region, locality or place which serves to designate a product originating therein the quality, characteristics and reputation of which are due

⁸⁶ See Article 22 of the TRIPS Agreement.

⁸⁷ See https://www.wipo.int/wipo_magazine/en/2008/06/article_0009.html

⁸⁸ See Article 6 Law No. 16 of 2006 amending Law No. 16 of 2004.

⁸⁹ See Article 48 of the Royal Decree No. 67 of 2008.

⁹⁰ See Article 41 of the Law No. 9 of 2002.

⁹¹ See Article 1 of Law No. 16 of 2006 amending Law No. 16 of 2004.

⁹² See Article 1 of the Royal Decree No. 67 of 2008.

Table 12: GIs Definition in GCC laws	
	exclusively or partly to the geographical environment, the natural or human factors of such origin. ⁹³
Saudi Arabia	No definition (Draft Law includes a definition in line with TRIPS)
UAE	No definition

TRIPS provides an additional protection for wines and spirits that is binding for all Members of the WTO. The protection of wines and spirits as such constitutes a challenge for GCC countries which apply the rules of Islamic Sharia that forbids alcoholic beverages. Accordingly, it is most likely that any established GIs system in GCC countries, with the exception of Oman,⁹⁴ will not recognize or register foreign GIs of wines and spirits (including EU GIs) on the ground that those are prohibited goods and hence violate the public order or morality. The same applies to registering trademarks for alcoholic beverages which are being rejected on the same ground. It goes without saying that the existing sui generis laws on GIs in Oman, Qatar and Bahrain lack any additional protection for wines and spirits.

Among the GCC sui generis laws on GIs, the Omani Law is the most comprehensive one and the most compliant with the provisions of the TRIPS Agreement. The Laws of Bahrain and Qatar are to a certain extent in compliance with the TRIPS level of protection. It is too early at this stage to aspire for a GCC law with a level of protection similar to that of the EU. Even if a law complies with the TRIPS Agreement, it still lacks the additional protection for wines and spirits as those are forbidden goods under GCC laws and hence cannot be protected by GIs or trademarks. While these laws provide for the set-up of a GIs Register before their competent authorities, the registration system is only effective in Oman. Bahrain and Qatar have not yet issued the implementing regulations related to the set-up of the GIs register. Accordingly, it is not possible to register GIs yet in these two countries, however, protection can be ensured through collective or certification marks.

The following table summarizes the GIs provisions under GCC laws (Table 13).

⁹³ See Article 1 of the Law No. 9 of 2002.

⁹⁴ Oman allows the registration of trademarks and GIs for alcoholic beverages, however, the importation of such goods to the country is subject to specific regulations.

Table 13: Main features of GCC GIs legislation

OMAN	BAHRAIN	QATAR
The law applies to “any natural or agricultural product or any product of handicraft or industry”. ⁹⁵	The provisions of the Trademark Law relating to a) Filing a registration application. b) Examination of registration application, accept or reject the application. c) Opposition to registration. d) Registration cancellation or strike-off. e) Transfer of the geographical indication ownership, licensing its exploitation and imposing seizure. f) Compensating for any infringement on the rights prescribed in the provisions of this law apply mutatis mutandis to geographical indications. ⁹⁶	The rules governing GIs are those related to trademarks provided they are not in contradiction with the GIs’ nature. ⁹⁷ This means that the scope of protection extends to all agricultural and industrial products, with the exception of products forbidden by the Law.
Any interested person, or group of producers or consumers, may institute court proceedings to prevent the following: a) The use of any means in naming or offering any good while hinting that the subject good originated in a geographical region different from the true country of origin, in a manner that misleads the public with regard to the geographic origin of the good. b) Any use that constitutes an act of unfair competition according to the provisions of Article (10bis), of Paris Convention. c) the use of a registered GI not originating in the place indicated by the geographical indication in question, 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. ⁹⁸	The Law prohibits (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; and (b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention. ⁹⁹	The law sanctions any person for the following actions: a) Forging or imitation a geographical indication in a manner that is likely to mislead or confuse the public. b) Fraudulently uses a forged or imitated trade name, geographical indication. c) Fraudulently affixes to his goods or uses in connection with his goods or services a trade name or geographical indication belonging to another person. d) Unrightfully and knowingly sells or offers for sale or trade, or holds for the purpose of sale, goods bearing a forged or imitated trade name or geographical indication. e) Unrightfully and knowingly provides or offers services making use of a forged or imitated trade name, geographical indication ¹⁰⁰ .
Protection is not available for GIs • which do not comply with the Law’s definition of GIs; • which are contrary to public order or morality; • which are not or cease to be protected in their country of origin, or • which have fallen into disuse in that country; with respect to goods that are identical with the term customary in	The geographical indications shall not be registered nor enjoy the protection as per the following: • If the geographical indication bona fide most probably cause delusion with a trademark that is subject matter of a registration application or a pending registration application.	It is not allowed under the Law to register trademarks that consist of signs that may mislead the public or those containing false information regarding the origin of the goods or services. ¹⁰³

⁹⁵ See Article 48 of the Royal Decree No. 67 of 2008 which defines the terms “good” and “producer”.

⁹⁶ See Article 6 of Law No. 16 of 2006 amending Law No. 16 of 2004

⁹⁷ See Article 41 of the Law No. 9 of 2002.

⁹⁸ See Article 59 of the Royal Decree No. 67 of 2008.

⁹⁹ See Article 2 of Law No. 16 of 2006 amending Law No. 16 of 2004.

¹⁰⁰ See Article 47 of Law No. 9 of 2002.

¹⁰³ See Article 8(9) of the Law No. 9 of 2002.

Table 13: Main features of GCC GIs legislation		
OMAN	BAHRAIN	QATAR
<p>common language as the common name for such goods in Oman;</p> <ul style="list-style-type: none"> that may be confusingly similar to a mark currently registered or pending registration in good faith; and that may be confusingly similar to a mark in Oman and for which rights have been acquired in accordance with national law.¹⁰¹ 	<ul style="list-style-type: none"> If the geographical indication would most probably constitute public delusion with an already existing trademark of which rights were acquired by use, bona fide, in the Kingdom. <p>If the registration of a geographical indication as a trademark was not permissible pursuant to provisions of the Trademarks Law¹⁰².</p>	
The Law excludes GIs from trademark registrability. ¹⁰⁴	The Law excludes GIs from Trademark registrability.	The Law excludes GIs from Trademark registrability.
	The Law protects GIs that are protected in their country of origin. ¹⁰⁵	
The Law provides a system for registration of GIs along with legal means for opposition. ¹⁰⁶	The Law provides for the setting up by the administrative authority competent with industrial property protection of a "Geographical Indications Register" in which the accepted geographical indications, data pertaining thereto, and all acts affected thereon subject to the provisions of the law should be recorded. ¹⁰⁷ The implementation of the register is pending the issuance of the necessary By-laws.	GIs applications follow the same procedures as trademarks registration and hence are subject to examination by the Industrial Property Protection Office and an opposition procedure is available. ¹⁰⁸ The rules for the optional registration and use of GIs are to be determined by implementing regulations. ¹⁰⁹
Trademarks that are likely to mislead the public or trade circles as regards the geographical origin of the goods or services concerned or that contain false information as to the origin of the products are not eligible for protection. ¹¹⁰	The Law prohibits the registration as a trademark of a geographical name or indication that is liable to mislead or cause confusion as to the origin of the goods or services in respect of which registration is sought.	The law protects GIs against the use of misleading similar products as to their true place of origin or misleading trademarks unless measures have been taken to prevent any confusion among the public. ¹¹¹
The Law lists also GIs that are exempted from protection, in particular: <ul style="list-style-type: none"> Distinctive signs registered or acquired through use in good faith; 	The Law prohibits the registration of GIs if the registration of the GI as a trademark is not permissible under the Law; if the GI might create confusion with a trademark that has been applied	Provisions on GIs exceptions as provided under TRIPS are missing under the Law such as generic names, prior trademark rights and the prior use of the GI. ¹¹⁵

¹⁰¹ See Article 51 of the Royal Decree No. 67 of 2008.

¹⁰² See Article 5bis of Law No. 16 of 2006 amending Law No. 16 of 2004.

¹⁰⁴ See Article 36(c) of the Royal Decree No. 67 of 2008.

¹⁰⁵ See Article 3 of Law No. 16 of 2006 amending Law No. 16 of 2004

¹⁰⁶ See Article 52 and 53 of the Royal Decree No. 67 of 2008.

¹⁰⁷ See Article 5 of Law No. 16 of 2006 amending Law No. 16 of 2004.

¹⁰⁸ See Articles 9 to 15 of the Law No. 9 of 2002.

¹⁰⁹ Idem

¹¹⁰ See Article 36 of the Royal Decree No. 67 of 2008.

¹¹¹ See Article 39 of the Law No. 9 of 2002.

¹¹⁵ See Article 24 of the TRIPS Agreement.

Table 13: Main features of GCC GIs legislation

OMAN	BAHRAIN	QATAR
<ul style="list-style-type: none"> GIs of any country with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in Oman or in respect of a geographical indication of any other country with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in Oman as of January 1, 1995; The use in the course of trade of the person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.¹¹² 	<p>for or registered in good faith, or with the rights to a trademark that have been acquired through use in good faith either.¹¹³</p> <p>The Law allows the use of a GI in good faith by a third party before the GI was granted protection in its country of origin; the use, in any way, of a GI which is identical to a name commonly used for any goods, product or service in the Kingdom of Bahrain; the use by any party of his own name or the name of his ancestors, in his commercial activity, in a manner which does not mislead the public; and the use of a GI which is not protected or ceased to be protected or no longer in use in its country of origin.¹¹⁴</p>	
The term of protection for GIs is unlimited.		GIs are protected for ten years renewable indefinitely for terms of ten years each. ¹¹⁶
The Industrial Property Register at the Ministry of Commerce and Industry is the national office responsible for registering and issuing geographical indications.	The competent office in the Ministry of Commerce shall keep a register, known as the "Geographical Indications Register" ¹¹⁷ .	Article 41 states that the provisions of this Law related to marks shall be applicable to geographical indications. Article 9 states that the application for the registration of a mark shall be filed with the Office for the Protection of Industrial Property.
In the case of homonymous geographical indications for goods, protection shall be accorded to each indication, subject to provisions of the law. ¹¹⁸	Homonymous GIs are protected provided the consumers of the products are not misled. ¹¹⁹	
<p>GIs are protected against:</p> <ol style="list-style-type: none"> (1) the unlawful use in the course of trade of identical or similar geographical indications, for goods or services related to those in respect of which the GI is registered, where such use would result in a likelihood of confusion;¹²⁰ (2) a GI which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory; 	<p>GIs are protected against:</p> <ol style="list-style-type: none"> (1) The utilization of any instrument to designate or display any product that may suggest a geographical origin contrary to its authentic one, and by doing so misleading the public thereof. (2) The use of a geographical indication constituting unfair competition pursuant to provisions of Article no (10 bis) of the Paris Convention for Protecting Industrial Property. 	<p>GIs are protected against:</p> <ol style="list-style-type: none"> a) Forging or imitation a geographical indication in a manner that is likely to mislead or confuse the public. b) Fraudulently uses a forged or imitated trade name, geographical indication. c) Fraudulently affixes to his goods or uses in connection with his goods or services a trade name or geographical indication belonging to another person.

¹¹² See Article 58 of the Royal Decree No. 67 of 2008

¹¹³ See Article 5bis of Law No. 16 of 2006 amending Law No. 16 of 2004.

¹¹⁴ See Article 9 of Law No. 16 of 2006 amending Law No. 16 of 2004.

¹¹⁶ See Article 18 of the Law No. 9 of 2002.

¹¹⁷ See Article 5 of Law No. 16 of 2006 amending Law No. 16 of 2004.

¹¹⁸ See Article 50 of the Royal Decree No. 67 of 2008

¹¹⁹ See Article 4 of Law No. 16 of 2006 amending Law No. 16 of 2004

¹²⁰ See Article 39 of the Royal Decree No. 67 of 2008.

Table 13: Main features of GCC GIs legislation		
OMAN	BAHRAIN	QATAR
(3) a GI that is identical or similar to a trademark, for related goods or services, if the use of that geographical indication is likely to cause confusion, or to cause mistake, or to deceive or risk associating the geographical indication with the owner of the trademark, or constitutes unfair exploitation of the reputation of the trademark. ¹²¹	To this effect, the use of a geographical indication in a manner that may form public delusion in terms of the source of the product, even if the indication is literally correct in respect of country, region or territory where the said product was produced ¹²² .	d) Unrightfully and knowingly sells or offers for sale or trade, or holds for the purpose of sale, goods bearing a forged or imitated trade name or geographical indication. e) Unrightfully and knowingly provides or offers services making use of a forged or imitated trade name, geographical indication ¹²³ .
The Court may grant an injunction to prevent the unlawful use of the geographical indication, award damages and grant appropriate remedies to cover damages resulting from such infringements. ¹²⁴	The court can issue an order to prevent the unlawful use of a geographical indication, based on a petition from the concerned party ¹²⁵ .	Infringements of registered GIs are punishable offences under the Law, including forging registered GIs or imitating it in any way that misleads or confuses the public, or unlawfully using, offering, presenting for sale or selling a registered GI. ¹²⁶
		GIs are protected in Qatar even if they are not registered. ¹²⁷

¹²¹ See Article 49 of the Royal Decree No. 67 of 2008.

¹²² See Article 2 of Law No. 16 of 2006 amending Law No. 16 of 2004

¹²³ See Article 47 of Law No. 9 of 2002.

¹²⁴ See Article 69 of the Royal Decree No. 67 of 2008.

¹²⁵ See Article 12 of Law No. 16 of 2004.

¹²⁶ See Article 47 of of the Law No. 9 of 2002.

¹²⁷ See Article 38 of the Law No. 9 of 2002.

It seems that Oman is the only country that has an operational GIs system and an inventory of potential national GIs. The Ministry of Commerce and Industry is receiving applications for the registration of GIs since 2018.¹²⁸ To date only national GIs have been registered as no application has been submitted for foreign GIs. The ministry aims at protecting national GIs to prohibit others from any illegal use of the country's products and to benefit from the socio-economic advantages of GIs protection. Accordingly, it is recommended that the EU starts registering its GIs in Oman and tests the system's efficiency. Once the system is well established, the EU can suggest the introduction of appellations of origins ("Protected Designations of Origin") to the Omani scheme especially that Oman is in the process of adhering to the Geneva Act of the Lisbon Agreement.

Bahrain and Qatar do not seem to be as active in the GIs field as Oman. There is much to be learned by these countries about this topic. The EU can play this role by focusing on products that are of interest to these countries and try not to discuss the GIs for wine and spirits at this stage. In all cases, no protection can be granted to any EU GI product if GCC countries still lack an effective GIs system. The EU can play a major role in helping those countries setting-up GIs systems that are similar to the ones operating in EU countries. This can be done through cooperation projects that focus on the following:

- Conducting surveys on the level of GIs awareness among the population
- Help the relevant sectors understand the pros and cons of an effective GIs system
- Identification of GIs products with strong reputation and export potential
- Sharing with relevant stakeholders the EU best practices on GIs protection including suggesting different protection schemes.
- Help the GIs authorities develop/ adapt their laws and regulations to the country's specific needs in terms of chosen approach/ system.
- Share EU experience on existing methods to organize GIs producers
- Share EU experience on an efficient supply chain (from producers to distributors, consumers and exporters)
- Share EU experience on the elaboration of the products specifications
- Capacity building of GIs producers in GCC countries.

It is recommended as a first step that the EU helps each of the GCC countries to define and implement a national strategy for an effective protection of GIs which will not be limited to agricultural products. A pilot project can be initiated in each of these countries. The EU can encourage GCC countries to adhere to the Madrid Agreement on the Repression of False Indications of Source which can ensure an enforcement of EU GIs at the borders. When asked about the Madrid Agreement, GCC countries were not aware about its existence or importance. However, they didn't seem to be against it if proved to be of help to achieve their visions. GCC countries should be encouraged to adhere to the Geneva Act of the Lisbon Treaty after establishing an operational GIs registration system.¹²⁹

¹²⁸ <https://timesofoman.com/article/600813/Oman/Ministry-receives-geographical-indications-protection-application-in-Oman>

¹²⁹ More details about the Benefits of the potential introduction of GIs protection in GCC countries are provided under Chapter 5 of this report.

d. Patents

Patent protection in GCC countries is ensured through specific legislation on patents or industrial property rights, the GCC Unified Patents Regulations and the countries' membership to international treaties, in particular the Paris Convention for the protection of Industrial Property (Paris Convention) and the TRIPS Agreement.¹³⁰ The patent laws in GCC countries differ from one country to another. However, they are all at a large extent in line with the TRIPS Agreement. The Laws of Oman and Bahrain go beyond TRIPS as a result of their IP commitments under their respective FTAs with the United States. All GCC countries are members of the Patent Cooperation Treaty (PCT) which makes it possible for nationals or residents of a PCT contracting State, including GCC countries, to file an "international" patent application to protect an invention simultaneously in a large number of countries.¹³¹

The patentability conditions¹³² are in line with the TRIPS Agreement and hence the European Patent Convention (EPC) which states that patents shall be granted for any inventions, in all fields of technology, provided that they are new, involve an inventive step and are susceptible of industrial application (Table 14).¹³³ The Law of Oman provides clear definitions of "novelty", "inventive step" and "Industrial applicability"¹³⁴ and extends the patent protection to "any new uses for, or new methods of using, a known product, including new uses and new methods for the treatment of particular medical conditions" which is beyond TRIPS and the EPC standards. In this case it is recommended that Oman revisits its patent law in order to limit the scope of such provisions and their impact on the generic sector. Articles 53 and 54 of the EPC can serve as an example to re-formulate the aforementioned provisions. When possible, TRIPS flexibilities can be used to this effect too.

In addition, the Omani law provides for the patentability of computer-implemented inventions, in particular, (a) industrial processes which, in whole or in part, consist of steps that are performed by a computer and are directed by a computer program; (b) product inventions consisting of elements of a computer-implemented invention, including in particular (i) Machine-readable computer program code stored on a tangible medium such as a floppy disk, computer hard drive or computer memory; and (ii) a general purpose computer whose novelty over the prior art arises primarily due to its combination with a specific computer program.¹³⁵ It is to be noted that computer-implemented inventions are still not harmonized in the EU as the Proposal for a Directive of the European Parliament and of the Council on the patentability of computer-implemented inventions which aimed at harmonising national patent laws and practices concerning the granting of patents for computer-implemented inventions was rejected in 2005 by the European Parliament.¹³⁶

Table 14: Conditions for patentability

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
In accordance with the provisions herein stipulated, a patent shall be given for every invention that is new, involves an inventive step and is industrially applicable	An invention shall be patentable according to the provisions of this Regulation and its Bylaws if it is new, involves an inventive step, industrially applicable	An invention is patentable if it is new, involves an inventive step and is industrially applicable. An invention is new if it is not anticipated by prior art. Prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention. Disclosure to the public of the invention shall not be taken into	Patents shall be available for any inventions, provided that they are new, involve an inventive step and are	A patent may be issued on an invention, in accordance with the provisions of this Law, if it is new, involves an inventive step, and	Letters patent shall be awarded to any new invention resulting from an innovative idea or inventive step in all fields of technology, provided that such an idea or inventive step has a scientific basis and is capable of industrial application. The invention shall be deemed industrially applicable in its broadest term if used or

¹³⁰ For membership of GCC countries to Patent and Industrial Property treaties, see Chapter 2 of this report.

¹³¹ See <https://www.wipo.int/treaties/en/registration/pct/>

¹³² For an analysis of the GCC Laws see See David Price and AlHanoof AlDebasi, "Protecting Intellectual Property in the Arabian Peninsula", Routledge Research in Intellectual Property, 2018.

¹³³ Article 52 of the EPC

¹³⁴ Article 3 of Omani Royal Decree No. 67/2008.

¹³⁵ Article 2 of Royal Decree No. 67/2008

¹³⁶ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52002PC0092:EN:HTML>

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
whether it is related to new industrial products – imported or locally produced-, industrial methods or a new application of already known industrial methods. ¹³⁷	and is not contrary to the laws of Islamic Shariya, or public order or to morality observed in the Cooperation Council States, whether that was pertaining to new products, industrial processes, or to manufacturing methods. ¹³⁸	consideration if it occurred within twelve months preceding the filing date or, the priority date of the application, and if it was by reason or in consequence of acts committed by the applicant or his predecessor in title or of an abuse committed by a third party with regard to the applicant or his predecessor in title. An invention shall be considered as involving an inventive step if it would not have been obvious to a person skilled in the art at the filing date or at priority date of the claimed invention. An invention shall be considered industrially applicable if it can be made or used in any kind of industry or if it has specific, substantial and credible utility in all economic, agricultural, handicrafts, fisheries and services fields. ¹³⁹	capable of industrial application whether they are related to new industrial products, modern industrial techniques and devices, or common industrial methods. ¹⁴⁰	capable of industrial application. The invention may be a product, a process or relates to either. ¹⁴¹	utilized in such fields as agriculture, fisheries, handicrafts, and services. The application must be restricted to one invention only or to a group of interrelated inventions yielding one general innovative concept. If it is evident after the issuance of the letters patent that the condition of Page 5 of 20 interrelationship has not been met in accordance with the aforementioned statement, then such evidence shall not negate the patent. ¹⁴²

The exclusions from patentability are to a certain extent in line with international standards (Table 15). In this regard, Saudi Arabia and the GCC Patent Regulation add to the exclusions from patentability inventions which may conflict with the principles of Islamic Shariah. Moreover, Kuwait, Saudi Arabia and the UAE apply special procedures (to be decided by implementing regulations) concerning inventions that affect the national security.¹⁴³ Interestingly, Bahrain and Oman did not commit under their respective FTAs with the US to similar standards. For instance, while Bahrain provides limited exclusions to patentability, Oman extends the exclusions to include natural substances and known substances for which a new use has been discovered. However, the law protects the processes of isolating the natural substances from their original environment as well as the use itself of known substances, where this use constitutes an invention.¹⁴⁴

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
A) A patent shall not be granted in respect of: 1 Any invention which prohibition of commercial use in the Kingdom of Bahrain is imperative for the protection of public order or principles of morality; including the protection of humans' life or	3/1 For the purposes of this Regulation, the following shall not be regarded as inventions: 3/1/1 Discoveries, scientific theories, mathematical methods, and computer programs. 3/1/2 Schemes, rules, and methods for doing business,	The following shall be excluded from patent protection: a- Discoveries, scientific theories and mathematical methods; b- Schemes, rules or methods for doing business, performing purely mental acts or playing games; c- Natural substances; this provision shall not	Patentability shall not include: a) Scientific theories, mathematical methods, computer programs, exercise of pure intellectual activities, or practice of a specific game;	In the application of provisions of this Law, the following shall not be regarded as inventions: (a) Discoveries, scientific theories and mathematical methods. (b) Schemes, rules and methods of conducting commercial activities,	1. No letters patent or utility certificate shall be issued for the following: A. Plant varieties, animal species, or biological methods of producing plants or animals. Exceptions shall be allowed for the microbiological methods and their products. B. Diagnostic methods,

¹³⁷ Article 1 of Legislative Decree No. 1/2004

¹³⁸ Article 2 of Law No. 71 of 2013

¹³⁹ Article 3 of Royal Decree No. 67/2008

¹⁴⁰ Article 2 of Decree Law No. 30 of 2006

¹⁴¹ Article 43 of Royal Decree No. M/27 of July 17, 2004.

¹⁴² Article 4 of Federal Law No. 31 of 2006

¹⁴³ and Article 2 of Kuwaiti Law No. 71 of 2013, Article 6 of Saudi Royal Decree No. M/27 of July 17, 2004 and Article 6 of the UAE Federal Law No 17 of 2002 as amended.

¹⁴⁴ Article 2 of Royal Decree No. 67/2008

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
health or that of animals or plants or to avert causing serious harm to the environment. 2 Animals 3 Diagnostic, therapeutic, and surgical methods necessary for the treatment of humans and animals. This provision however shall not apply to products used in any of these methods s(B) Without prejudice to the provisions of the previous Clause and Article (2) of this Law, the Patent may be granted for any use or method of use of a known product, including the product used in certain medical cases. ¹⁴⁵	performing purely mental acts, or playing games. 3/1/3 Plant varieties and species of animals, and biological processes for the production of plants or animals with the exception of microbiological processes and the products thereof. 3/1/4 Methods of surgical or therapeutic treatment of the human or animal body and methods of diagnosis applied to the human or animal body with the exception of products used in any of these methods. 3/2 This Regulation shall not protect varieties of plants or species of animals. ¹⁴⁶	apply to the processes of isolating those natural substances from their original environment; d- Known substances for which a new use has been discovered; this provision shall not apply to the use itself, where it constitutes an invention e- Animals other than micro-organisms, and essentially biological processes for the production of animals and their parts, other than non-biological and microbiological processes; f- Inventions, the prevention within the territory of Oman of the commercial exploitation of which is necessary to protect ordre public and morality. ¹⁴⁷	b) Plants and animals researches, and essentially biological processes for the production of plants or animals other than microbiological processes and its productions. c) Diagnostic, therapeutic and surgical methods for the treatment of humans or animals and its productions. ¹⁴⁸ Patents shall not be contradicting with the provisions of Islamic Sharia' (Law), violating the public order, ethics or national security. ¹⁴⁹	exercising pure mental activities or playing a game. (c) Plants, animals and processes – which are mostly biological – used for the production of plants or animals, with the exception of micro-organisms, nonbiological and microbiology processes. (d) Methods of surgical or therapeutic treatment of human or animal body and methods of diagnosis applied to human or animal bodies, with the exception of products used in any of these methods. ¹⁵⁰	treatments, and surgical operations needed for humans and animals. C. Scientific and Mathematical principles, discoveries and methods. D. Guides, rules or methods followed to conduct business or perform mental activities or play games. E. Invention that may lead to violation of the public order or morals. 2. If it is evident to the administration upon examination of the patent application that the scope of the invention relates to the national defense, then the procedures provided for in the implementing regulations of this law shall be undertaken thereon. ¹⁵¹

Patents in GCC countries are protected for **20 years** from the date of filing the application. The Laws of Oman and Bahrain provide for an **extension period of patent protection** of up to four years in the case of Bahrain¹⁵² and up to five years in the case of Oman,¹⁵³ to allow for delays in granting patent approval as a compensation where such delays are for reasons beyond the patent owner's control. Additional protection is also provided where delays occur in the marketing approval process or product safety and efficacy. While Bahrain limits the eligibility for such extensions to pharmaceutical products, Oman does not specify any particular products to which the extension provision applies. This extension is beyond TRIPS requirements. In the case of Oman, it is also beyond the EU related practice known as the **supplementary protection certificates (SPCs)** which is an intellectual property right that serves as an extension to a patent right for pharmaceutical and plant protection products that have been authorised by regulatory authorities.¹⁵⁴ It is argued that the extension of protection conferred to pharmaceutical patents is in contradiction with Article 27.1 of the TRIPS Agreement as it differentiates between patents based on the field of technology. Oman is hence in line with TRIPS, while the EU and Bahrain are not.

¹⁴⁵ Article 3 of Legislative Decree No. 1/2004 as amended.

¹⁴⁶ Article 3 of Law No. 71 of 2013

¹⁴⁷ Article 2 of Royal Decree No. 67/2008

¹⁴⁸ Article 2 of Decree Law No. 30 of 2006

¹⁴⁹ Article 4 of Decree Law No. 30 of 2006

¹⁵⁰ Article 45 of Royal Decree No. M/27 of July 17, 2004.

¹⁵¹ Article 6 of Federal Law No. 31 of 2006

¹⁵² See Article 14 of Legislative Decree No. 1/2004 as amended.

¹⁵³ See Article 12 of Royal Decree No. 67/2008.

¹⁵⁴ https://ec.europa.eu/growth/industry/policy/intellectual-property/patents/supplementary-protection-certificates_en

Although, SPCs are criticized for having a negative impact on timely access to affordable medicines,¹⁵⁵ it is recommended that Oman and Bahrain benefit from the EU practice in this regard to make their laws less harmful to their local industry.

All GCC countries use the **international classification** referred to in Article 1 of the Strasbourg Agreement Concerning the International Patent Classification (1979), although Saudi Arabia is the only country member of the Agreement. Bahrain and Oman are the only GCC countries that respect the 6 months **grace period** for the payment of the fees prescribed for the maintenance of industrial property rights referred to in Article 5bis of the Paris Convention.¹⁵⁶ The four other countries apply a three-month period which is in contradiction with TRIPS and Paris Convention's obligations. The related provisions in GCC patent laws as well as the GCC Unified Patent Regulations should be amended accordingly. It is hoped that the new amended GCC Unified Patent Regulations which was approved on January 5, 2021 during the GCC Supreme Council addresses some of the raised issues including the 6 months grace period.

The GCC Laws allow for the **right of priority** within a period of twelve months from the filing of the first application which is a requirement of the Paris Convention and the TRIPS Agreement. This right is available under GCC laws for patent applications duly filed in one of the countries members of the Paris Convention, the TRIPS Agreement or any other international agreement on industrial property to which the GCC country is also a member including the PCT to which all GCC countries are members.

The exclusive rights of patent right holders are to a large extent in line with the TRIPS Agreement. The GCC laws regulate the case of inventions created under an employment contract. The Omani law provides for detailed provisions in this regard.

Bahrain, Oman and Saudi Arabia are the only countries that provide for the **reversal of the burden of proof in respect of process patents** as required by Article 34 of the TRIPS Agreement according to which if the subject-matter of a patent is a process for obtaining a product, the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process, where certain conditions are met, in particular, when the product obtained by the patented process is new or when there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used. The rest of the GCC countries should include in their legislation provisions that reflect the TRIPS requirements in this regard.

All GCC countries make use of one aspect of the TRIPS flexibilities by incorporating in their patent laws provisions on **compulsory licensing**. The Laws are in line with TRIPS requirements¹⁵⁷ except for the UAE and Qatar which provide that importing the product is not considered a legitimate reason by the patent holder for not granting a compulsory license.¹⁵⁸ While the Paris Convention expressly authorizes compulsory licensing for the failure to work patents locally (not by importation), the TRIPS Agreement prohibits the discrimination of patents as to whether products are imported or locally produced. Accordingly, Qatar and the UAE will have to amend their laws to bring them in line with international standards. Compulsory licenses are important tools to address antitrust violations, national emergency or other circumstances of extreme urgency or in cases of public non-commercial use.

The beginning of the year 2021 has marked the end of the GCC unitary patent according to which the GCC Patent Office used to offer a unitary patent granting system providing patent protection in all GCC countries. Starting January 6, 2021, applicants wishing to protect their patents in GCC countries can either use the Paris Convention route (filing a patent application directly in each of the individual GCC Member countries using the 12-month priority period) or the PCT route (filing a national phase application in each of the individual GCC Member States using the PCT system). Certain national

¹⁵⁵ <https://joppp.biomedcentral.com/articles/10.1186/s40545-019-0198-6>

¹⁵⁶ Article 5bis of the Paris Convention states that "A period of grace of not less than six months shall be allowed for the payment of the fees prescribed for the maintenance of industrial property rights, subject, if the domestic legislation so provides, to the payment of a surcharge".

¹⁵⁷ See Article 27.1 of TRIPS.

¹⁵⁸ See Article 24(2) of the the UAE Federal Law No 17 of 2002 as amended and Article 15 of Decree Law No. 30 of 2006.

patent offices, such as the Saudi and Emirati offices,¹⁵⁹ are fully operational (the systems provide for online filing, substantive examination procedures, publishing, granting and issuing of national patents), other offices are not. Therefore, they will, most probably, delegate the GCC Patent Office to conduct the registration procedures on their behalf.

¹⁵⁹ While the Patent Office in Saudi Arabia examines patent applications in-house by highly qualified and trained examiners, the UAE outsources the examination of its patent applications.

e. Industrial designs

The protection of industrial designs in GCC countries is ensured through specific legislation on designs and Models (Bahrain and Kuwait), legislation on industrial property (Oman, Saudi Arabia and UAE), legislation on trademarks, GIs and Designs (Qatar) and the countries' membership to international treaties, in particular the Paris Convention for the protection of Industrial Property (Paris Convention) and the TRIPS Agreement.¹⁶⁰ The industrial designs laws in GCC countries differ from one country to another. The Laws of Bahrain and Oman go beyond TRIPS level of protection except for textile designs, while the laws of Kuwait, Saudi Arabia and the UAE are not fully compliant with TRIPS. Qatar never issued the implementing regulation for its law on industrial designs of 2002 and therefore the law never entered into force. In 2020 it enacted a new Law on the Protection of Industrial Designs which repealed the previous law. However, the law has not been published yet and its implementing regulation not issued. To date, designs were protected in Qatar through the publishing of a cautionary notice (i.e., a public notification of a claim to a design that alerts the public against any possible infringement) in Arabic and English in local newspapers. A cautionary notice is not a statutory right enforceable in the courts and hence design rights are not protected in Qatar.¹⁶¹

All GCC countries provide for a **definition** for industrial designs except for Qatar (Table 16). The provided definitions can be improved to cover all categories of designs as proposed by Article 1 of the EU Directive 98/71/EC on the Legal Protection of Designs which defines designs as “the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation”.

Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
Any arrangement of lines and colors and any colored or non-colored three-dimensional shape shall be deemed as an industrial drawing or model. ¹⁶²	An industrial drawing or model or an integrated circuit is every arrangement of lines or every colored shape for use in industrial production by mechanical, manual, or chemical means. ¹⁶³	Any composition of lines or colors or any three-dimensional form, whether or not associated with lines or colors, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft, and appeals to and is judged by the eye. ¹⁶⁴	N/A	A composition of two-dimensional lines or colors, or any three-dimensional shape that gives an industrial product, or a product of traditional crafts, a special appearance provided that this is not only for functional or technical purpose including textile designs. ¹⁶⁵	Industrial Design is any innovative three-dimensional shape that can be used in industry or craft. ¹⁶⁶

While Saudi Arabia follows the EU model by requiring that industrial designs **are new and original** (have an individual character), the UAE protects designs that meet any of these conditions. The rest of the GCC countries require that industrial designs are novel in order to be protected (Table 17).

Bahrain	The industrial drawing or model, after being registered, shall enjoy the protection determined in this law and shall be registered under the fulfilment of the following terms: 1. If filed independently and if novel. 2. If usable in industry or handicrafts and if distinctively appears as an industrial or craftwork product. 3. If not disclosed to the public whether in Bahrain or abroad in any way including its use or publication preceding the date of filing the registration application or the priority date of the registration application (if any). ¹⁶⁷
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¹⁶⁰ For membership of GCC countries to Industrial Property treaties including industrial designs, see Chapter 2 of this study.

¹⁶¹ <https://www.cwblegal.com/Bulletin/qatar-cabinet-approves-new-industrial-designs-law-regulations/>

¹⁶² See Article 1 of Legislative Decree No. 6 of 2006 on Industrial Designs and Models

¹⁶³ See Article 37 of Kuwaiti Law No. 35 of 1962 on Patents, Designs and Industrial Models (as amended by Law No. 3 of 2001).

¹⁶⁴ See Article 1 of Omani Law on Industrial Property Rights (Promulgated by the Royal Decree 67/2008).

¹⁶⁵ See Article 2 of Saudi Law on Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs (amended 2018).

¹⁶⁶ See Article 1 of UAE Federal Law No. 31 of 2006 on Amendments to Law No. 17 of 2002.

¹⁶⁷ See Article 2 of Law of Bahrain No. 6 of 2006 on Industrial Designs and Models.

Table 17: Conditions of protection of industrial designs	
Kuwait	Conditions should be specified in the implementing regulation. ¹⁶⁸
Oman	1 - An industrial design is registrable if it has never been disclosed to the public. 2 - An industrial design shall be new if it does not significantly differ from designs that have been disclosed to the public, anywhere in the world, by publication in tangible form or by use or in any other way, prior to the filing date or, where applicable, the priority date of the application for registration. 3 [...] 4 - Industrial designs that are contrary to public order or morality shall not be registrable. ¹⁶⁹
Qatar	N/A
Saudi Arabia	The industrial design certificate shall be granted, if it is novel and has features that distinguish it from known industrial designs. The industrial design shall be deemed novel if it was not disclosed to the public through publication anywhere in a tangible form, by use or by any other way, prior to the date of filing the registration application or the priority application. Disclosure of the industrial design to the public shall have no effect if it occurs during the priority period. The Regulations shall determine the other cases of disclosure which have no effect, as well as the provisions governing temporary protection of industrial designs. ¹⁷⁰
UAE	The industrial drawing or design must be new or innovative, and be usable as an industrial / handicraft product, and not violate the public order or the morals of the State. ¹⁷¹

The laws do not provide any **special protection for textile designs** as required by Article 25.2 of TRIPS which obliges WTO Members to “ensure that requirements for securing protection for textile designs, in particular in regard to any cost, examination or publication, do not unreasonably impair the opportunity to seek and obtain such protection”. Moreover, the laws do not address the interaction between industrial designs law and copyright law.

The **term of protection** for designs is in line with the TRIPS Agreement which requires that the protection shall amount to at least ten years. However, it is less than the protection available in the EU, which requires that it amounts to a maximum period of 25 years. Registration is mandatory for the protection and there is no protection under

The GCC laws on industrial designs should be reviewed to address any inconsistency with the TRIPS Agreement and to bring them in line with international standards. Most importantly, the laws should be revisited considering the new challenges imposed by the digital environment. In this regard, the GCC countries can follow closely the evaluation process launched by the EU to assess “to what extent the EU legislation is still fit for purpose, in particular in view of the digital transformation underway”. ¹⁷² The evaluation revealed that the EU legislation on designs is still broadly fit for purpose, especially regarding the basic premises and principles underlying the legislation. However, several relevant areas that require action were identified by the European Commission as follows: ¹⁷³

- Adapting design protection to the digital age, providing clarity on the subject-matter, scope of rights and limitations (there is lack of clarity when it comes to the private use limitation in the context of 3D printing and protection against counterfeit goods transiting through the EU);
- Improving the accessibility and affordability of design protection in the EU;
- Ensuring and enhancing the interoperability of the different design protection systems throughout the EU;
- Harmonising the rules on repair and spare parts; and
- Improving effective enforcement through new technologies such as Artificial Intelligence and blockchain.

¹⁶⁸ See Article 37 of Law of Kuwait No. 4 of 1962 on Patents, Designs and Industrial Models (as amended by Law No. 3 of 2001).

¹⁶⁹ See Article 20 of Law on Industrial Property Rights (Promulgated by the Royal Decree 67/2008) – (Oman).

¹⁷⁰ See Article 59 of Law of Saudi Arabia on Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs (amended 2018).

¹⁷¹ See Article 47 of the UAE Federal Law No. 31 of 2006 on Amendments to Law No. 17 of 2002

¹⁷² <https://ec.europa.eu/docsroom/documents/43705>

¹⁷³ <https://hsfnotes.com/ip/tag/design-directive/>

Chapter 2. Membership of GCC countries to international IPR conventions and treaties

The international sources for IP protection include conventions and treaties administered by the World Intellectual Property Organization (WIPO), the UNESCO Universal Copyright Convention, the World Trade Organization (WTO) Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), and the treaties relating to plant varieties, traditional knowledge and biodiversity namely, the International Union for the Protection of New Varieties of Plants (UPOV), the Convention on Biological Diversity (CBD) and the Nagoya Protocol on Access and Benefit Sharing (ABS).

The GCC Member States are parties to the Convention Establishing the World Intellectual Property Organization. They are also members of several conventions/ treaties administered by WIPO.

Most importantly they are all members of the WTO and hence they are bound by the minimum level of protection set by the TRIPS Agreement.

Saudi Arabia is the only GCC country member of the UCC. The latter lost significance with the entry into force of the WTO TRIPS Agreement.

WIPO Administered Treaties

WIPO administers 26 treaties which fall under three categories: (i) IP Protection which counts 15 treaties defining basic IP protection standards, (ii) Global Protection System which includes 6 treaties/agreements dealing with international registration or filing of industrial property rights, and (iii) Classification which includes 4 agreements creating classification systems to organize information relating to inventions, trademarks and industrial designs.¹⁷⁴

IP Protection

The GCC countries are parties to the two main IP Protection Conventions, i.e., the Berne Convention for the Protection of Literary and Artistic Property (Berne Convention) and the Paris Convention for the Protection of Industrial Property (Paris Convention). Both conventions provide for the principle of national treatment according to which countries party to the convention are required to accord to the nationals of other parties the same rights that they accord to their own nationals.

Membership of the GCC countries to other IP Protection treaties is not based on a common regional strategy. For instance, four countries are members of the WIPO internet treaties (Bahrain, Oman, Qatar and UAE), three countries have joined the Marrakesh VIP Treaty (Saudi Arabia, Qatar and UAE), three countries are members of the Rome Convention on related/ neighboring rights (Bahrain, Qatar and UAE) and three countries are members of the Patent Law Treaty (Bahrain, Saudi Arabia and Oman). On the other hand, two Members only have joined the Beijing Treaty on Audiovisual Performances (Qatar and UAE), the Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Bahrain and Oman), the Nairobi Treaty on the Protection of the Olympic Symbol (Oman and Qatar) and the Trademark Law Treaty (Bahrain and Oman). See Table 18 below.

Table 18: Membership of GCC countries to WIPO IP protection treaties

IP PROTECTION	BAHRAIN	KUWAIT	OMAN	QATAR	SAUDI ARABIA	UAE
Beijing Treaty on Audiovisual Performances (2012)				April 28, 2020		April 28, 2020
Berne Convention for the Protection of Literary and Artistic Works (1886)	March 2, 1997	December 2, 2014	July 14, 1999	July 5, 2000	March 11, 2004	July 14, 2004
Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974)	May 1, 2007		March 18, 2008			
Madrid Agreement for the Repression of False or						

¹⁷⁴ <http://www.wipo.int/treaties/en/index.html>

Table 18: Membership of GCC countries to WIPO IP protection treaties

IP PROTECTION	BAHRAIN	KUWAIT	OMAN	QATAR	SAUDI ARABIA	UAE
Deceptive Indications of Source on Goods (1967)						
Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh VIP Treaty 2013)				January 24, 2019	February 21, 2019	September 30, 2016
Nairobi Treaty on the Protection of the Olympic Symbol (1981)			March 26, 1986	July 23, 1983	Considering joining (Royal Decree on accession issued since 1985)	
Paris Convention for the Protection of Industrial Property (1883)	October 29, 1997	December 2, 2014	July 14, 1999	July 5, 2000	March 11, 2004	September 19, 1996
Patent Law Treaty (2000)	December 15, 2005		October 16, 2007		August 3, 2013	
Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (1971)					Considering joining	
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961)	January 18, 2006			September 23, 2017		January 14, 2005
Singapore Treaty on the Law of Trademarks (2006)						
Trademark Law Treaty (1994)	March 18, 2007		October 16, 2007			
Washington Treaty on Intellectual Property in Respect of Integrated Circuits (1989)						
WIPO Copyright Treaty (WCT) 1996	December 15, 2005	Act of accession sent to WIPO	September 20, 2005	October 28, 2005	Considering joining	July 14, 2004
WIPO Performances and Phonograms Treaty (WPPT) 1996	December 15, 2005	Act of accession sent to WIPO	September 20, 2005	October 28, 2005	Considering joining	June 9, 2005

It is to be noted that Oman and Bahrain have joined almost the same treaties the majority of which are requirements under their respective FTAs concluded with the United States.¹⁷⁵ Qatar and the UAE are also members of almost the same treaties. However, the reason for such choice is not clear.

¹⁷⁵ Article 15.1 of the US-Oman FTA and Article 14.1 of the US-Bahrain FTA oblige both countries to ratify or accede to the Patent Cooperation Treaty; the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974); the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1989); the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; the International Convention for the Protection of New Varieties of Plants (1991) (UPOV Convention); the Trademark Law Treaty (1994); the WIPO Copyright Treaty (1996); and The WIPO Performances and Phonograms Treaty (1996). Both countries are also required to make all reasonable efforts to ratify or accede to the Patent Law Treaty (2000); and the Hague Agreement Concerning the International Registration of Industrial Designs (1999).

Each GCC country has its own national strategy or vision¹⁷⁶ whereby it sets the ceiling high in terms of innovation and competitiveness to attract foreign direct investments (FDIs). This cannot be reached without modernizing the existing IP infrastructure and harmonizing its laws with international standards and best practices in knowledge-based economies. One way of achieving this is through the adherence to international instruments that provide these standards. Therefore, it is recommended that GCC countries join the mentioned IP Protection Agreements to be in line with high standards necessary to cope with a knowledge-based economy.

For instance, in order to meet the objectives of the “Saudi vision 2030” the Saudi government undertook actions and initiatives to encourage creativity and innovation and to attract foreign direct investments, including building an information and communications technology (ICT) infrastructure fit for the 21st century as digitization and artificial intelligence are key enablers of the vision’s reforms.¹⁷⁷ This cannot be achieved if Saudi Arabia does not incorporate in its laws new standards to address the challenges caused by today’s new technologies and digital environment. The WCT and WPPT known as the WIPO Internet Treaties help protect creators and encourage innovation in a digital based world. The two treaties were developed to update and supplement the WIPO Conventions on copyright (Berne Convention) and related rights (Rome Convention). In this regard it is to be noted that Saudi Arabia is considering joining a number of IP treaties including the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms as well as WCT and WPPT.¹⁷⁸ Moreover Kuwait has sent accession acts to WIPO to adhere to WCT and WPPT.

In line with the above, it is important to maintain a humanitarian and social development dimension for copyright by adhering to the Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh VIP Treaty 2013). The Treaty requires its contracting parties to introduce a standard set of limitations and exceptions to copyright rules in order to permit the reproduction, distribution, and the making available of published works in accessible formats to VIPs. Bahrain, Kuwait and Oman have not yet adhered to the Treaty.

Recently Qatar and the UAE became members of the Beijing Treaty on Audiovisual Performances which modernizes and updates the Rome Convention and complement the WPPT. The Treaty strengthens the rights of performers in the audiovisual industry by providing incentives and compensation in regard to the international use of their performances especially in the online age.¹⁷⁹ It is important for the rest of the GCC countries, in particular Kuwait, which is considered to be the Hollywood of the GCC, to join the treaty in order to improve the protection of their performers.

Regarding the Nairobi Treaty on the Protection of the Olympic Symbol (1981), Saudi Arabia issued in 1985 a Ministerial Decree for its accession to the treaty. However, to date the Act of accession has not been sent yet to WIPO.¹⁸⁰

On the other hand, none of the GCC countries has joined the following IP Protection treaties:

- The Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1967).
- The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (1971).
- The Singapore Treaty on the Law of Trademarks (2006).
- The Washington Treaty on Intellectual Property in Respect of Integrated Circuits (1989).

¹⁷⁶ In 1995, Oman released “Oman Vision 2020” that was followed by “Vision 2040” in 2019. In 2008, Bahrain launched “The Economic Vision 2030” and Qatar the “Qatar National Vision 2030”. In 2010, Kuwait issued Kuwait Vision 2035 “New Kuwait” and the United Arab Emirates released “UAE Vision 2021”. Saudi Arabia launched its Vision 2030 strategy in 2016.

¹⁷⁷ https://www.wipo.int/wipo_magazine/en/2018/05/article_0002.html

¹⁷⁸ Saudi Arabia launched a public consultation in this regard available at [Public Consultations - SAIP](#)

¹⁷⁹ See https://www.wipo.int/beijing_treaty/en/

¹⁸⁰ See Royal Decree No. 2/M dated September 25, 1985.

While the Washington Treaty is not yet in force, however its main provisions have been incorporated by reference into the TRIPS Agreement and hence are mandatory for GCC countries to comply with.¹⁸¹

It is important to note that the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods of 1967 plays an important role in the enforcement at the borders of indications of source including geographical indications (GIs). The Agreement provides that all goods bearing a false or deceptive indication of source, by which one of the Contracting States, or a place situated therein, is directly or indirectly indicated as being the country or place of origin, must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for remedies such as seizure and prohibition of importation, in particular, it prohibits the use, in connection with the sale, display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods.¹⁸² In the absence of any effective system for the protection and registration of geographical indications in GCC countries, it is recommended that GCC Member States join the Madrid Agreement which will serve as an enforcement tool for GIs entering the GCC market including European GIs.

Regarding the Singapore Treaty, it has as its objective the creation of an effective international framework for the harmonization of administrative trademark registration procedures. It builds on the Trademark Law Treaty (TLT) but has a wider scope of application as it addresses more recent developments in the field of communication technologies.¹⁸³ In particular, it recognizes non-traditional marks and requires member countries to provide for multiclass applications and registrations as well as the use of the International "Nice Classification"). Most importantly, the Singapore Treaty maintains a very important provision of the TLT, that the authentication, certification or attestation of any signature on paper communications cannot be required. Accordingly, the adherence of the GCC countries to the Singapore Treaty will modernize the existing system and harmonize the trademark procedures with those of other signatory countries and will resolve problematic issues for national and foreign applicants, namely, the adoption of the Nice Classification, the elimination of the single class per application, and the elimination of the requirement that documents be legalized before they are accepted by certain national trademark offices which constitute one of the greatest procedural difficulties.

Global Protection System

With regard to the Global Protection System, the GCC countries are all members of the Patent Cooperation Treaty (PCT). Four countries are members of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Bahrain, Saudi Arabia, Oman and Qatar), two are members of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Bahrain and Oman) and Oman is the only GCC country to have joined the Hague Agreement concerning the International Registration of Industrial Designs.¹⁸⁴ It is to be noted that Saudi Arabia is currently studying the appropriateness of its accession to the Hague Agreement and the Madrid Protocol (Table 19).¹⁸⁵

Table 19: Membership of GCC countries to WIPO global protection treaties

	BAHRAIN	KUWAIT	OMAN	QATAR	SAUDI ARABIA	UAE
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977)	November 20, 2012		October 16, 2007	March 6, 2014	January 16, 2021	

¹⁸¹ As regards the protection of layout-designs of integrated circuits, Article 35 of TRIPS requires Members to comply with Articles 2 through 7 (other than Article 6.3), Article 12 and Article 16.3 of the Treaty on Intellectual Property in Respect of Integrated Circuits.

¹⁸² <https://www.wipo.int/treaties/en/ip/madrid/>

¹⁸³ https://www.wipo.int/treaties/en/ip/singapore/summary_singapore.html

¹⁸⁴ Oman joined the Hague Agreement as an implementation of its commitment under Article 15 of the US-Oman FTA.

¹⁸⁵ Saudi Arabia launched a public consultation in this regard. See [Public Consultations - SAIP](#)

Table 19: Membership of GCC countries to WIPO global protection treaties

	BAHRAIN	KUWAIT	OMAN	QATAR	SAUDI ARABIA	UAE
Hague Agreement Concerning the International Registration of Industrial Designs (1925)			March 4, 2009		Considering joining	
Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1979)			Sultani Decree No. 19/2021 issued for the accession to the Geneva Act			
Madrid Agreement Concerning the International Registration of Marks (1891)						
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1981)	December 15, 2005	Considering joining (Letter sent to WIPO)	October 16, 2007		Considering joining	Considering joining
Patent Cooperation Treaty (PCT) 2001	March 18, 2007	September 9, 2016	October 26, 2001	August 3, 2011	August 3, 2013	March 10, 1999

None of the GCC countries has joined the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement). The Madrid Agreement simplifies international registration procedures for the acquisition of trademark protection by providing for a single international application upon payment of a single fee. However, the agreement has been criticized for introducing the “central attack system” according to which trademarks issued from the international registration are void within five years from the date of international registration if the trademark in the country of origin on which the international registration is based, is nullified. Therefore, countries such as the US and the UK which are major trade partners for GCC countries never ratified it. It is therefore recommended that Saudi Arabia, Qatar, UAE and Kuwait ratify the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) which introduces new approaches to international trademark registration and permits international registration on the basis of a national application instead of a national registration. Moreover, the Protocol alleviates the consequences of the “central attack system” by preserving national trademarks. Accordingly, if the basic trademark is nullified, an application can be made to convert it into a national trademark with the same priority as that to which the international registration was entitled.¹⁸⁶ In today’s economy, setting up a business in a specific jurisdiction will depend on the efficiency of the country’s IP system. The adherence to the Protocol by all GCC countries will boost the IP framework in the region and make it more trustful and efficient. This will address some weaknesses of the existing system in particular with regard to the registration’s cost and time. The Protocol will make it possible for companies and entrepreneurs to protect their marks in up to 107 countries by obtaining an international registration that has effect in each of the designated Contracting Parties.

In this regard, Kuwait has initiated the procedure with WIPO to adhere to the Protocol and the UAE and Saudi Arabia are considering joining it before the end of 2021.

Regarding the Hague Agreement Concerning the International Registration of Industrial Designs, Oman is the only GCC country that have joined the system which offers the possibility of obtaining protection in designated Contracting States by filing a single international application in a single language, upon payment of a single set of fees, in one currency, and filed with one office (either directly with the International Bureau of WIPO or, under certain circumstances, through the national Office of a contracting State. The adherence to the Hague Agreement by GCC countries will improve the IP framework, encourage creativity especially in the fashion field and help GCC countries attract foreign investors and creators. It is to be noted that Saudi Arabia is considering joining the Agreement.

On the other hand, the GCC countries lack any protection of appellations of origin. Therefore, it is not surprising that none of these countries has joined the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. However, the Geneva Act of the Lisbon Agreement may be an option once GCC countries adopt adequate systems of GIs protection. It is to

¹⁸⁶ See Joanna Schmidt-Szalewski, “The International Protection of Trademarks After the Trips Agreement”, Duke Journal of Comparative & International Law [Vol 9:189], 1998.

be noted that Oman has issued Sultani Decree No. 19/ 2021 for its accession to the Geneva Act of the Lisbon Agreement.

Classification

Although most of the GCC countries are not members of the WIPO classification Agreements, however, their industrial property offices and the GCC Patent Office adopt *de facto* the classification provided in the aforementioned agreements when registering patents, trademarks and industrial designs.

It is important to note that Saudi Arabia has joined in 2020 three of these agreements, namely, the Locarno Agreement Establishing an International Classification for Industrial Designs, the Strasbourg Agreement Concerning the International Patent Classification and the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks. Moreover, Bahrain is a member of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks since 2005. Moreover, the UAE is considering joining the Nice Agreement and it is hoped that the ratification will take place before the end of 2021. Moreover, Saudi Arabia will be soon joining the Nice Agreement. After studying the appropriateness of its accession to the agreement, a Royal Decree was issued in this regard. The next step will be to submit the Act of accession to WIPO (Table 20).¹⁸⁷

	BAHRAIN	KUWAIT	OMAN	QATAR	SAUDI ARABIA	UAE
Locarno Agreement Establishing an International Classification for Industrial Designs (1979)					December 3, 2020	
Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1979)	December 15, 2005		s		Royal Decree on accession issued. Waiting for Accession Act to be sent to WIPO	
Strasbourg Agreement Concerning the International Patent Classification (1979)					January 16, 2021	
Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (1985)					December 3, 2020	

The WTO TRIPS Agreement

As stated above, all GCC Member States are Members of the WTO and hence the TRIPS Agreement. This means that they are all obliged to protect intellectual property rights with a level of protection that is at least adequate to the one provided by TRIPS. They are also bound by the non-discrimination rules of the multilateral trading system, i.e., the national treatment principle¹⁸⁸ and the most favored nation principle,¹⁸⁹ according to which countries cannot discriminate their trading partners (Table 1).

BAHRAIN	KUWAIT	OMAN	QATAR	Saudi Arabia	UAE
January 1, 1995	January 1, 1995	November 9, 2000	January 13, 1996	December 11, 2005	April 10, 1996

UPOV, CBD and ABS

Oman and Bahrain are the only GCC countries members of the International Union for the Protection of New Varieties of Plants (UPOV).

The UAE adopted a sui generis system through the enactment of Federal Law No. 17 of 2009 on the Protection of Plant Varieties and the rights of the breeders of such varieties. Although UAE is not

¹⁸⁷ See [Public Consultations - SAIP](#). Royal Decree No. 137/M dated June 6, 2020.

¹⁸⁸ See Article 3 of TRIPS.

¹⁸⁹ See Article 4 of TRIPS.

member of the UPOV yet however, the law has been drafted to be consistent with the UPOV (Table 21).

According to Article 27.3(b) of the TRIPS Agreement, countries are free to determine the appropriate system for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof¹⁹⁰. Saudi Arabia has opted for a patent regime for protecting plant varieties. Therefore, acceding to UPOV is not anymore, an option as long as the related law is in force.

Kuwait¹⁹¹ and Qatar¹⁹² exclude plant varieties from patentability and hence they are strong candidates to join the UPOV Convention.

GCC Member States are all members of the Convention on Biological Diversity (CBD). They are also members of the Nagoya Protocol on Access and Benefit Sharing (ABS) with the exception of Bahrain (Table 21).

Table 21: Membership of GCC countries to UPOV, CBD and ABS

	BAHRAIN	KUWAIT	OMAN	QATAR	SAUDI ARABIA	UAE
UPOV (1991)	June 9, 2005		November 22, 2009			
CBD	November 28, 1996	October 31, 2002	May 9, 1995	November 19, 1996	January 1, 2002	May 10, 2000
ABS		August 30, 2017	September 21, 2020	April 25, 2017	October 8, 2020	December 11, 2014

¹⁹⁰ It is to be noted that discussions at the WTO TRIPS Council are on-going regarding the elements that constitute an effective sui generis system, the relationship between the TRIPS provision and UPOV and the relationship with traditional knowledge and farmers' rights, in particular on how to strike a balance, in the protection of plant varieties, between the interests of the community as a whole and protecting farmers' rights and traditional knowledge and ensuring the preservation of biological diversity.

¹⁹¹ Article 3 of the Law No. 71 of 2013 on Approval of the Patents Regulations of the Cooperation Council for the Arab States of the Gulf" provides that Plant varieties and species of animals, and biological processes for the production of plants or animals with the exception of microbiological processes and the products thereof. Shall not be regarded as inventions.

¹⁹² Article 4 of the Patent Law promulgated by Decree-Law No. 30 of 2006 states that: "Subject to the law hereby, patentability shall not include: [...] b) Plants and animals researches, and essentially biological processes for the production of plants or animals other than microbiological processes and its productions".

Chapter 3: Suggestions to enhance GCC laws based on EU best practice concerning IP protection, particularly in relation to laws and regulations that have an impact on inventions, technology, sciences.

Wherever there are inventions, technologies and sciences, there is intellectual property. IP is the tool that fosters innovation and protects inventions, technologies, and R&Ds in sciences. IP is the key to any knowledge-based economy. The GCC countries are in a race against time to implement their visions and strategies which aim at shifting the countries from oil-dependent economies to knowledge-based economies. To date, many initiatives have been undertaken to create a competitive environment for businesses, attract FDIs, promote R&Ds and enhance IP protection. Despite all efforts made, the IP systems in GCC countries are still not up to the level needed for the establishment of a knowledge-based economy. The legal IP framework lacks not only the core elements necessary for the system to cope with the digital age challenges and the new international standards but also it lacks a modern infrastructure necessary for the implementation of a sound and effective IP protection system.¹⁹³ As highlighted previously, certain GCC countries, in particular Bahrain and Oman as a result of their FTAs concluded with the United States, adopt in their IP legislation, provisions that go beyond the TRIPS Agreement and applicable international standards. This, however, does not make their IP systems more efficient as the changes brought to their laws were not accompanied by the necessary administrative and structural reforms along with the capacity building of the human resources in charge of implementing such commitments. Moreover, most of the “improvements” to the laws imposed by the FTAs were decided based on the US interest and its level of IP protection without taking into consideration the interest of the concerned countries and their capacity and ability to implement such commitments. Moving towards a knowledge-based economy cannot be achieved by importing laws and policies the implementation of which will constitute a challenge for the national economy, but by developing an educated and innovative society. This chapter highlights some of the GCC laws and practices that have an impact on inventions, technology and sciences and suggests steps to enhance these laws and practices based on EU best practice.

Intellectual Property has positive impacts on technological innovation in countries with high levels of human capital. Accordingly, the implementation of the national visions and innovation strategies of the GCC countries requires not only an advanced technology-based infrastructure and an efficient IP protection system but also high levels of human capital. In addition to human development and employment, human capital contributes to a sustainable knowledge-based economy.¹⁹⁴ Strengthening IP rights in countries with low or inadequate human capital may result in imitation rather than innovation. In other words, the interaction between IP and human capital should be balanced and harmonized in order for education to have an effect on research and development. The scores on the Human Capital Index (HCI) of the GCC countries are lower than those of countries at comparable levels of income.¹⁹⁵ Moreover, the GCC labour market is driven by foreign manpower and skilled professionals. In certain GCC countries, such as Kuwait and the UAE, even judges are not GCC nationals. According to a recent study by the World Bank Group, the challenges for human capital formation in the GCC countries include (i) low levels of basic proficiency among schoolchildren; (ii) the mismatch between education and the labor market; (iii) the relatively high rate of adult mortality and morbidity; and (iv) the unique labor market as wages in the public sector are more generous than those in the private sector (where most new jobs need to be created), and government employment for nationals is almost guaranteed.¹⁹⁶

To address these challenges, GCC countries should invest more in human capital especially with the new standards imposed by the rapid technological changes. The GCC countries’ economic visions had already foreseen programs and strategies to improve the human capital needed to achieve

¹⁹³ For details about the areas of weakness in GCC IP laws that constitute a challenge for the countries to meet their visions’ objectives, see chapter 1 of this study.

¹⁹⁴ <https://openknowledge.worldbank.org/handle/10986/33946>

¹⁹⁵ Sameh El-Saharty, Igor Kheyfets, Christopher H. Herbst, and Mohamed Ihsan Ajwad, “Fostering Human Capital in the Gulf Cooperation Council Countries”, International Bank for Reconstruction and Development, The World Bank, 2020

¹⁹⁶ *Idem*.

economic diversification and sustainability (Table 22). In this context, Kuwait, Saudi Arabia, and the United Arab Emirates have adopted the World Bank's Human Capital Project, while Bahrain expressed interest in joining the project.¹⁹⁷

BAHRAIN	KUWAIT	OMAN	QATAR	SAUDI ARABIA	UAE
<ul style="list-style-type: none"> • Social assistance • Health care • Education 	<ul style="list-style-type: none"> • Creative human capital • High-quality health care. • Sustainable living environment 	<ul style="list-style-type: none"> • Health • Education, learning, scientific research, and national capabilities • Labor market and employment • Welfare and social protection 	<ul style="list-style-type: none"> • Education and high-quality training • Comprehensive and integrated health system • Labor force participation 	<ul style="list-style-type: none"> • The National Transformation Program • The Quality of Life Program • The Human Capabilities Development Program 	<ul style="list-style-type: none"> • First-rate education system • Competitive knowledge economy • World-class health care • Sustainable environment and infrastructure

In the past years, progress has been made in GCC countries in the educational sector including higher education by creating linkages with renowned universities from Europe and North America which opened branches in several GCC countries.¹⁹⁸ However, there are still many issues to be addressed at all levels of education, in particular, the quality of education and adopted curricula that should be updated and modernized to help future generations cope with a knowledge-based era. New policies should be adopted to motivate educated youth to build careers in the private sector and to contribute to its development.

The World Bank study suggests four strategies for GCC countries to respond to human capital challenges and to help them take their economies and societies further into the twenty-first century. These strategies that are based on best practices in other countries and feature some of the GCC countries' national "Visions" include (i) investing in high-quality early childhood development; (ii) preparing healthier, better educated, and skilled youth for the future; (iii) enabling greater adult labor force participation including promoting lifelong learning and improving conditions for female labor force participation; and (iv) creating an enabling environment for human capital formation to increase value for money in public spending on education and health and move toward a multisectoral approach to human capital.¹⁹⁹

Implementing the aforementioned strategies constitutes an important component of the overall plan to build a knowledge-based economy, along with supporting research and innovation activities in universities and research centers; funding innovative techniques; transferring and localizing technology; and enhancing the legislative and institutional framework.²⁰⁰

IP protection is an essential tool to the promotion of technological innovation and to the transfer and dissemination of technology.²⁰¹ This is true especially when IP constitutes a main factor of the infrastructure promoting investments in R&Ds. Developing the right infrastructure leading to innovation requires an efficient IP system along with the appropriate legislation on technology transfer and R&Ds. The GCC countries have been active during the past years in the elaboration of legislation and

¹⁹⁷ Idem.

¹⁹⁸ See "Assessing Investment Policies of GCC Countries: Translating economic diversification strategies into sound international investment policies" prepared by the MENA-OECD Investment Programme.

¹⁹⁹ Sameh El-Saharty, Igor Kheyfets, Christopher H. Herbst, and Mohamed Ihsan Ajwad, "Fostering Human Capital in the Gulf Cooperation Council Countries", International Bank for Reconstruction and Development, The World Bank, 2020

²⁰⁰ See https://www.wipo.int/wipo_magazine/en/2013/05/article_0006.html

²⁰¹ See Article 7 of the TRIPS Agreement (Objectives) that states that: "The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations".

initiatives on R&Ds, transfer of technology and innovation, as part of the implementation of their economic visions. The following tables highlights some of the GCC legislation and initiatives that have an impact on inventions, technology, sciences (Table 23).

Table 23: GCC initiatives on Innovation, R&D, Transfer of Technology	
Bahrain	<ul style="list-style-type: none"> The Bahrain first national strategy for higher education and scientific research, it aims to help universities to prepare for the next generation of job creators and innovators by developing the entrepreneurship education and research culture and improve use of new technologies.²⁰² The personal data protection law, No. 30 of 2018 aims to keep pace with technological advancement by promoting efficient, secure, and effective processing bid data.²⁰³
Kuwait	<ul style="list-style-type: none"> Kuwait Foundation for the Advancement of Science (KFA), its goal is to promote modernization, and focusing on advancing and integrating science, technology, and innovation through the country.²⁰⁴ The Kuwaiti government has adopted a new decree (No 29 of 2016) for the establishment of the Kuwaiti Association for the Support of Inventors. According to the announcement, the purpose of the association is to provide support for Kuwaiti inventors to enable them to excel and develop more inventions and to increase the volume of Kuwaiti inventors within the innovation sector.²⁰⁵
Oman	<ul style="list-style-type: none"> Research counsel established on 22nd of June 2005 pursuant to Royal Decree number 54/2005, the main objectives of which are building research capacity mechanisms and achieving research excellence.²⁰⁶ The Research Council is Oman's exclusive research funding body and leader of research development in the country. TRC serves as a focal point and hub dedicated to promoting and supporting research, scientific enquiry, and innovation in the Sultanate of Oman. At the heart of our work is nurturing research talent to power innovation and create economic benefit for our national prosperity. TRC was established in June 2005 pursuant the Royal Decree No.54/2005 and followed in 2010 by Royal Decree No.30/2010 with TRC set to lead the way in drawing up a national plan for scientific research in the Sultanate.²⁰⁷ Technology Transfer Office TTO aims to transfer scientific findings of the college -such as the new discoveries or researches- for the purpose of further development and commercialization. TTO is the bridge between Academia and Industry to bring the technology from the Lab to the Market. TTO is established in CAS Ibri to give support and awareness to all innovators in the process of how to register their researches and patents, searching in the World International Patent Origination ²⁰⁸ (WIPO) databases, and help the innovators to connect with other innovators and researcher's organizations. Also, it gives them access to locally based, high quality technology information and related services, helping them to exploit their innovative potential and to create, protect, and manage their intellectual property (IP) rights. TTO is under the supervision of Ministry of Higher Education (MOHE) and The Research Council (Research Centre Department).²⁰⁹ Oman Pharmaceutical products Co. invests in R&D through developing generics, improving existing formulations, technology transfer and site transfer products.²¹⁰
Qatar	<ul style="list-style-type: none"> Law No. 36 of 2005 Establishing a Free Zone for Qatar Science and Technology Park (QSTP), which aims at promoting and supporting scientific, applied and technological research and undertaking investment activities to serve the objectives of the science and technology park.²¹¹ The Qatar Foundation (QF) is a major funding unit in establishing R&D centers across Qatar and it works as a custodian of the national research strategy and direct funding for research through the national research fund. QF establishments include Qatar Biomedical Research Institute (QBRI), Qatar Environment and Energy Research Institute (QEERI), and Qatar Computing Research Institute (QCRI). It further includes the supervision of the Qatar Science and Technology Park (QSTP) and QF's Sidra Medical and Research Centre which is destined to be a major centre for research in the health sector. The University level research is conducted

²⁰² <https://oxfordbusinessgroup.com/analysis/bahrain-first-higher-education-and-national-research-strategy-important-milestone>

²⁰³ <https://www.bahrainedb.com/bahrain-pulse/new-laws-power-business-in-bahrain/>

²⁰⁴ <https://www.kfas.org/about-us/who-we-are>

²⁰⁵ <https://www.tamimi.com/law-update-articles/rd-and-innovations-in-the-gcc-countries-recent-updates/>

²⁰⁶ <https://council.science/member/oman-sultanate-of-research-council-of-oman/>

²⁰⁷ <https://council.science/member/oman-sultanate-of-research-council-of-oman/>

²⁰⁸ <http://www.omanpharma.com/operations/research-development/>

²⁰⁹ <https://ibri.cas.edu.om/pages/Technology-Transfer.aspx>

²¹⁰ <http://www.omanpharma.com/operations/research-development/>

²¹¹ <https://www.almeezan.qa/LawView.aspx?opt&LawID=275&language=en>

Table 23: GCC initiatives on Innovation, R&D, Transfer of Technology	
	by the Qatar University and Hamad bin Khalifa University which are the major contributors in upgrading the country to the knowledge-based economy. ²¹²
Saudi Arabia	<ul style="list-style-type: none"> • The program of supporting Research and Development in Universities which aims at supporting the R&D efforts in the universities and across national industries in a way that contributes to the stimulation of research and knowledge production, social development, economic development and private sector partnership.²¹³ • The Saudi Society of Technology development and transfer the objective of which is to energize and develop the scientific thinking in the area of technological development, innovation, and transfer.²¹⁴ • Saudi Arabia Advanced Research Alliance (SAARI) is working in collaboration with the King Abdullah University of Science and Technology (KAUST) to progress innovation and economic development.²¹⁵ • The National Science, Technology and Innovation Plan (NSTIP) was established in 2007 and it encompasses eight programs including strategic and advanced technologies; scientific research and technical development capabilities; transfer, development, and localization of technology; science, technology, and society; scientific and technical human resources; diversifying financial support resources; science, technology, and innovation systems; and institutional structures for science, technology, and innovation.²¹⁶
UAE	<ul style="list-style-type: none"> • The UAE Government launched in 2015 the Science, Technology and Innovation (STI) policy which aims to prepare the UAE for the post oil world. The STI policy is an exclusive policy which identifies the requirements and challenges faced by exceptional researchers and scholars of Universities and also technical entrepreneurs. These challenges include the limitations to access to advanced and specialized R&D, R&D infrastructure, high laboratory costs and prototyping facilities to name a few. The STI aims to support start-ups by not only funding the innovations but ensuring the availability of R&D facilities for advanced research. It also aims to enhance the world class innovation ecosystem and offers availability of technology transfer and incubating innovation. To work on its implementation, the government established a committee known as the National Science, Technology and Innovation Committee policy in order to make the UAE amongst the most innovative countries in the world, owing to advanced and innovative talent, resources, legislations and infrastructure.²¹⁷ • The Regulations Lab (RegLab) was launched in 2019. It is a step change in the legislation and application of emerging technologies. RegLab works in the regulation space to align regulation speed with innovation speed.²¹⁸ • the law aims at providing a safe test environment for legislation that will govern the use and applications of future technologies, in a step that will support the country's progress towards its future aspirations and vision • Khalifa University that has a clear technology transfer and innovation strategy focusing on maximizing the benefit of the diversified patent portfolio through innovation and licensing to the industry partners or startups.²¹⁹

The listed legislation and initiatives are a good start to move towards a knowledge-based economy. However, there are still many reforms to be applied at many levels in order to shift the old practice and establish a knowledge-based culture. Therefore, raising awareness among the population regarding the new system is keen but most importantly is the acceptance of the population of such changes. It is also important that a balance is found between incentivizing innovation and respecting the public interest and his right to access to information provided by this innovation.²²⁰ The implementation of the very ambitious “visions” should not forbid GCC countries from using technological knowledge in a manner conducive to social and economic welfare. Moreover, it should not be an impediment for GCC countries to benefit from TRIPS flexibilities especially with regard to IP and public health and IP and access to knowledge.

²¹² <https://www.tamimi.com/law-update-articles/rd-and-innovations-in-the-gcc-countries-recent-updates/>

²¹³ <https://rdo.moe.gov.sa/en/AbouttheProgram/Pages/KSARandDCurrentState.aspx>

²¹⁴ <https://arab.org/directory/saudi-society-of-technology-development-transfer/>

²¹⁵ <https://www.tamimi.com/law-update-articles/rd-and-innovations-in-the-gcc-countries-recent-updates/>

²¹⁶ https://www.wipo.int/wipo_magazine/en/2013/05/article_0006.html.

²¹⁷ <https://www.tamimi.com/law-update-articles/rd-and-innovations-in-the-gcc-countries-recent-updates/>

²¹⁸ <https://www.uaecabinet.ae/en/details/news/president-issues-federal-law-launching-reglab>

²¹⁹ <https://www.starsofscience.com/qatar-foundation>.

²²⁰ Intellectual Property for Fostering Innovation in the Arab Region, [United Nations Economic and Social Commission for Western Asia](#) (UN ESCWA)

It is also important that GCC countries take into account the effect of each new initiative on innovation to ensure that GCC policy and regulations support innovation and that innovation and competitiveness are not suppressed with rigid and detailed regulations.²²¹ This is practiced in the EU under the “Innovation Principle” which is “a tool to help achieve EU policy objectives by ensuring that legislation is designed in a way that creates the best possible conditions for innovation to flourish”.²²²

Moreover, lessons can be learned from Horizon 2020, the EU Framework Programme for Research and Innovation 2014-2020, which was designed to drive economic growth and create jobs by coupling research and innovation (R&I), with an emphasis on excellent science, industrial leadership and tackling societal challenges.²²³ The Programme is considered to be a success story at the EU level for “producing world-class excellence in science through for example the creation of multi-disciplinary international networks, training and mobility of researchers and the creation of research infrastructures”.²²⁴

GCC countries can also benefit from the “Impact of EU Regulation on Innovation” found under a publication that gathers illustrative cases of regulations that impact on innovation across a wide range of industrial sectors. The publication highlights the Innovation Principle which states that “whenever a regulation is under consideration, its impact on innovation should be assessed and addressed” and underlines “the need for a more innovation friendly regulatory policy environment and to promote an informed dialogue between industry, policymakers and other stakeholders”.²²⁵

The EC Regulation on Transfer of technology of 2014 which adopts new competition rules for the assessment of technology transfer agreements (TTBER and Guidelines), through which a licensor permits a licensee to exploit patents, know-how or software for the production of goods and services, can also serve as a model for GCC countries to follow.²²⁶

There are definitely many other EU success stories and EU models that can be recommended, but most importantly for GCC countries are the lessons learned from each experience in order to implement rules that are tailored for the GCC countries and accepted by their people.

²²¹ See https://ec.europa.eu/info/research-and-innovation/law-and- /innovation-friendly-legislation_en

²²² See https://ec.europa.eu/info/news/innovation-principle-makes-eu-laws-smarter-and-future-oriented-experts-say-2019-nov-25_en.

²²³ https://ec.europa.eu/info/news/maximising-impact-eu-research-and-innovation-2018-jan-11_en

²²⁴ See Executive Summary of the Interim Evaluation of Horizon 2020, Commission Staff Working Document

²²⁵ See “Impact of Eu Regulation on Innovation” (Repository of Industry Cases), he European Risk Forum, Business Forum and the European Roundtable of Industrialists, December 2016.

²²⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L .2014.093.01.0017.01.ENG>

Chapter 4. Recommendations for the harmonization of IP laws and policies in GCC member countries

One of the main objectives of the GCC is to formulate similar regulations in various fields including legislative and administrative affairs.²²⁷ Harmonizing IP laws and policies was one of the first areas covered by this objective which led to the adoption of the Unified Patent Law establishing the GCC Unitary Patent and the Unified Trademark Law. With the ending of the GCC Unitary Patent on January 5, 2021, the door was closed for other unitary IP titles such as trademarks, designs and GIs. As a first reaction, this might seem a bad decision as it put an end to years of a uniform protection that saved cost and time and reduced administrative burdens. However, if we look at it from a reform perspective, it appears in line with the current changes taking place in the region that are transforming the GCC countries from oil-based economies to knowledge-based economies. In other words, the transformation process requires new legislative, administrative and structural reforms along with capacity building and investments in education and R&Ds. The current IP system should therefore be re-visited and the laws enhanced with provisions that respond to the new challenges imposed by the GCC visions and strategies. Today, the GCC countries are in a race towards the best achiever and the most advanced not only at the GCC level but also in the Arab region. They are busy competing with each other, rather than complementing each other. It is hoped that this competition will lead them to establish effective IP systems that help them advance their countries and attract FDIs.

This chapter will provide recommendations for the harmonization of IP laws and policies in GCC member countries taking into consideration their current level of IP protection and the required level for a knowledge-based economy. The EU model concerning the harmonization of IP laws and practices is a good example to follow, especially with regard to the unitary trademarks, the unitary designs, the harmonized legislation on copyright and patents and their process for the establishment of a Unified Patent Court as an essential element for making the Unitary Patent operational. However, it is important to note that it took the EU many decades to reach today's standards of harmonization. As mentioned earlier, the harmonization process in the GCC countries has already started. It is time now to adapt the process to the new challenges.

Copyright & Related Rights

The Copyright Laws in GCC countries are similar but not identical. They are all compliant to a large extent with the TRIPS Agreement. However, there is a need today to go beyond TRIPS especially in matters related to the protection of copyright and related rights in the digital environment. All GCC countries are either members or in the process of joining the WIPO Internet Treaties (WCT and WPPT).²²⁸ It is therefore time for GCC countries to develop a unified copyright law that eliminates the gaps between GCC copyright legislation and adopts measures to address the protection of copyright and related rights in the digital environment. The differences between the terms of protection in the GCC countries²²⁹ will be a major debatable issue. Extending the term of protection of 50 years after the death of the author to seventy years will delay the free access of GCC countries to copyrightable works for twenty more years including paying additional royalties as consumers' nations for the extended period. GCC countries still need time to build their creative industries and hence extending the term of protection is not recommended at this stage.

However, and taking into consideration the nature of the new technologies and the speed of their development, it might be more appropriate if GCC countries join their efforts to develop a Unified Law/regulation that covers only the copyright and related rights in the digital environment without addressing the traditional copyright issues as well as the term of protection. This will help cover the existing gaps in some of the GCC legislation while harmonizing the system. In this regard, it is also recommended that a task force is created to address the deficiencies in national legislation relating to the protection of Copyright in the digital age and their impact on the GCC Common Market. The task force should be formed by representatives of different stakeholders in all GCC countries, in particular, representatives of the digital content industries (authors, film producers, sound-recordings and phonograms producers, publishers, broadcasters, internet providers, telecom authorities, telecom operators), representatives

²²⁷ See <http://gcc-sg.org/en-us/AboutGCC/Pages/StartingPointsAndGoals.aspx>

²²⁸ See Chapter 2 of this report.

²²⁹ The term of protection is 70 years *p.m.a.* (and even more for specific works) in Bahrain and Oman and 50 years *p.m.a.* in the other GCC countries.

of the relevant governmental institutions including ministries and enforcement bodies, consumer protection organizations, IP associations and other relevant parties. The ultimate objective of the task force is to identify common rules/ interests for the protection of copyright and related rights in the digital GCC market.

The harmonization of the copyright and related rights regime concerning traditional works might need a longer time to be developed as it contains more problematic issues, such as the term of protection, the limitations and exceptions, the right of translation of foreign works, etc.

Patents

The beginning of the year 2021 has marked the end of the GCC unitary patent according to which the GCC Patent Office used to offer a unitary patent granting system providing patent protection in all GCC countries. Starting January 6, 2021, applicants wishing to protect their patents in GCC countries can either use the Paris Convention route (filing a patent application directly in each of the individual GCC Member States using the 12-month priority period) or the PCT route (filing a national phase application in each of the individual GCC Member States using the PCT system). Certain national patent offices, such as the Saudi and Emirati offices,²³⁰ are fully operational (the systems provide for online filing, substantive examination procedures, publishing, granting and issuing of national patents), other offices are not. Therefore, they will, most probably, delegate the registration procedures to be conducted on their behalf by the GCC Patent Office.

Perhaps, it is time for GCC countries to consider signing a **validation agreement** between their patent offices and the European Patent Office (EPO) according to which European patents will have legal effect in GCC countries. The validation system establishes a cooperation with countries that are not members of the European Patent Convention (EPC) to encourage any applicant for a European patent to extend the territorial coverage beyond the forty countries currently available under the EPC. The validation procedure includes two phases: (1) a regional centralized phase, from filing to grant, before the EPO and (2) a national phase, after grant, before the national patent office. The validation system respects the sovereignty of the partner state and is an integral part of the national legislation. Accordingly, the national patent office remains the exclusive authority competent for registering the patent granted on its behalf by the EPO as a national patent; and national courts remain the competent authority to decide on the validity and infringement procedures. The validation system reduces the duplication of search and examination work and significantly increases the financial resources of the national patent office of the validation country. It aims at enhancing the technical capacities of national patent offices, improving their ability to raise patent awareness among national innovators and increasing the country's attractiveness for foreign investment.²³¹ However, it is to be noted that the GCC Patent Office is not in favour of the validation system for reasons related to the countries' capacity. They fear that certain countries would dominate in specific fields of inventions.

Certain GCC Patent Offices outsource the examination of their patent applications or collaborate with foreign experts on this matter. There are different modalities of work sharing that can be useful for national offices, such as the following:²³²

- **Patent Prosecution Highway (PPH)**

Under the bilateral PPH agreements, the examination process is accelerated for applications filed in PPH participating offices. According to this system, it is agreed that if the office of first filing finds the claims of an application to be patentable, the applicant may request fast track examination of a corresponding application that is pending in a second patent office. The second patent office can then use the positive examination results of the first office, so that duplication of work is avoided and the examination process is accelerated.

- **The PCT-Patent Prosecution Highways Pilots (PCT-PPH)**

Under the PCT-PPH Pilots, patent applicants may request the acceleration of the examination process in the national phase based on bilateral agreements concluded between patent offices. u

²³⁰ While the Patent Office in Saudi Arabia examines patent applications in-house by highly qualified and trained examiners, the UAE outsources the examination of its patent applications.

²³¹ For more information about the validation system see <https://www.epo.org/law-practice/legal-texts/extension-validation-system.html> and <https://blog.dennemeyer.com/validation-agreements-a-game-changer-for-european-patent-applicants>.

²³² <https://www.wipo.int/patents/en/topics/worksharing/>

- **SHARE- Strategic Handling of Application for Rapid Examination Project**

Under SHARE, duplication of work is minimized when the patent office of first filing conducts search and examination and shares its findings with the office of second filing.

The death of the GCC Unitary Patent has put an end to almost 20 years of harmonized patent granting system and to an important tool for the development in the GCC common market.²³³ Decision makers in GCC countries should pay more attention to the role of patents and their direct impact on the GCC markets. The relationship between digital technologies and patents should be at the core of their innovation policies, mainly issues relating to standardisation, interoperability, competition, patent licensing and open innovation.²³⁴ Those and other related issues should be dealt with at a regional level because of their impact on the GCC common market. The GCC Patent Office can play an important role in this regard through the creation of specialized working groups to develop unified regulations on matters of common interests to all GCC countries. In fact, the long years of expertise of the GCC Patent Office should not be left aside after the ending of the Unitary Patent. The Office can provide different services to the public and private sectors in GCC countries, especially with regard to the implementation of the countries' visions and strategies. In addition to encouraging scientific research, innovation and creativity, the Office can contribute to the enhancement of the current patent systems in GCC countries and the capacity building of patent professionals whether in patent drafting, patent litigations, patent commercialization, and transfer of technology. In particular, the GCC Patent Office can help SMEs on how to use IP to protect and market their inventions, license their new technologies and attract investors. The EPO practice in this field can serve as an example.²³⁵ Furthermore, the Office can initiate projects on regional collaboration among GCC countries, such as:

- Harmonizing IP laws and policies in GCC member countries.
- Establishing a regional database for inventions and patents for the benefits of the Arab countries by using the data for developing R&Ds in public institutions and universities.²³⁶
- Promoting technology cooperation through technology transfer among GCC countries.
- Raising awareness among the public on IP, inventions and innovation.
- Launching regional projects on the role of patents and their direct impact on the GCC markets including the common market.
- Developing a regional professional body for GCC patent agents.
- Building the capacity of the judiciary and court experts in the GCC on patent laws and procedures

Trademarks

The GCC Trademark Law is a unified, not a unitary law. This means that it provides for a uniform trademark protection and harmonized examination process in all GCC countries provided they ratify the law. However, the law does not offer a unitary registration system. Accordingly, registering a trademark in the GCC countries require applicants to file six separate trademark applications. The official fees for registering trademarks in GCC countries are among the highest worldwide. The GCC countries, with the exception of Oman, Qatar and the UAE, have adopted and implemented the GCC Unified Trademark Law as their national law. Oman and Qatar have ratified the GCC law, however, they haven't issued its implementing regulations yet, while the UAE is in the process of issuing the necessary legislation to officially adopt the Trademark GCC Law as its national law.

The Law harmonizes the trademark protection and registration procedures across the GCC countries that ratified the Law, however, it does not harmonise the level of competency and knowledge of the trademark offices and courts necessary to implement the law. Accordingly, building the capacity of the trademark examiners and training the judiciary on trademark cases will help harmonize the system and set the ground for a unitary trademark to be adopted when the countries become ready for such a step.

²³³ The GCC Patent Office laws and regulations were approved in 1992 and the GCC Patent Office commenced operations in 1998, and granted its first patent in 2002.

²³⁴ For more details about these issues in the EU, see <https://ec.europa.eu/jrc/en/publication/eur-scientific-and-technical-research-reports/innovation-european-digital-single-market-role-patents-thematic-report-brussels-conference>

²³⁵ See <https://www.epo.org/learning/materials/sme.html>

²³⁶ See Intellectual Property for Fostering Innovation in the Arab Region, [United Nations Economic and Social Commission for Western Asia \(UN ESCWA\)](https://www.unescwa.org/publications/intellectual-property-innovation-arab-region), available at: <https://www.unescwa.org/publications/intellectual-property-innovation-arab-region>.

Geographical indications

Oman is the only GCC country that has an operational GIs system. Bahrain and Qatar have not yet issued the implementing regulations concerning the setting-up of the GIs register as stipulated in their laws. Saudi Arabia is in the process of adopting a sui generis law on GIs, while Kuwait and the UAE apply certification and collective marks for GIs protection. In addition to products that qualify for GIs protection which are specific for each of the aforementioned countries, there are also products that are specific for the GCC region. It is important that those products are not left without protection. It might be early for the GCC countries to work on a unified GIs law however, they can work on developing a GI legislation and a GI registry to protect those potential regional GIs products. The EU experience and the French expertise in the field can be of great assistance to the GCC on this regard.

Industrial Designs

The GCC laws on industrial designs need to be improved and modernized to respond to the new challenges imposed by the digital environment. It is recommended that a unified law on industrial designs is developed with the aim of harmonizing the system and modernizing it to pave the way for a unitary design. The EU experience can serve as an example especially with the ongoing evaluation process for modernizing the EU design which entailed an assessment of the current system and an identification of the needed actions to address the conflicting areas. The results of the EU evaluation can serve as the basis for a GCC working paper on a unified/ unitary design.

GCC Intellectual Property Training Centre

In 2011, the GCC Secretariat established the GCC IP Training Centre, headquartered in Kuwait.²³⁷ The Centre aims at building the capacity of the private and public sectors as well as academics in GCC countries on IP rights through specialized trainings and awareness campaigns.

The Centre has a major role to play in building the capacity of IP professionals and academics from all GCC countries in areas of common interests to the region, such as geographical indications, industrial designs (for Gulf fashion and jewellery), collective management organizations, traditional knowledge and folklore. This will add a cultural dimension to the Centre which will help preserving and promoting the “Khaliji” identity.

The Centre should not be in competition with similar IP training centres in the region (such as the Saudi IP Academy which is also being established with WIPO’s assistance). At the contrary, its work should be complementary and essential for the establishment of an IP culture among GCC right holders and IP users.

Moreover, the centre can also conduct research and studies on possible means for harmonizing IP laws and practices in the region, in particular by helping to establish regional CMOs, a regional GIs registry, a unified industrial design, etc.

²³⁷ See Resolution No. 6/79 dated February 12, 2011 concerning the establishment of the Intellectual Property Training Centre for the Gulf Cooperation Council.

Chapter 5. Benefits of the potential introduction of GIS protection in GCC countries

Geographical indications (GIs) are used to indicate that the reputation or quality of the product is linked essentially to its geographical origin. The reputation of the GI product conveys to consumers a message of expected quality. The importance of GI lays in its collective character which creates a collective reputation. In other words, GIs are not limited to one firm/ producer, but can be used by all firms/ producers within the designated geographical area. It is this collective reputation that should be protected against any misuse by producers with no link to the geographical origin trying to benefit illegally from the reputation of the GI goods. Protecting GIs preserves traditional quality products and know-how; offers to producers and mainly small and medium sized enterprises (SMEs) a marketing tool to help them obtain national and international market recognition for their products; contributes to rural development and encourage socio-cultural tourism for the protected regions.

This chapter highlights the benefits of the potential introduction in GCC countries of GIs protection such as protected designation of origin (PDO) and protected geographical indication (PGI).

Scope of GIs protection in GCC countries

GIs protection covers agricultural and non-agricultural products. In the EU, agricultural products enjoy unitary protection granted exclusively at EU level,²³⁸ while non-agricultural GIs are protected only at national and regional levels, through various jurisdictions. Accordingly, while the EU adopts a sui generis system for the protection of GIs which limits the scope of protection to agricultural products and foodstuffs, EU countries such as France extends the protection to include non-agricultural products such as handicrafts. There is no unitary protection for GIs in the GCC. However, the GCC Unified Trademark Law of 2013 excludes GIs from trademark registrability if their use causes a confusion as to the source or origin of the products or services and provides that signs that can be used in a commercial context as “geographic indicators” can be registered as collective or certification marks.²³⁹ GIs protection under the GCC Unified Trademark Law is not limited to agricultural products and extends its scope to include all classes of goods applicable for trademarks (Table 11). This is the case of Saudi Arabia, UAE and Kuwait which adopt the Unified Law. The scope of protection includes agricultural and non-agricultural products including handicrafts for the countries that adopt a sui generis system of GIs protection, i.e., Bahrain, Qatar and Oman. It is to be noted that Saudi Arabia is in the process of adopting a new law on GIs. The draft law suggests a sui generis system of protection with a scope of protection that extends to all agricultural, industrial, food and handicraft products within Saudi Arabia.

Bahrain	All agricultural and industrial products ²⁴⁰
Kuwait	All goods classes available for trademarks in Kuwait
Oman	Any natural or agricultural product or any product of handicraft or industry ²⁴¹
Qatar	All goods classes available for trademarks in Qatar ²⁴²
Saudi Arabia	All goods classes available for trademarks in Saudi Arabia
UAE	All goods classes available for trademarks in UAE

Membership of GCC countries in GIs related agreements

The protection of geographical indications (GIs) is covered by different international agreements in particular, the Paris Convention for the Protection of Industrial Property (Paris Convention), the Madrid

²³⁸ See Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs and Council Regulation (EC) No 1898/2006 modified by Council Regulation (EC) No 628/2008 contains detailed rules for the application of Council Regulation (EC) No 510/2006 which establishes the rules for protecting designations of origin and geographical indications for agricultural products and foodstuffs intended for human consumption. It sets out the specific rules applicable to groups, names, raw materials and the labelling of agricultural products.

²³⁹ See Article 37 of the GCC Unified Trademark Law.

²⁴⁰ See Article 6 Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁴¹ See Article 48 of the Sultani Decree No. 67 of 2008.

²⁴² See Article 41 of the Law No. 9 of 2002.

Agreement for the Repression of False or Deceptive Indications of Source on Goods (Madrid Agreement), the Lisbon Agreement on the Protection of Appellations of Origin and their Registration (Lisbon Agreement), and the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs).

The GCC countries are members of the Paris Convention and the TRIPS Agreement. It seems that GCC countries have no intention to adhere to the Lisbon Agreement as none of the said countries has a well-established system of GIs protection nor an inventory regarding existing or potential GIs.²⁴³ Moreover, the laws of GCC countries do not distinguish between GIs and appellations of origin. They are aware of the importance of this Agreement to the EU and believe it is not relevant to their current GIs system. Today, convincing the GCC countries to join the Lisbon Agreement would be a lost case. However, the Geneva Act of the Lisbon Agreement would be an alternative as it is more flexible regarding the implementation of the protection standard of the Act which can be through a *sui generis* appellation of origin or geographical indication system or through the trademark system. It is to be noted that Oman is in the process of adhering to this Act. On the other hand, it is better at this stage that the EU focuses on the Madrid Agreement which can at least ensure an enforcement of EU GIs at the borders. When asked about the Madrid Agreement, GCC countries were not aware about its existence or importance. However, they didn't seem to be against it if proved to be of help to achieve their visions. It is therefore recommended that as a first step the EU helps each of the GCC countries to define and implement a national strategy for an effective protection of GIs which will not be limited to agricultural products. A pilot project can be initiated in each of these countries.

GIs legislation in GCC countries

GIs protection in GCC countries varies from one country to another. There is no common strategy for GIs protection in GCC countries. While Bahrain, Qatar and Oman apply a *sui generis* system for GIs protection, the remaining GCC countries, i.e., Saudi Arabia, Kuwait and the UAE protect GIs as certification or collective marks in implementation of the unified Trademark Law. Saudi Arabia is paving the way for adopting a *sui generis* system through its new draft law on GIs (Table 24).

	Table 24: GCC GIs legislation
Bahrain	Law No. 16 of 2006 amending Law No. 16 of 2004 on the Protection of Geographical Indications. Law No 6 of 2014 approving the GCC Trademark Law of 2013
Kuwait	Law No 13 of 2015 approving the GCC Unified Trademark Law of 2013
Oman	Sultani Decree No. 67 of 2008 on Industrial Property Rights Ministerial Decision No. 105/ 2008 on the issuance of the implementing regulation of the Industrial Property Law.
Qatar	Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs Decree No. 7 of 2014, adopting the GCC Unified Trademark Law of 2013.
Saudi Arabia	Royal Decree No. M/51 of 2014 on the approval of the GCC Unified Trademark Law of 2013
UAE	Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 8 of 2002)

GCC countries are all members of the WTO and hence are bound by the provisions of the TRIPS Agreement, including Section 3 (Articles 22 to 24) on Geographical Indications. The first internationally agreed definition of GIs is provided by the TRIPS Agreement which states that "Geographical indications are indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin".²⁴⁴ The TRIPS definition of GIs is similar to the EU Protected Geographical Indications (PGIs) which identify products whose quality or reputation is linked to the place or region where it is produced, processed or prepared, although the ingredients used need not necessarily come from that geographical area.²⁴⁵ The definition of GIs in GCC countries that provide a *sui generis* system of protection (Oman, Qatar and Bahrain) is similar or identical to the TRIPS definition and hence is in line with the EU PGI. The countries adopting the Unified Trademark Law do not define GIs (Table 12).

²⁴³ Saudi Arabia conducted a survey on potential GIs in the Kingdom, however, the participation to the survey by contacted regions was not as expected.

²⁴⁴ See Article 22 of the TRIPS Agreement.

²⁴⁵ https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/quality-schemes-explained_en

Table 12: GIs Definition in GCC Laws	
Bahrain	Geographical indications shall mean any sign that may have originated in the territories of a WTO member-state, or in a region or area or location of that region thereof wherein the product quality, good will or other characteristics essentially attributed to its geographical origin. The geographical indication may be a sign or a group of signs in any form like words – including geographical and personal names – alphabets, numbers, three-dimensional elements, colour or combination of colours”. ²⁴⁶
Kuwait	No definition
Oman	Geographical indication is an indication that identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. ²⁴⁷
Qatar	Geographical indication means any expression or sign indicating the geographical name of a country, region, locality or place which serves to designate a product originating therein the quality, characteristics and reputation of which are due exclusively or partly to the geographical environment, the natural or human factors of such origin. ²⁴⁸
Saudi Arabia	No definition (Draft Law includes a definition in line with TRIPS)
UAE	No definition

The GCC Unified Trademark Law of 2013 prohibits the registration as a trademark, or an element thereof, geographical names and data if their use would create confusion with regard to the origin or source of goods or services.²⁴⁹ The Law provides that signs that can be used in the context of trade as “geographic indicators” can be registered as collective or certification marks.²⁵⁰ The rules governing the registration of GIs certification or collective marks should be determined by the Executive Regulations of the Law. The Law gives the owner of a registered trademark the right to prevent others, who do not take approval therefrom, from using a similar or identical trademark, *including any geographical indication*, in the context of trade, to distinguish products or services that are identical, similar or correlated for which the mark has been registered, in such a way that confuses the consumers, and such confusion may occur in case of using the same mark or a similar one to distinguish goods or services that are similar to the ones for which the mark is registered.²⁵¹ Illegal use of a registered trademark, use of a fake mark, and use of a trademark that falls under certain categories of unregistrable marks are offences punishable under the law.²⁵²

The aforementioned provisions of the Unified Trademark Law have been adopted by Kuwait²⁵³, Saudi Arabia²⁵⁴ and the UAE.²⁵⁵ It seems that the implementing regulations related to the establishment of a register for GIs certification and collective marks have not been issued yet. This means that there is no GIs protection in these countries yet.

It is important to note in this regard that a sui generis law on GIs is under consideration in Saudi Arabia. In June 2020, the Saudi Authority for Intellectual Property (SAIP) launched a public consultation on a draft law on geographical indications to get feedback on the proposed legislation before adopting it. In light of the public’s comment, the draft law is now being revisited by concerned parties. The draft law aims at improving the existing legal framework by proposing a sui generis system of protection which provides a definition of GIs in line with the TRIPS Agreement; a system of GIs registration with legal means for opposition; a scope of protection that extends to all agricultural, industrial, food and handicraft products within Saudi Arabia for local registered products, and for foreign GIs by registering

²⁴⁶ See Article 1 of Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁴⁷ See Article 1 of the Sultani Decree No. 67 of 2008.

²⁴⁸ See Article 1 of the Law No. 9 of 2002.

²⁴⁹ See Article 3(6) of the GCC Unified Trademark Law.

²⁵⁰ See Article 37 of the GCC Unified Trademark Law.

²⁵¹ See Article 17(2) of the GCC Unified Trademark Law.

²⁵² See Art. 42 of the GCC Unified Trademark Law.

²⁵³ See Law Articles 3(6) and 37 of Law No 13 of 2015 approving the GCC Unified Trademark Law of 2013.

²⁵⁴ See Articles 3(6 and 9) and 37 of Royal Decree M/21 of 1423 AH (2002)

²⁵⁵ See Articles 3 and 35 of the Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 8 of 2002) which provides that “Legal persons who undertake to control or inspect some products or services as to their origin, components, mode of manufacture, quality, identity, or any other characteristic may request the ministry to license them to register a mark dedicated to certify that the control and inspection has been carried out”.

them in the Kingdom, provided that they are protected in their country of origin; a period of protection for ten years renewable indefinitely, enforcement provisions including precautionary measures, fines and imprisonment to stop any GI violation.²⁵⁶ GIs should be in conformity with Islamic Sharia, public order and morality and not identical with the term customary in common language as the common name for such goods or services in Saudi Arabia. The protection covers GIs of WTO Member countries based on reciprocity. Enforcement is ex-officio or at the request of any interested Party.²⁵⁷ Precautionary measures, fines and imprisonment are available under the Law.

This draft law can be the basis for a cooperation between the EU and Saudi Arabia to help them establish an effective system for GIs protection. The French experience can be used as a reference in this cooperation. The Saudis are open to any cooperation that respects their culture and Sharia laws. Therefore, it is recommended that at a first stage study visits are organized for Saudis to learn about the different protection schemes in Europe and to help them tailor their protection system taking into account GIs international rules and EU best practices.²⁵⁸ The approach should be based on the socio-economic and cultural advantages of GIs for the Saudi society.

The UAE is cooperating with WIPO on the GIs front. However, it is not clear whether this will lead to a new legislation or not.

Kuwait is not interested about a sui generis system for protection as they believe they only have two GIs in the whole country (Zbaida fish and Barhi dates). In this case, the EU can help Kuwait to conduct a survey on potential GIs in the country. The results of the survey will define actions to be taken in the future.

Among the GCC sui generis laws on GIs, the Omani Law is the most comprehensive one and the most compliant with the provisions of the TRIPS Agreement. The Laws of Bahrain and Qatar are to a certain extent in compliance with the TRIPS level of protection. It is too early at this stage to aspire for a GCC law with a level of protection similar to that of the EU. Even if a law complies with the TRIPS Agreement, it still lacks the additional protection for wines and spirits as those are forbidden goods under GCC laws and hence cannot be protected by GIs or trademarks. While these laws provide for the set-up of a GI Register before their competent authorities, the registration system is only effective in Oman. Bahrain and Qatar have not yet issued the implementing regulations related to the set-up of the GIs register. Accordingly, it is not possible to register GIs yet in these two countries, however, protection can be ensured through collective or certification marks.

It seems that Oman is the only country that has an operational GIs system and an inventory of potential national GIs. The Ministry of Commerce and Industry is receiving applications for the registration of GIs since 2018.²⁵⁹ To date only national GIs have been registered as no application has been submitted for foreign GIs. The ministry aims at protecting national GIs to prohibit others from any illegal use of the country's products and to benefit from the socio-economic advantages of GIs protection. Accordingly, it is recommended that the EU starts registering its GIs in Oman and tests the system's efficiency. Once the system is well established, the EU can suggest the introduction of appellations of origins ("Protected Designations of Origin") to the Omani scheme especially that Oman is in the process of adhering to the Geneva Act of the Lisbon Agreement.

Bahrain and Qatar do not seem to be as active in the GIs field as Oman. There is much to be learnt by these countries about this topic. The EU can play this role by focusing on products that are of interest to these countries and try not to discuss the GIs for wine and spirits at this stage. In all cases, no protection can be granted to any EU GI product if GCC countries still lack an effective GIs system. The EU can play a major role in helping these countries setting-up GIs systems that are similar to the ones operating in EU countries. This can be done through cooperation projects that focus on the following:

- Conducting surveys on the level of GIs awareness among the population
- Help the relevant sectors understand the pros and cons of an effective GIs system
- Identification of GIs products with strong reputation and export potential

²⁵⁶ See Articles 12 and 13 of Royal Decree M/21 of 1423 AH (2002).

²⁵⁷ See Article 10 of Royal Decree M/21 of 1423 AH (2002).

²⁵⁸ Study visits can be replaced by virtual visits during the pandemic.

²⁵⁹ <https://timesofoman.com/article/600813/Oman/Ministry-receives-geographical-indications-protection-application-in-Oman>

- Sharing with relevant stakeholders the EU best practices on GIs protection including suggesting different protection schemes.
- Help the GIs authorities develop/ adapt their laws and regulations to the country's specific needs in terms of chosen approach/ system.
- Share EU experience on existing methods to organize GIs producers
- Share EU experience on an efficient supply chain (from producers to distributors, consumers and exporters)
- Share EU experience on the elaboration of the products specifications Capacity building in GCC countries.

The following table summarizes the GIs provisions under GCC laws (Table 13).

Table 13: Main features of GCC GIs legislation

OMAN	BAHRAIN	QATAR
The law applies to “any natural or agricultural product or any product of handicraft or industry”. ²⁶⁰	The provisions of the Trademark Law relating to a) Filing a registration application. b) Examination of registration application, accept or reject the application. c) Opposition to registration. d) Registration cancellation or strike-off. e) Transfer of the geographical indication ownership, licensing its exploitation and imposing seizure. f) Compensating for any infringement on the rights prescribed in the provisions of this law apply mutatis mutandis to geographical indications. ²⁶¹	The rules governing GIs are those related to trademarks provided they are not in contradiction with the GIs’ nature. ²⁶² This means that the scope of protection extends to all agricultural and industrial products, with the exception of products forbidden by the Law.
Any interested person, or group of producers or consumers, may institute court proceedings to prevent the following: a) The use of any means in naming or offering any good while hinting that the subject good originated in a geographical region different from the true country of origin, in a manner that misleads the public with regard to the geographic origin of the good. b) Any use that constitutes an act of unfair competition according to the provisions of Article (10bis), of Paris Convention. c) the use of a registered GI not originating in the place indicated by the geographical indication in question, 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. ²⁶³	The Law prohibits (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; and (b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention. ²⁶⁴	The law sanctions any person for the following actions: a) Forging or imitation a geographical indication in a manner that is likely to mislead or confuse the public. b) Fraudulently uses a forged or imitated trade name, geographical indication. c) Fraudulently affixes to his goods or uses in connection with his goods or services a trade name or geographical indication belonging to another person. d) Unrightfully and knowingly sells or offers for sale or trade, or holds for the purpose of sale, goods bearing a forged or imitated trade name or geographical indication. e) Unrightfully and knowingly provides or offers services making use of a forged or imitated trade name, geographical indication ²⁶⁵ .
Protection is not available for GIs <ul style="list-style-type: none"> • which do not comply with the Law’s definition of GIs; • which are contrary to public order or morality; • which are not or cease to be protected in their country of origin, or 	The geographical indications shall not be registered nor enjoy the protection as per the following: <ul style="list-style-type: none"> • If the geographical indication bona fide most probably cause delusion with a trademark that is subject matter of a registration application or a pending registration application. 	It is not allowed under the Law to register trademarks that consist of signs that may mislead the public or those containing false information regarding the origin of the goods or services. ²⁶⁸

²⁶⁰ See Article 48 of the Sultani Decree No. 67 of 2008 which defines the terms “good” and “producer”.

²⁶¹ See Article 6 of Law No. 16 of 2006 amending Law No. 16 of 2004

²⁶² See Article 41 of the Law No. 9 of 2002.

²⁶³ See Article 59 of the Sultani Decree No. 67 of 2008.

²⁶⁴ See Article 2 of Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁶⁵ See Article 47 of Law No. 9 of 2002.

²⁶⁸ See Article 8(9) of the Law No. 9 of 2002.

<ul style="list-style-type: none"> • which have fallen into disuse in that country; with respect to goods that are identical with the term customary in common language as the common name for such goods in Oman; • that may be confusingly similar to a mark currently registered or pending registration in good faith; and • that may be confusingly similar to a mark in Oman and for which rights have been acquired in accordance with national law.²⁶⁶ 	<ul style="list-style-type: none"> • If the geographical indication would most probably constitute public delusion with an already existing trademark of which rights were acquired by use, bona fide, in the Kingdom. <p>If the registration of a geographical indication as a trademark was not permissible pursuant to provisions of the Trademarks Law²⁶⁷.</p>	
<p>The Law excludes GIs from trademark registrability.²⁶⁹</p>	<p>The Law excludes GIs from Trademark registrability.</p>	<p>The Law excludes GIs from Trademark registrability.</p>
	<p>The Law protects GIs that are protected in their country of origin.²⁷⁰</p>	
<p>The Law provides a system for registration of GIs along with legal means for opposition.²⁷¹</p>	<p>The Law provides for the setting up by the administrative authority competent with industrial property protection of a "Geographical Indications Register" in which the accepted geographical indications, data pertaining thereto, and all acts affected thereon subject to the provisions of the law should be recorded.²⁷² The implementation of the register is pending the issuance of the necessary By-laws.</p>	<p>GIs applications follow the same procedures as trademarks registration and hence are subject to examination by the Industrial Property Protection Office and an opposition procedure is available.²⁷³ The rules for the optional registration and use of GIs are to be determined by implementing regulations.²⁷⁴</p>
<p>Trademarks that are likely to mislead the public or trade circles as regards the geographical origin of the goods or services concerned or that contain false information as to the origin of the products are not eligible for protection.²⁷⁵</p>	<p>The Law prohibits the registration as a trademark of a geographical name or indication that is liable to mislead or cause confusion as to the origin of the goods or services in respect of which registration is sought.</p>	<p>The law protects GIs against the use of misleading similar products as to their true place of origin or misleading trademarks unless measures have been taken to prevent any confusion among the public.²⁷⁶</p>
<p>The Law lists also GIs that are exempted from protection, in particular:</p> <ul style="list-style-type: none"> • Distinctive signs registered or acquired through use in good faith; 	<p>The Law prohibits the registration of GIs if the registration of the GI as a trademark is not permissible under the Law; if the GI might create confusion with a trademark that has been applied for or registered in good faith, or with the rights</p>	<p>Provisions on GIs exceptions as provided under TRIPS are missing under the Law such as generic names, prior trademark rights and the prior use of the GI.²⁸⁰</p>

²⁶⁶ See Article 51 of the Sultani Decree No. 67 of 2008.

²⁶⁷ See Article 5bis of Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁶⁹ See Article 36(c) of the Sultani Decree No. 67 of 2008.

²⁷⁰ See Article 3 of Law No. 16 of 2006 amending Law No. 16 of 2004

²⁷¹ See Article 52 and 53 of the Sultani Decree No. 67 of 2008.

²⁷² See Article 5 of Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁷³ See Articles 9 to 15 of the Law No. 9 of 2002.

²⁷⁴ Idem

²⁷⁵ See Article 36 of the Sultani Decree No. 67 of 2008.

²⁷⁶ See Article 39 of the Law No. 9 of 2002.

²⁸⁰ See Article 24 of the TRIPS Agreement.

<ul style="list-style-type: none"> GIs of any country with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in Oman or in respect of a geographical indication of any other country with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in Oman as of January 1, 1995; The use in the course of trade of the person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.²⁷⁷ 	<p>to a trademark that have been acquired through use in good faith either.²⁷⁸</p> <p>The Law allows the use of a GI in good faith by a third party before the GI was granted protection in its country of origin; the use, in any way, of a GI which is identical to a name commonly used for any goods, product or service in the Kingdom of Bahrain; the use by any party of his own name or the name of his ancestors, in his commercial activity, in a manner which does not mislead the public; and the use of a GI which is not protected or ceased to be protected or no longer in use in its country of origin.²⁷⁹</p>	
<p>The term of protection for GIs is unlimited.</p>		<p>GIs are protected for ten years renewable indefinitely for terms of ten years each.²⁸¹</p>
<p>The Industrial Property Register at the Ministry of Commerce and Industry is the national office responsible for registering and issuing geographical indications.</p>	<p>The competent office in the Ministry of Commerce shall keep a register, known as the "Geographical Indications Register"²⁸².</p>	<p>Article 41 states that the provisions of this Law related to marks shall be applicable to geographical indications. Article 9 states that the application for the registration of a mark shall be filed with the Office for the Protection of Industrial Property.</p>
<p>In the case of homonymous geographical indications for goods, protection shall be accorded to each indication, subject to provisions of the law.²⁸³</p>	<p>Homonymous GIs are protected provided the consumers of the products are not misled.²⁸⁴</p>	
<p>GIs are protected against:</p> <ol style="list-style-type: none"> (4) the unlawful use in the course of trade of identical or similar geographical indications, for goods or services related to those in respect of which the GI is registered, where such use would result in a likelihood of confusion;²⁸⁵ (5) a GI which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory; (6) a GI that is identical or similar to a trademark, for related goods or services, if the use of that geographical indication is likely to cause confusion, or to cause mistake, or to 	<p>GIs are protected against:</p> <ol style="list-style-type: none"> (3) The utilization of any instrument to designate or display any product that may suggest a geographical origin contrary to its authentic one, and by doing so misleading the public thereof. (4) The use of a geographical indication constituting unfair competition pursuant to provisions of Article no (10 bis) of the Paris Convention for Protecting Industrial Property. <p>To this effect, the use of a geographical indication in a manner that may form public delusion in terms of the source</p>	<p>GIs are protected against:</p> <ol style="list-style-type: none"> a) Forging or imitation a geographical indication in a manner that is likely to mislead or confuse the public. b) Fraudulently uses a forged or imitated trade name, geographical indication. c) Fraudulently affixes to his goods or uses in connection with his goods or services a trade name or geographical indication belonging to another person. d) Unrightfully and knowingly sells or offers for sale or trade, or holds for the purpose of sale, goods bearing a forged or imitated trade name or geographical indication.

²⁷⁷ See Article 58 of the Sultani Decree No. 67 of 2008

²⁷⁸ See Article 5bis of Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁷⁹ See Article 9 of Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁸¹ See Article 18 of the Law No. 9 of 2002.

²⁸² See Article 5 of Law No. 16 of 2006 amending Law No. 16 of 2004.

²⁸³ See Article 50 of the Sultani Decree No. 67 of 2008

²⁸⁴ See Article 4 of Law No. 16 of 2006 amending Law No. 16 of 2004

²⁸⁵ See Article 39 of the Sultani Decree No. 67 of 2008.

deceive or risk associating the geographical indication with the owner of the trademark, or constitutes unfair exploitation of the reputation of the trademark. ²⁸⁶	of the product, even if the indication is literally correct in respect of country, region or territory where the said product was produced ²⁸⁷ .	e) Unrightfully and knowingly provides or offers services making use of a forged or imitated trade name, geographical indication ²⁸⁸ .
The Court may grant an injunction to prevent the unlawful use of the geographical indication, award damages and grant appropriate remedies to cover damages resulting from such infringements. ²⁸⁹	The court can issue an order to prevent the unlawful use of a geographical indication, based on a petition from the concerned party ²⁹⁰ .	Infringements of registered GIs are punishable offences under the Law, including forging registered GIs or imitating it in any way that misleads or confuses the public, or unlawfully using, offering, presenting for sale or selling a registered GI. ²⁹¹
		GIs are protected in Qatar even if they are not registered. ²⁹²

²⁸⁶ See Article 49 of the Sultani Decree No. 67 of 2008.

²⁸⁷ See Article 2 of Law No. 16 of 2006 amending Law No. 16 of 2004

²⁸⁸ See Article 47 of Law No. 9 of 2002.

²⁸⁹ See Article 69 of the Sultani Decree No. 67 of 2008.

²⁹⁰ See Article 12 of Law No. 16 of 2004.

²⁹¹ See Article 47 of of the Law No. 9 of 2002.

²⁹² See Article 38 of the Law No. 9 of 2002.

The level of GIs protection under TRIPS creates a balance between the European interests seeking a high level of protection for their GIs products namely wines and spirits and North American countries that were happy with a limited protection via collective and certification marks. This was translated in the Agreement by an additional level of protection for wines and spirits on the one hand, and by allowing for a number of exceptions to GIs protection on the other hand. The protection of wines and spirits as such constitutes a challenge for GCC countries which apply the rules of Islamic Sharia that forbids alcoholic beverages. Accordingly, it is most likely that any established GIs system in GCC countries, with the exception of Oman,²⁹³ will not recognize or register foreign GIs of wines and spirits (including EU GIs) on the ground that those are prohibited goods and hence violate the public order or morality. The same applies to registering trademarks for alcoholic beverages which are being rejected on the same ground. It goes without saying that the existing sui generis laws on GIs in Oman, Qatar and Bahrain lack any additional protection for wines and spirits.

With regard to the GIs debated issues in the TRIPS Council under the mandate given by the Doha Ministerial Declaration, i.e., the creation of a multilateral register for wines and spirits²⁹⁴ and the extension of the higher level of protection beyond wines and spirits,²⁹⁵ GCC countries are most likely to adopt Kuwait's position concerning the multilateral register for wines and spirits which considers that participation in the registration system for GIs should be voluntary and without any legal effect.²⁹⁶

Introduction of PDOs and TSGs schemes in the GCC GIs legislation

In addition to PGIs, the EU GIs system also protects appellations of origins known as the "Protected Designations of Origin" (PDOs), which are product names that have the strongest links to the place in which they are made.²⁹⁷ Some of the existing or potential GCC GIs fall under the PDOs category. However, the GCC laws do not distinguish between GIs and PDOs. Therefore, both categories are protected as GIs. This distinction between GIs and PDOs can be sought when the GIs system is well established and well organized in GCC countries. In particular, when inventories of existing GIs are made, associations or groups of producers are formed and technical specifications of each product are developed. Introducing PDOs in GCC countries is not an easy task. PDO's concept was developed in Europe as a way of life.²⁹⁸ It is enshrined in the populations' culture and habits and hence, can't be brought into a community which does not understand and value the system. Unlike GIs, PDOs cannot be developed on the basis of a one-size-fits-all regime. Therefore, as a first step, it is important that the EU supports GCC countries in the establishment of an effective system of GIs and then assess the readiness of the GCC communities to introduce PDOs to the Gulf culture. It is to be noted however, that as long as wines and spirits are labelled as prohibited goods in GCC countries, introducing a PDOs system in GCC countries will not have a great impact on the EU side.

On the other hand, the Traditional Specialities Guaranteed (TSGs) protected in the EU as non-origin labels, covers the traditional aspects of an agricultural product intended for human consumption or foodstuff such as the way it is made or its traditional composition, without being linked to a specific geographical area.²⁹⁹ This category was introduced in the EU to complement the GIs system in promoting the rural economy. It is not clear yet whether GCC countries have products that qualify for or

²⁹³ Oman allows the registration of trademarks and GIs for alcoholic beverages, however, the importation of such goods to the country is subject to specific regulations.

²⁹⁴ The door was left open under the TRIPS Agreement for negotiating a multilateral system of notification and registration of GIs for wines (Article 23.4 of TRIPS) and for reviewing the application of GI provisions of the Agreement by the TRIPS Council (Article 24.2 of TRIPS). The Doha Ministerial Declaration extended the mandate under Article 23.4 to also cover spirits, confirming a decision taken at the 1996 Singapore Ministerial Conference, and added to it the question of the possible extension of the higher level of protection for wines and spirits as provided by Article 23 of TRIPS to cover GIs for all products. See Taubman et al. 2012, pp 90-91 and 200-201.

²⁹⁵ See http://www.wto.org/english/tratop_e/trips_e/gi_background_e.htm.

²⁹⁶ See WTO Trade Policy Review WT/TPR/S/258/Rev.1

²⁹⁷ https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/quality-schemes-explained_en.

²⁹⁸ The PDOs concept was developed in the 19th century as a way of protecting and preserving the wine culture of specific regions in Europe.

²⁹⁹ https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/quality-schemes-explained_en.

necessitate a TSGs protection especially that collective and certification marks can be used to play this role. In other words, products covered by TSGs can also be covered by collective or certification marks which are alternatives to a sui generis system for protecting GIs under the GCC Unified Trademark Law of 2013. It is therefore recommended that a study is conducted in this regard to identify potential TSGs and evaluate the need for such protection in GCC countries especially in countries where there is a limited number of GIs such as in Kuwait.

Potential GIs in GCC countries

Oman is the only country that has registered GIs. Saudi Arabia established a list of potential Saudi GIs and has recently registered a certification mark “Saudi made” to certify the origin of Saudi products.³⁰⁰ There are potential GIs in the rest of the GCC countries, however no official inventories have been established yet. The following table includes potential GIs in GCC countries (Table 25).

	BAHRAIN	KSA³⁰¹	KUWAIT³⁰²	OMAN³⁰³³⁰⁴	QATAR	UAE³⁰⁵
AGRICULTURAL PRODUCTS		<ul style="list-style-type: none"> • Al Qassim Water • Zamzam Water • Taif Rose • Taif Rose Oil • Al Jouf Olive Oil • Ajwa Al Medina Dates • Sukkari Al Qassim Dates • Saqai Dates • Helwa Al Jouf Dates • Daer Bani Malik Coffee Beans • Jazan Mango • Al Samh Plant • Rice Hassawi • Hassawi Khlass Dates • Al Sirri Dates • Najran Bayadth Dates • Shadawi Coffee Beans • Klaijah Al Qassim³⁰⁶ • Saudi Iqt/ Bagl³⁰⁷ 	<ul style="list-style-type: none"> • Bastaat³⁰⁹ • Barhi Dates 	<ul style="list-style-type: none"> • Omani mountain thyme (Zaatar) • Pomegranates of Al Jabal Al Akhdhar • Omani lemon • Omani dates • Omani halwa (sweets mixtures) 		<ul style="list-style-type: none"> • Al Foah Dates³¹⁰ • Al Dhafra Dates³¹¹ • Liwa Dates³¹² • Masafi Water³¹³ • Al Ain Water

³⁰⁰ <https://twitter.com/saudimade?lang=en>

³⁰¹ List of potential GIs provided by SAIP.

³⁰² Potential GIs suggested by the Head of Industrial Property in Kuwait.

³⁰³ <https://timesofoman.com/article/600813/Oman/Ministry-receives-geographical-indications-protection-application-in-Oman>.

³⁰⁴ The following GIs have been registered in Oman: Green Mountain goats, Cows of the South of Oman, Al-Jabali goats, Al-Batinah goats, Omani Lamb, Al-Dhofari goats, Omani frankincense and Al-Saidi Dagger.

³⁰⁵ List of potential GIs provided by UAE nationals.

³⁰⁶ Traditional dates sweets

³⁰⁷ Type of Yogurt

³⁰⁹ Bastaat is an important local farm in Kuwait, known for its fresh vegetables, fruits and flowers.

³¹⁰ See <https://www.alfuah.ae/>

³¹¹ See <https://www.alfuah.ae/brand/al-dhafra-dates/>

³¹² See <https://liwadates.com/>

³¹³ See <https://www.masafi.com/>

Table 25: Potential GCC GIs Products						
	BAHRAIN	KSA³⁰¹	KUWAIT³⁰²	OMAN³⁰³³⁰⁴	QATAR	UAE³⁰⁵
		<ul style="list-style-type: none"> Al Maamoul Al Dossari³⁰⁸ 				
MARITIME PRODUCTS		<ul style="list-style-type: none"> 	Zbaidi fish	<ul style="list-style-type: none"> Al Safailah one of the animal wealth for which Omani seas 		
NON-AGRICULTURAL PRODUCTS		<ul style="list-style-type: none"> Najran Janbiya Dagger Saudi Sado³¹⁴ 		<ul style="list-style-type: none"> Green Mountain goats Cows of the South of Oman Al-Jabali goats Al-Batinah goats Omani Lamb Al-Dhofari goats Omani frankincense Al-Saidi Dagger Al-Saidi turban Omani dishdasha Stones and minerals of Oman 		<ul style="list-style-type: none"> Ras Al Khai mah ceramics
OTHER				<ul style="list-style-type: none"> Method of making Omani barbecue 		

³⁰⁸ Incense

³¹⁴ Bedouin textile

Chapter 6. IP enforcement in GCC countries

The enforcement of intellectual property rights remains a debatable issue in the GCC countries. Although the requirements of Part III of the TRIPS Agreement on Enforcement are more or less implemented under different GCC legislation (IP and other legislation)³¹⁵, however, the GCC countries are designated as countries with inadequate level of IP enforcement. This is due, on the one hand, to the countries' commitments under FTAs and other agreements to a higher level of protection than the one required by TRIPS. On the other hand, it is the result of monitoring reports conducted by watchdog organizations, international brands and manufacturers groups, trade representatives of developed countries, and IP alliances.³¹⁶ While countries are bound by their TRIPS plus commitments under trade agreements, and hence should be liable for not enforcing those obligations; however, they are not bound by a higher level of enforcement if it is based only on political or economic pressure and not on a bilateral or international agreement. In other words, some developed countries behave as the international police for the protection of IP rights worldwide and exercise political and economic pressure on other countries to make them abide by a level of protection that is higher than their international commitments. Unfortunately, this has been the practice for many years now. Although, this practice is contradictory to the WTO rules, however, might is right. This chapter aims at assessing the procedures and practice of IP enforcement in the GCC identifying areas of weakness and suggesting improvements to enhance the effectiveness of enforcement of IP rights in the region.

All GCC countries have the necessary legal and regulatory systems to enforce IP rights. However, the system is criticized for the degree of discretion given to administrative authorities in final decision-making which has been addressed by the inclusions in the laws of provisions that empower the judicial authority to review such administrative decisions.³¹⁷ Certain GCC laws related to industrial property, in particular the laws of Bahrain and Oman, introduce an appeal level of the administrative authority through the creation of quasi-judicial appeals committees, the members of which are appointed by the competent minister. It is to be noted that most laws still provide for **final appeal before national civil courts**. The Laws of Kuwait, Qatar and the UAE provide also for a specific ministerial appeals committee process.³¹⁸

The **provisional and precautionary measures** which are provided under GCC laws to prevent IP infringements from occurring are to a large extent in line with the TRIPS standards. The most comprehensive provisions on provisional measures are provided by the Laws of Bahrain and Oman as an implementation of their obligations under their respective FTAs with the United States (Table 26).

US-Bahrain FTA	Oman-US FTA
<ul style="list-style-type: none"> • Each Party shall provide for civil remedies against the acts described in Article 14.4.7 and Article 14.4.8. Available civil remedies shall include at least: (a) provisional measures, including seizure of devices and products suspected of being involved in the prohibited activity.³¹⁹ • Parties shall act upon requests for relief inaudita altera parte expeditiously and generally execute such requests within 10 days, except in exceptional cases.³²⁰ 	<ul style="list-style-type: none"> • In civil judicial proceedings concerning the acts described in paragraphs 7 and 8 of Article 15.4, each Party shall provide that its judicial authorities shall have the authority to order or award at least: (a) provisional measures, including seizure of devices and products suspected of being involved in the prohibited activity.³²³ • Parties shall act on requests for relief inaudita altera parte expeditiously and shall, except in exceptional cases, generally execute such requests within ten days.³²⁴

³¹⁵ Such as the criminal laws, the laws on civil and criminal procedures, commercial laws, judiciary laws and laws on the judicial procedures, companies' laws, and customs laws.

³¹⁶ such as the Pharmaceutical Research and Manufacturers of America (PhRma), the International Intellectual Property Alliance (IIPA), l'Union des fabricants, the US Trade Representative, etc.

³¹⁷ See David Price and AlHanoof AlDebasi, Protecting Intellectual Property in the Arabian Peninsula, Routledge Research in Intellectual Property, pp.182-190.

³¹⁸ Idem

³¹⁹ See Article 14.10 (14) Bahrain-US FTA.

³²⁰ See Article 14.10 (17) Bahrain-US FTA.

³²³ See Article 14.10 (14) Oman-US FTA.

³²⁴ See Article 14.10 (17) Oman-US FTA.

Table 26 Provisional measures under US FTAs with Bahrain and Oman	
US-Bahrain FTA	Oman-US FTA
<ul style="list-style-type: none"> Each Party shall provide that its judicial authorities have the authority to require the plaintiff to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the plaintiff's right is being infringed or that such infringement is imminent, and to order the plaintiff to provide a reasonable security or equivalent assurance set at a level sufficient to protect the defendant and to prevent abuse, and so as not to unreasonably deter recourse to such procedures.³²¹ In proceedings concerning the grant of provisional measures in relation to enforcement of a patent, each Party shall provide for a rebuttable presumption that the patent is valid.³²² 	<ul style="list-style-type: none"> Each Party shall provide that its judicial authorities have the authority to require the plaintiff to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the plaintiff's right is being infringed or that such infringement is imminent, and to order the plaintiff to provide a reasonable security or equivalent assurance set at a level sufficient to protect the defendant and to prevent abuse, and so as not to unreasonably deter recourse to such procedures.³²⁵ In proceedings concerning the grant of provisional measures in relation to enforcement of a patent, each Party shall provide for a rebuttable presumption that the patent is valid.³²⁶

The GCC laws on copyright and related rights include also specific provisions on provisional and precautionary measures. Provisional measures are also provided under the GCC Unified Trademark Law which is applicable in most of the GCC countries (Table 27).

Table 27: Provisional Measures under GCC Unified Trademark Law ³²⁷
<p>"1. In case of infringement, or to prevent an imminent infringement, on any of the rights prescribed under the provisions of this Law, the owner may obtain an order on a petition from the court of jurisdiction on the origin of the dispute to take measure(s) of appropriate precautionary measures, including the following:</p> <p>a) Conducting detailed description for the alleged infringement, and goods which are subject of these infringement, and materials, tools and equipment that have been used or will be used in any of it, and keeping relevant evidences.</p> <p>b) Imposing attachment on things, referred to in the preceding paragraph, and revenues resulting from the alleged infringement.</p> <p>c) Preventing goods, subject of the alleged infringement, from entering into the commercial channels and preventing export thereof, including imported goods immediately after customs release thereof.</p> <p>d) Suspending or preventing infringement</p> <p>2. The court may assign the petitioner to submit his evidence that affirm the occurrence of an infringement or an imminent infringement on the right, and may assign him to provide sufficient information to enable the Competent Authority to implement the precautionary measure of identification of the goods concerned.</p> <p>3. The court shall decide on the petition no later than ten days from the date of submission, save the exceptional cases estimated by the court.</p> <p>4. The court may, when required, issue the order, at the request of the petitioner, without calling the other party, if delay in issuing the order may cause irreparable harm to plaintiff, or there is a fear of the demise or destruction of evidence, in this case the other party shall be notified of the matter without delay immediately after its issuance, and when necessary, the other party may be notified directly after implementing the order.</p> <p>5. If the court ordered to take precautionary measure without calling the other party, the defendant after being notified of the matter may appeal it before the court of jurisdiction within twenty days from the date of notification, and the court in this case may support, modify or cancel it.</p> <p>6. The court may assign the petitioner to provide a suitable bail or its equivalent guarantee that is sufficient to protect the defendant and to prevent abuse of the right, and the amount of bail, or its equivalent guarantee, shall not be big to the extent that it may lead unreasonably to refrain from request to take precautionary measures referred to above.</p> <p>7. The owner may file a claim on the origin of the dispute within twenty days from the date of issuance of the order to take the precautionary measures, or from the date on which he is notified of the rejection of the appeal provided for in Clause 5 of this Article, as the case may be. Otherwise, this order will be cancelled at the request of the defendant".</p>

All GCC laws provide for **special border measures** to suspend the release into circulation of suspected counterfeit trademark or pirated copyright goods, either following a complaint by the right holder or by ex-officio action by the customs authorities. These provisions are either found under IP laws, the

³²¹ See Article 14.10 (18) Bahrain-US FTA.

³²² See Article 14.10 (19) Bahrain-US FTA.

³²⁵ See Article 14.10 (18) Oman-US FTA.

³²⁶ See Article 14.10 (19) Oman-US FTA.

³²⁷ See Article 40 of GCC Unified Trademark Law.

customs laws or specific laws on border measures such as the case of Qatar and Saudi Arabia.³²⁸ Oman provides comprehensive provision on border enforcement that in some cases go beyond TRIPS. Bahrain provides for detailed related provisions in its copyright law and applies the provisions of the GCC Unified Trademark Law on border enforcement which allow for actions based on complaints or ex-officio by the Customs (Table 28).³²⁹ De minimis import is allowed under the GCC Unified Trademark Law.³³⁰ It is to be noted in this regard that Bahrain is bound by the obligation on border enforcement in its FTA with the US. Kuwait provides for border measures under its copyright law³³¹ and enforce trademarks at the borders according to the related provisions of the GCC Unified Trademark Law.

Table 28: Border measures under GCC Unified Trademark Law³³²

1. The owner, if he has justified reasons to make him believe that importing imitated or forged goods or goods bearing mark similar to his registered trademark in a way would cause confusion to the public could be possible, may submit a written application to the customs release authority to stop customs release for these goods and to not allow to be traded. The application shall be accompanied by evidence that is enough to convince the customs release authority that there is infringement, as apparent, on the right of the applicant for the mark, and the application shall include sufficient information that could be reasonably available to the applicant to enable the said authority to identify such goods.
2. The customs release authority shall notify the applicant in writing of its decision on the application within seven days from the date of submission of the application, and such decision shall be effective, in the case of acceptance of the application, for a period of one year from the date of submission, or for the remaining period of trademark protection, whichever is earlier, unless the applicant requests shorter period.
3. The customs release authority may assign the applicant to provide appropriate bail or its equivalent guarantee that is enough to protect the defendant and the competent authorities, and to prevent abuse of the right to request to stop the customs release.
- 4. Without prejudice to the provisions of the preceding clauses, the customs release authority may *motu proprio*, without the need to file a complaint or an application by the owner or a third party, issue a decision to stop customs release for imported or transit goods or goods prepared for export upon their arrival to the customs zone under its jurisdiction, if there is sufficient evidence, as apparent, proving that these goods are imitated or improperly bearing a mark similar to a registered trademark, in a manner that could cause a confusion to the public.**
5. If the customs release authority has decided, pursuant to the provisions of this Article, to stop the release of goods which are reached to the customs zone under its jurisdiction, it shall do the following:
 - a. Notifying goods importer and the owner of the decision issued to stop the customs release immediately after its issue.
 - b. Notifying the owner, upon written request from him, of the names and addresses of the sender, importer and recipient of goods and the quantities thereof.
 - c. Allowing the concerned persons to inspect the goods according to the customs procedures followed in this regard. The owner may file a claim on the origin of the dispute before the court of jurisdiction and inform same to the customs release authority no later than ten working days from the date of notification of the decision to stop the customs release for these goods. Otherwise, the decision shall be deemed void ab initio, unless such authority or the court of jurisdiction extends this period in cases it estimates for a further 10-day period, and if the claim is already filed on the origin of the dispute, the court may support, modify or cancel the issue.
6. With the exception of cases estimated by the court, if it is established to the court that the goods, which customs release is suspended, are imitated or forged or improperly bear a trademark similar to the registered trademark, in a manner that could cause a confusion to the public, such goods shall be destroyed at the expense of the importer, or disposed out of the commercial channels if such destruction may cause unacceptable harm to public health or the environment.
7. In all cases, goods shall not be released to commercial channels or permitted to be re-exported just by removing the trademark that is illegally placed.
8. The Minister of Finance shall, after coordination with the competent minister, issue a decision specifying the data, conditions, controls and procedures for submitting an application to stop the customs release and to decide thereon, and the documents to be attached to this application. Specifying such data shall not lead to refrain from requesting the procedure referred to above. For the purposes of this Article, the term "imitated goods" means goods, including packages, bearing without authorization a mark similar to a registered trademark for such goods or a mark that cannot be distinguished from a registered trademark in terms of the fundamental elements.

³²⁸ See Qatari Law No. 17 of 2011 for the Protection of Intellectual Property Rights and Saudi Ministerial Decision No. 1277 of 2004 on Regulations for Border Procedures for the Protection of Intellectual Property Rights of Trademark and Copyright.

³²⁹ See Article 38 of the GCC Unified Trademark Law.

³³⁰ See Article 39 of the GCC Unified Trademark Law.

³³¹ See Article 37 of Kuwaiti Law No. 75 of 2019 on Copyright and Related Rights

³³² See Article 38 of the GCC Unified Trademark Law.

The UAE provides for border measures under its copyright law that provides for actions based on complaints by right holders only.³³³ Ex-officio actions are dealt with under the UAE law on Customs. It is important to note that border enforcement is also covered by the GCC Unified Customs Law that forbids entry into the country as well as into the free zones and duty-free shops of “goods infringing the laws relating to commercial and industrial property rights and copyright protection in respect of which resolutions have been issued by the competent authorities.”³³⁴

The GCC Unified Trademark Law provides for the **destruction of counterfeit and pirated goods** at the expense of the importer, or disposed out of the commercial channels if such destruction may cause unacceptable harm to public health or the environment. In all cases, counterfeit and pirated goods **shall not be released to commercial channels or permitted to be re-exported** just by removing the trademark that is illegally placed.³³⁵

Counterfeit and pirated products fall also under the meaning of “**prohibited goods**” which is defined by the GCC Unified Customs Law as “any goods the import or export of which is prohibited under the provisions of this Law or any other Law”. The Unified Customs Law is in line with the TRIPS Agreement and international standards. The Customs is the Authority responsible for combating piracy at the borders. **Customs officers may initiate border measures ex-officio**, with respect to imported, exported, or in-transit merchandise, or merchandise in free zones, suspected of being pirated or counterfeit goods, without the need for a formal complaint from a private party or right holder (Table 29).³³⁶

Table 29: Border measures under the GCC Unified Customs Law (Article 80)

The following goods may not be admitted into the free zones and duty-free shops:

1. Flammable goods, excluding the fuels necessary for the operation allowed by the authority supervising free zones and duty-free shops, under the conditions prescribed by the competent authorities.
2. Radioactive materials
3. Arms, ammunition and explosives, of any kind, except those licensed by the competent authorities.
- 4. Goods infringing the laws relating to commercial and industrial property rights and copyright protection in respect of which resolutions have been issued by the competent authorities.**
5. All kinds of narcotic drugs and derivatives thereof.
6. Goods originated in an economically boycotted country.
- 7. Goods prohibited from entering the country; a list of such goods shall be made by each State.**

It is to be noted that Dubai Customs has an IPR Department which operates as a federal law enforcement body, such as laws pertaining to IPR protection and securing the 21 main land, sea and air entry and exit points. The IPR Department was established as an independent administrative unit at Dubai Customs to keep pace with the state’s policy as well as demonstrate the Customs strong commitment to protect intellectual and industrial property rights, in fulfilment of international agreements and treaties including TRIPS. The IPR Department applies the Common Customs Law of the GCC States.³³⁷ Similarly, the Saudi Customs has an internal IP rights unit which provides a database to facilitate enforcement against counterfeit goods.³³⁸

The judicial authorities in GCC countries are entitled to order **damages** to compensate for the suffered injury as a result of the IP infringement. The related provisions in GCC laws vary from one country to another and within the respective IP laws of each country.³³⁹ However The laws do not provide for the payment by the infringer of the legal costs. According to the common convention throughout the region in respect of civil cases, each party to the case should bear its own legal costs. This is in contradiction

³³³ See Article 36 of UAE Law No. 7 of 2002 on Copyright and Neighboring Rights

³³⁴ See Article 38 of the GCC Unified Trademark Law.

³³⁵ See Article 38 of the GCC Unified Trademark Law.

³³⁶ See Articles 2, 24, 53 to 56, 58, 59, 80, 81, 116, 121 to 128, 129 to 137, 143, 145, 150, 152 and 161 to 165 of the GCC Unified Customs Law.

³³⁷ See <https://www.dubaicustoms.gov.ae/en/IPR/Pages/WeAreIPR.aspx>

³³⁸ See <https://www.worldtrademarkreview.com/anti-counterfeiting/procedures-and-strategies-anti-counterfeiting-saudi-arabia>

³³⁹ See Article 41 of the GCC Unified Trademark Law; Article 42 of the UAE Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 8 of 2002); Article 51 of the Qatari Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs.

with the TRIPS Agreement that requires the judicial authorities to order the infringer to pay the right holder expenses, which may include appropriate attorney’s fees. While all GCC countries apply the common GCC convention, Oman derogates from the application of the convention under its Copyright law (Table 26).³⁴⁰

The GCC laws provide also for the disposal outside the channels of commerce of infringing goods, destruction of materials used in infringement cases, the publication of the judgement and the closure of the enterprise (Table 30).

Table 30: Damages and other remedies under GCC trademark laws		
GCC Unified Trademark Law	Qatar	UAE
<ul style="list-style-type: none"> With the exception of cases estimated by the court, if it is established to the court that the goods, which customs release is suspended, are imitated or forged or improperly bear a trademark similar to the registered trademark, in a manner that could cause a confusion to the public, such goods shall be destroyed at the expense of the importer or disposed out of the commercial channels if such destruction may cause unacceptable harm to public health or the environment. In all cases, goods shall not be released to commercial channels or permitted to be re-exported just by removing the trademark that is illegally placed. The court of jurisdiction, at the request of the owner, may order to destroy goods which imitation is established, except in exceptional cases, without compensation of any kind to the defendant, and it may order - without delay - to destroy the materials and tools used in the manufacture or production of imitated goods without compensation of any kind to the defendant, and the court, in exceptional cases that it estimates, may order to dispose of such goods outside the commercial channels so as to prevent the possibility of further infringements. The court of jurisdiction may, instead of destroying the goods, materials and tools used in the manufacture or production of imitated goods, order to dispose of them outside the commercial channels, if the destruction of goods results in unacceptable harm to public health or environment. Removal of trademark improperly placed on the imitated goods shall not be considered as a good reason to release them to the commercial channels³⁴¹. 	<ul style="list-style-type: none"> In all cases provided for in Articles 47, 48 and 49 of this Law, the court shall rule for the publication of the judgement at the expense of the convicted person in one or more daily newspapers, the closure of the enterprise for a period not less than fifteen days and not more than six months, and confiscation of the equipment and tools used for the imitation or forgery, in addition to the confiscation of the imitated or forged goods even in the case of acquittal³⁴². The relevant Civil Court may rule that the distrained items be confiscated, the enterprise be closed for a period not less than 15 days and not more than six months, and that the judgment be published in one or more newspapers at the expense of the convicted party. The court shall pass judgement for the destruction of the forged or imitated marks, indications, trade names and industrial designs and templates, the goods on which they are placed, or those that falsely bear incorrect or unlawful details, even in the case of acquittal³⁴³. 	<p>The competent court may rule the confiscation of the object attached or to be attached later and the deduction of its price from the fines or compensations or disposition thereof in any other way deemed expedient by the court. The court may also order to destroy the illegal marks or, when necessary, to destroy the products, envelopes, packing, tools and any such other objects bearing such marks or illegal data as well as the machines and tools used specifically in the forging operation. It may likewise order all the foregoing even in case of acquittal. The court may further order that the judgment be published in the bulletin or in an Arabic daily at the cost of the judgement debtor³⁴⁴.</p>

Criminal proceedings and penalties are available under GCC IP laws especially in wilful infringing cases. The related provisions in GCC laws vary from one country to another and within the respective IP laws of each country. The adoption of the Unified Trademark Law by most of the GCC countries increased the penalties and provided for deterrent remedies in addition to harmonizing the sanctions in trademark cases at the regional level. Oman provides for the same deterrent sanctions and scale of penalties across its IP laws. The UAE provides for deterrent sanctions for copyright infringements. The UAE new trademark law provides for deterrent measures and penalties which are substantially increased. While Kuwait provides for the highest financial penalty of any GCC IP Law by a wide margin

³⁴⁰ See David Price and AlHanoof AlDebasi, Protecting Intellectual Property in the Arabian Peninsula, Routledge Research in Intellectual Property, pp. 194-195.

³⁴¹ See Article 41 of GCC Trademark Law.

³⁴² See Article 50 of Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs.

³⁴³ See Article 52 of Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs.

³⁴⁴ See Article 43 of Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 8 of 2002).

and/or imprisonment for up to two years in copyright infringing cases, Qatar's penalties in copyright cases are reasonably substantial by GCC standards. However, sanctions related to acts of manufacturing or importing of electronic deactivation or satellite -decoding devices or their illegal removal or modification are limited to a maximum term of one-year imprisonment without financial penalties. Following US pressure, Saudi Arabia increased its penalties and applied severe sanctions for infringements cases related to information technology. **Recidivism** provisions in GCC laws consists of doubling of the original sanctions, or doubling the fine only, or increasing for 50% the original sanction in addition to the closure of the commercial establishment for periods ranging between three and six months.³⁴⁵

The effectiveness of an enforcement system does not depend only on the available remedies and penalties to stop piracy and counterfeiting, but on a well-established and transparent IP system managed by well-informed human resources and competent enforcement bodies. In fact, the lack of trained and experienced enforcement officers; the insufficient IP knowledge among judges; the lack of IP awareness among right holders and users; the adoption of IP legislation that does not take into consideration the specificity of the existing legal system and its capacity; the lack of coordination among enforcement bodies; the lack of transparency and coordination among administrative and enforcement bodies, and the high costs of infringement litigation with insufficient rights or procedures to recover litigation costs are major factors to fail any IP enforcement system.

Recommendations on enforcement of IP rights

To face these challenges and enhance the effectiveness of enforcement of IP rights in the region, a number of actions should be taken, in particular the following:

a. Raising IP awareness through IP campaigns and trainings

Raising awareness among the different publics in a defined society is key to address IP enforcement challenges. Each public has its own misconceptions and behaviour towards IP. It is therefore important to know the reasons behind their attitude and to correct any related misconceptions. For instance, the message to be conveyed to a fashionista who buys counterfeit luxury products to show off in front of her followers is different than the message to be addressed to a local merchant who thinks that the imitation of the luxury bag he is selling is a "legal commerce". The most difficult message is the one tackling young people who deliberately infringe copyrightable works. In this case the problem lies not only on the nature of the products that are easy to reproduce or use, but also on the lack of the "guilt" feeling among those people who refuse to associate this infringing copying act with an act of stealing of physical goods.

On the other hand, awareness campaigns should be organized to inform the public about the dangers to their health and safety stemming from counterfeit products such as toys, clothing, spare parts, perfumes, medicines and other common goods. It is also important that consumers know that IP crimes are often combined with other types of crime such as money laundering, human trafficking and occasionally forced labour.

Consumers should also be aware about the legal consequences of IP infringements including knowingly buying counterfeit goods and illegally accessing copyright-protected contents. They should also be taught that IP infringements are contrary to Islamic Law (Shariaa). In fact, Islamic rules are clear regarding acts of stealing and using others' property without their authorization. Acts of IP infringement fall under those categories that are forbidden by the Holy Coran. Conveying this idea to the public should not be a difficult task which will have beneficial effects on consumer attitudes and behaviour towards counterfeiting and piracy.

Creating an IP culture is not an easy task. This should be done by integrating IP in school curricula at all levels and by maintaining integrated, long-term intellectual property education and training strategies. Moreover, awareness campaigns and activities should be designed with the help of not only IP experts and communication specialists but also with psychologists to better understand the consumer behavior and motivation.

³⁴⁵ See David Price and AlHanoof AlDebasi, *Protecting Intellectual Property in the Arabian Peninsula*, Routeledge Research in Intellectual Property, pp.196-206.

b. Creation of IP Task forces

It is important to create a national IP task force for each of the GCC countries composed of the representatives of existing enforcement bodies (i.e., sworn IP officials, Police and Customs officials) in order to coordinate IP enforcement cases and to conduct joint raids and enforce the IP Laws more efficiently. The national task forces can collaborate together and meet periodically to address enforcement issues at the regional level.

It is important to note that the UAE created the “Unified IPR Team” to combat counterfeit which includes representatives of the public and private sectors along with the Customs. The unit task can be enlarged to include combatting piracy and other IP infringements issues. Lessons can be learned from the mission of the European Union Cybercrime Task Force (EUCTF).³⁴⁶

c. Creation of an IP Enforcement Portal

The GCC countries can join efforts to create an IP enforcement portal similar to the one created by the European Union Intellectual Property Office (EUIPO) in order to enhance national coordination between rights holders and enforcers to share information in a secure way, to collect data on enforcement for further analysis, and to inform about third party infringements and the GCC activities in the area of IP crime.

d. Revisiting enforcement provisions in IP related laws

It is important to address areas of weakness on enforcement in IP related laws and harmonize enforcement procedures and penalties between different laws. The EU Directive on Enforcement of Intellectual Property Rights can serve as an example.³⁴⁷ Moreover, the rapid development of information and other technologies as well as the accelerated pace of globalization necessitate governments to provide new legal solutions to enhance IP protection and combat infringements in the online environment.

e. Specialized IP judges

GCC countries lack not only specialized IP judges but also GCC national judges. There is no better than a national to understand the culture and society. A judge’s role is not limited to the application of the laws but also to their interpretation and implementation for the benefit of justice and fairness. Moreover, the lack of IP expertise in the judiciary and in legal representatives have a negative impact on infringement proceedings. The judiciary is the third source of law and hence, investing in a new generation of specialized and educated national judges is crucial for ensuring an effective enforcement system. The WIPO Academy can help GCC countries to develop and maintain long-term IP education and trainings for judges.

It is to be noted that restructuring the judicial system including the establishment of specialized courts should be done after the formation of a core group of specialized and competent national judges. However, the judicial system should find practical and long-lasting solutions for the costly and time-consuming infringement litigations especially when combined by significant time delays in obtaining interim and final relief against infringers which discourage right holders from attempting to enforce their rights through the legal system.

f. Creation of IP Unit within Customs

Each GCC country should have an IP Unit within the Customs similar to the units created by Saudi Arabia and the UAE. The main task of the Customs Unit is to stop counterfeiting and piracy at the borders and to monitor the destruction of infringing goods and equipment used. Moreover, the Unit shall coordinate with IP offices on IP infringing cases; and help establish a common database between the Customs and national IP Offices on registered IP rights; cooperate with right holders and other stakeholders on counterfeiting and piracy; exchange experience with other IP Units and task forces at the national, regional and international levels. The Unit officers should be trained by international specialized organizations (such as World Customs Organization, INTERPOL, Europol, European Anti-Fraud Office (OLAF)) on the best international and regional practices in enforcing IP rights.

g. Capacity building of IP officers and enforcement bodies

The effectiveness of the enforcement system depends on well-informed human resources and competent enforcement bodies. Therefore, GCC countries should build the capacity of IP officers to have a knowledgeable and competent IP administrative body capable of managing efficiently IP offices

³⁴⁶ <https://www.europol.europa.eu/about-europol/european-cybercrime-centre-ec3/euctf>

³⁴⁷ Directive 2004/48/EC on Enforcement of intellectual property rights

including performing IP operations and examinations using best international practices. Moreover, the police, customs, sworn IP officers, general attorneys, judges, municipalities' officers, and all enforcement bodies involved in IP matters should be trained on IP principles as enshrined in national laws and the value of and its socio-economic impact on the development of countries.

7. Conclusions and Recommendations

Intellectual property is a key factor for any knowledge-based economy. It fosters creativity and innovation, protects research and investments, and plays a major role in the management of R&Ds. Therefore, developed countries including the EU were keen to develop IP systems reflecting their level of advancement while maintaining a balance between rewarding creativity and disseminating knowledge. The GCC transformation process to shift from an oil-dependent economy to a knowledge-based economy requires an efficient IP protection system that goes beyond TRIPS standards. The EU experience can serve as a model for GCC countries, provided the level of development of concerned countries and their socio-economic needs and objectives are taken into consideration.

The efficiency of an IP system is not measured by the level of protection in its laws and regulations but by its acceptance and adoption by the population and the capacity of national authorities to enforce it. This practice is ensured by rules of good governance and transparency. Therefore, any suggested new measure should be within the limitations of the country's operating systems and in line with its human resources, legal and technical capacities.

The review of current IP protection regulatory frameworks in GCC countries shows that all IP legislation are to a certain extent in line with the TRIPS Agreement, however, they are still behind EU and international standards regarding the adoption of rules necessary to face the challenges imposed by a knowledge-based economy. The highlighted areas of weakness in GCC IP laws throughout this study reveal the need for an overall reform of the existing IP systems in order for GCC countries to address the challenges imposed by the countries' economic visions and IP related strategies.

The GCC countries are in a race against time to implement their visions and strategies. Despite all undertaken initiatives in recent years to create a competitive environment for businesses, attract FDIs, promote R&Ds and enhance IP protection, the legal IP framework lacks not only the core elements necessary for the system to cope with the digital age challenges and the new international standards but also it lacks a modern infrastructure necessary for the implementation of a sound and effective IP protection system. Many of the advanced IP and related legislation in GCC countries were dictated by foreign political pressures or as an implementation of unbalanced IP obligations under FTAs. Adopting IP rules in line with the highest international standards but that do not respond to the market needs or that are "alien" to the concerned population, does not make the IP system more efficient especially when such changes are not accompanied by the necessary administrative and structural reforms along with the capacity building of the human resources in charge of implementing the new IP obligations. Moving towards a knowledge-based economy cannot be achieved by importing laws and policies the implementation of which constitutes a challenge for the national economy, but by developing an educated and innovative society and a high level of human capital.

Harmonizing laws and policies is one of the stated objectives of the Cooperation Council for the Arab States of the Gulf. This was translated in the IP field by the adoption of the Unified Patent Law establishing the GCC Unitary Patent and the Unified Trademark Law. However, the beginning of 2021 was marked by the ending of the GCC Unitary Patent which means the ending of a uniform protection that saved cost and time and reduced administrative burdens for several years. This decision by the GCC Supreme Council reflects the current changes taking place in the region, in particular the race between GCC countries towards the best achiever and the most advanced not only at the GCC level but also in the Arab region. It seems that IP harmonization projects are put on hold until the transformation process towards a knowledge-based economy is achieved. The reforms needed for establishing an effective IP system is a long way especially with the accelerated pace of globalization and the rapid development of information and other technologies that necessitate governments to constantly find new legal solutions. Therefore, it might be more appropriate if GCC countries join efforts to develop unified laws and regulations on IP topics of common interest to their economic development.

Recommendations on improving IP protection

In light of the above, a number of actions can be taken by GCC countries to improve IP protection both at the GCC and each country's levels taking into consideration the EU experience, success stories and best practices.

Copyright and related rights

- GCC countries are encouraged to include in their legislation “resale right” or “droit de suite” for the benefit of authors of original works of art in the GCC. This can be done at a regional level through a unified law to preserve works of art and culture in the GCC. The EC Directive 2001/84/EC on the resale right for the benefit of the author of an original work of art can serve as a model for a unified law.
- The protection of computer programs in GCC laws can be enhanced especially with regard to “decompilation” or “interoperability”. The EU Directive 2009/24/EC on the legal protection of computer programs can serve as a model.
- GCC countries can benefit from the EU experience regarding the protection of databases and advanced data processing systems that do not fall within the subject-matters of copyright. The Directive 96/9/EC on the legal protection of databases can be used as a starting point reference for GCC countries if they decide to protect non-original databases along with the economic and legal analysis as well as the evaluation reports related to the effect of the Directive.
- GCC countries should join their efforts to harmonize their laws relating to the protection of digital content by relying on the experiences and practices of other countries, such as France. The EU Directive 2019/790 on copyright in the digital single market provides good guidance on the online content-sharing service providers and the fair remuneration for authors and performers. The EU Regulation (EU) 2017/1128 on the portability of online content services throughout the EU, can be used as model to ensure that subscribers to an online content service in their own GCC country, such as films, sports events, eBooks, video games and music, can access it when they are temporarily staying in other GCC countries.
- It is not recommended that GCC countries extend their 50-year term of protection so that the copyright industry in GCC countries can still benefit from a strong public domain. It is to be noted that the differences between the terms of protection of the GCC countries may constitute an obstacle for a unified copyright law in the future. It is likely that the term will be extended if an agreement is reached.
- The concept of CMOs is still new and not well assimilated in GCC countries. There is a misconception that CMOs will benefit foreign right holders on the detriment of users and national right holders. GCC countries refuse the one-size-fits- all approach and they want to implement a system that is socially accepted and that it benefits local authors and right holders and do not constitute an impediment for users to access literary and artistic works and enjoy a cultural life. EU’s experience in this field can be used to correct any misconception regarding CMOs and to train governmental officers and national right holders on different existing systems.
- It is important for all GCC countries, in particular Kuwait, which is considered to be the Hollywood of the GCC, to join the Beijing Treaty on Audiovisual Performances in order to improve the protection of their performers.
- It is recommended that Bahrain, Kuwait and Oman join the VIP Treaty.

Trademarks

- The UAE should amend its trademark law to allow for the filing of multiclass applications and to adopt a six-month grace period as required by international agreements.
- It is recommended that “use” under the GCC trademark laws is defined. The definition of use under the EU Directive 2015/2436 on the approximation of the laws of the Member States relating to trademarks can serve as an example.
- Qatar should amend its reciprocity treatment to become a national treatment as required by TRIPS.
- The trademark registration systems in all GCC countries are criticized for being very costly and time wasting when it comes to the obligation of notarizing and legalizing all documents required for the registration of foreign trademarks. In practice, this affects the right of priority which is often missed. Moreover, the quality of substantive examination is sometimes questionable and hence GCC countries should invest more on the capacity building of its trademark examiners and harmonize the registration procedures with international standards. The GCC countries can benefit from the EU Directive 2015/2436 on the approximation of the laws of the Member States relating to trademarks, to improve their existing systems.
- It is recommended that the GCC countries adhere to the Singapore Treaty on the Law of Trademarks which builds on the TLT but has a wider scope of application as it addresses more recent developments in the field of communication technologies. The adherence of the GCC

countries to the Singapore Treaty will modernize the existing system and harmonize the trademark procedures with those of other signatory countries and will resolve problematic issues for national and foreign applicants, namely, the adoption of the Nice Classification, the elimination of the single class per application, and the elimination of the requirement that documents be notarized and legalized before they are accepted by certain national trademark offices which constitute one of the greatest procedural difficulties in the GCC.

- While Kuwait, Saudi Arabia and the UAE are considering joining the Madrid Protocol, it is recommended that Qatar follows their step in this regard.
- It is recommended that all GCC countries join the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.
- It is recommended that all GCC countries join the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks.

Geographical indications

- Kuwait and the UAE to adopt a sui generis system for the protection of GIs.
- All GCC countries to adhere to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods.
- Oman to provide additional protection for wines and spirits.
- GCC countries to establish inventories for potential GIs products in each country.
- The EU to play a major role in helping GCC countries setting-up GIs systems that are similar to the ones operating in EU countries. This can be done through cooperation projects that focus on the following:
 - Conducting surveys on the level of GIs awareness among the population
 - Help the relevant sectors understand the pros and cons of an effective GIs system
 - Identification of GIs products with strong reputation and export potential
 - Sharing with relevant stakeholders the EU best practices on GIs protection including suggesting different protection schemes.
 - Help the GIs authorities develop/ adapt their laws and regulations to the country's specific needs in terms of chosen approach/ system.
 - Share EU experience on existing methods to organize GIs producers
 - Share EU experience on an efficient supply chain (from producers to distributors, consumers and exporters)
 - Share EU experience on the elaboration of the products specifications
 - Capacity building of GIs producers in GCC countries.
- EU can help each of the GCC countries to define and implement a national strategy for an effective protection of GIs which will not be limited to agricultural products. A pilot project can be initiated in each of these countries.
- The GCC laws do not distinguish between GIs and protected designations of origin (PDOs). This distinction between GIs and PDOs can be sought when the GIs system is well established and well organized in GCC countries. Introducing PDOs in GCC countries is not an easy task as they cannot be developed on the basis of a one-size-fits-all regime.
- It is recommended that a study is conducted to identify potential Traditional Specialities Guaranteed and evaluate the need for such protection in GCC countries especially in countries where there is a limited number of GIs such as in Kuwait.

Patents

- Oman to revisit its patent law in order to limit the scope of the provisions that extend patent protection to “any new uses for, or new methods of using, a known product, including new uses and new methods for the treatment of particular medical conditions” and their impact on the generic sector. Articles 53 and 54 of the EPC can serve as an example to re-formulate the aforementioned provisions. When possible, TRIPS flexibilities can be used to this effect too.
- Oman and Bahrain to benefit from the EU practice known as the supplementary protection certificates to make their laws less harmful to their local industry.
- GCC countries, with the exception of Bahrain and Oman, to amend the grace period for the payment of the fees prescribed for the maintenance of industrial property rights to be in line with TRIPS.
- Kuwait, Qatar and the UAE to provide for the reversal of the burden of proof in respect of process patents as required by Article 34 of the TRIPS.

- Qatar and the UAE which provide that importing the product is not considered a legitimate reason by the patent holder for not granting a compulsory license should amend their laws to bring them in line with TRIPS that prohibits the discrimination of patents as to whether products are imported or locally produced.
- Kuwait and the UAE are invited to join the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.
- It is recommended that all GCC countries join the Strasbourg Agreement Concerning the International Patent Classification.

Industrial designs

- GCC countries to improve the definition of industrial design to cover all categories of designs as proposed by Article 1 of the EU Directive 98/71/EC on the Legal Protection of Designs.
- GCC countries to include a special protection for textile designs as required by Article 25.2 of TRIPS.
- The GCC laws on industrial designs should be revisited to bring them in line with international standards and address the new challenges imposed by the digital environment (such as 3D printing). GCC countries can follow closely the evaluation process launched by the EU to assess “to what extent the EU legislation is still fit for purpose, in particular in view of the digital transformation underway”.
- GCC countries are invited to join the Hague Agreement Concerning the International Registration of Industrial Designs with the exception of Oman that is already a member of the Agreement.
- It is recommended that all GCC countries join the Locarno Agreement Establishing an International Classification for Industrial Designs.

IP & inventions, technology and sciences

- GCC countries to implement the four strategies suggested by the World Bank to respond to human capital challenges, in particular:
 - Investing in high-quality early childhood development;
 - Preparing healthier, better educated, and skilled youth for the future;
 - Enabling greater adult labor force participation including promoting lifelong learning and improving conditions for female labor force participation; and
 - Creating an enabling environment for human capital formation to increase value for money in public spending on education and health and move toward a multisectoral approach to human capital.
- GCC countries to support research and innovation activities in universities and research centers; fund innovative techniques; transfer and localize technology; and enhance the legislative and institutional framework.
- GCC countries to make sure that the implementation of the very ambitious “visions” should not forbid GCC countries from using technological knowledge in a manner conducive to social and economic welfare. Moreover, it should not be an impediment for GCC countries to benefit from TRIPS flexibilities especially with regard to IP and public health and IP and access to knowledge.
- It is important that GCC countries take into account the effect of each new initiative on innovation to ensure that GCC policy and regulations support innovation and that innovation and competitiveness are not suppressed with rigid and detailed regulations.
 - Lessons can be learned from Horizon 2020, the EU Framework Programme for Research and Innovation 2014-2020, which was designed to drive economic growth and create jobs by coupling research and innovation, with an emphasis on excellent science, industrial leadership and tackling societal challenges.
 - GCC countries can benefit from the “Impact of EU Regulation on Innovation” found under a publication that gathers illustrative cases of regulations that impact on innovation across a wide range of industrial sectors.
 - The EC Regulation on Transfer of technology of 2014 which adopts new competition rules for the assessment of technology transfer agreements (TTBER and Guidelines), through which a licensor permits a licensee to exploit patents, know-how or software for the production of goods and services, can also serve as a model for GCC countries to follow.

Harmonization of IP laws and policies

- Copyright & related rights
 - It is time for GCC countries to develop a unified copyright law that eliminates the gaps between GCC copyright legislation and adopts measures to address the protection of copyright and related rights in the digital environment. The differences between the terms of protection in the GCC countries will be, however a major debatable issue.
 - Taking into consideration the nature of the new technologies and the speed of their development, it might be more appropriate if GCC countries join their efforts to develop a Unified Law/ regulation that covers only the copyright and related rights in the digital environment without addressing the traditional copyright issues as well as the term of protection. This will help cover the existing gaps in some of the GCC legislation while harmonizing the system.
 - It is recommended that a task force is created to address the deficiencies in national legislation relating to the protection of Copyright in the digital age and their impact on the GCC Common Market. The ultimate objective of the task force is to identify common rules/ interests for the protection of copyright and related rights in the digital GCC market.
- Patents
 - It is recommended that GCC countries sign a **validation agreement** between their patent offices and the European Patent Office (EPO) according to which European patents will have legal effect in GCC countries.
 - Certain GCC Patent Offices outsource the examination of their patent applications or collaborate with foreign experts on this matter. There are different modalities of work sharing that can be useful for national offices, such as the following:
 - Patent Prosecution Highway (PPH)
 - The PCT-Patent Prosecution Highways Pilots (PCT-PPH)
 - SHARE- Strategic Handling of Application for Rapid Examination Project
 - Decision makers in GCC countries should pay more attention to the role of patents and their direct impact on the GCC markets. The relationship between digital technologies and patents should be at the core of their innovation policies, mainly issues relating to standardisation, interoperability, competition, patent licensing and open innovation. Those and other related issues should be dealt with at a regional level because of their impact on the GCC common market. The GCC Patent Office can play an important role in this regard through the creation of specialized working groups to develop unified regulations on matters of common interests to all GCC countries.
- The GCC Patent Office
 - To contribute to the enhancement of the current patent systems in GCC countries and the capacity building of patent professionals whether in patent drafting, patent litigations, patent commercialization, and transfer of technology. In particular, the GCC Patent Office can help SMEs on how to use IP to protect and market their inventions, license their new technologies and attract investors. The EPO practice in this field can serve as an example.
 - To initiate projects on regional collaboration among GCC countries, such as:
 - Harmonizing IP laws and policies in GCC member countries.
 - Establishing a regional database for inventions and patents for the benefits of the Arab countries by using the data for developing R&Ds in public institutions and universities.
 - Promoting technology cooperation through technology transfer among GCC countries.
 - Raising awareness among the public on IP, inventions and innovation.
 - Launching regional projects on the role of patents and their direct impact on the GCC markets including the common market.
 - Developing a regional professional body for GCC patent agents.
 - Building the capacity of the judiciary and court experts in the GCC on patent laws and procedures.
 - Helping in the implementation of the GCC countries' visions and strategies.
 - Trademarks
 - Building the capacity of the trademark examiners and training the judiciary on trademark cases will help harmonize the system and set the ground for a

- unitary trademark to be adopted when the countries become ready for such a step.
- Geographical indication
 - It is early for the GCC countries to work on a unified GIs law however, they can work on developing a GI legislation and a GI registry to protect potential regional GIs products (products that are found in all GCC countries). The EU experience and the French expertise in the field can be of great assistance to the GCC on this regard.
- Industrial designs
 - It is recommended that a unified law on industrial designs is developed with the aim of harmonizing the system and modernizing it to pave the way for a unitary design. The EU experience can serve as an example especially with the ongoing evaluation process for modernizing the EU design which entailed an assessment of the current system and an identification of the needed actions to address the conflicting areas. The results of the EU evaluation can serve as the basis for a GCC working paper on a unified/ unitary design.
- GCC Intellectual Property Training Centre
 - The Centre has a major role to play in building the capacity of IP professionals and academics from all GCC countries in areas of common interests to the region, such as geographical indications, industrial designs (for Gulf fashion and jewellery), collective management organizations, traditional knowledge and folklore. This will add a cultural dimension to the Centre which will help preserving and promoting the “Khaliji” identity.
 - It is recommended that the centre conducts research and studies on possible means for harmonizing IP laws and practices in the region, in particular by helping to establish regional CMOs, a regional GIs registry, a unified industrial design, etc.

Enforcement

- All GCC countries to provide in their laws for the payment by the infringer of the legal costs as required by TRIPS.
- Raising IP awareness through IP campaigns and trainings
 - It is important to address the right message to the right public.
 - Consumers should be informed about the dangers to their health and safety stemming from counterfeit products.
 - Consumers should know that IP crimes are often combined with other types of crime such as money laundering, human trafficking and occasionally forced labour.
 - Consumers should be aware about the legal consequences of IP infringements including knowingly buying counterfeit goods and illegally accessing copyright-protected contents.
 - Consumers should be taught that IP infringements are contrary to Islamic Law (Shariaa).
 - Creating an IP culture by integrating IP in school curricula at all levels and by maintaining integrated, long-term intellectual property education and training strategies.
 - Awareness campaigns and activities should be designed with the help of not only IP experts and communication specialists but also with psychologists to better understand the consumer behavior and motivation.
- Creation of IP Task forces
 - It is important to create a national IP task force for each of the GCC countries composed of the representatives of existing enforcement bodies (i.e., sworn IP officials, Police and Customs officials) in order to coordinate IP enforcement cases and to conduct joint raids and enforce the IP Laws more efficiently. The national task forces can collaborate together and meet periodically to address enforcement issues at the regional level.
- Creation of an IP Enforcement Portal
 - The GCC countries can join efforts to create an IP enforcement portal similar to the one created by the EUIPO in order to enhance national coordination between rights holders and enforcers to share information in a secure way, to collect data on enforcement for further analysis, and to inform about third party infringements and the GCC activities in the area of IP crime.

- Revisiting enforcement provisions in IP related laws
 - It is important to address areas of weakness on enforcement in IP related laws and harmonize enforcement procedures and penalties between different laws. The EU Directive on Enforcement of Intellectual Property Rights can serve as an example.
 - The rapid development of information and other technologies as well as the accelerated pace of globalization necessitate governments to provide new legal solutions to enhance IP protection and combat infringements in the online environment.
- Specialized IP judges
 - GCC countries lack not only specialized IP judges but also judges of GCC nationals. There is no better than a national to understand the culture and society. A judge's role is not limited to the application of the laws but also to their interpretation and implementation for the benefit of justice and fairness. Moreover, the lack of IP expertise in the judiciary and in legal representatives have a negative impact on infringement proceedings. The judiciary is the third source of law and hence, investing in a new generation of specialized and educated national judges is crucial for ensuring an effective enforcement system. The WIPO Academy can help GCC countries to develop and maintain long-term IP education and trainings for judges.
 - The judicial system should find practical and long-lasting solutions for the costly and time-consuming infringement litigations especially when combined by significant time delays in obtaining interim and final relief against infringers which discourage right holders from attempting to enforce their rights through the legal system.
 - Restructuring the judicial system including the establishment of specialized courts should be done after the formation of a core group of specialized and competent national judges.
- Creation of IP Unit within Customs
 - Each GCC country should have an IP Unit within the Customs similar to the units created by Saudi Arabia and the UAE.
 - The main task of the Customs Unit is to stop counterfeiting and piracy at the borders and to monitor the destruction of infringing goods and equipment used.
 - The Unit shall coordinate with IP offices on IP infringing cases; and help establish a common database between the Customs and national IP Offices on registered IP rights; cooperate with right holders and other stakeholders on counterfeiting and piracy; exchange experience with other IP Units and task forces at the national, regional and international levels.
 - The Unit officers should be trained by international specialized organizations (such as World Customs Organization, INTERPOL, Europol, European Anti-Fraud Office (OLAF)) on the best international and regional practices in enforcing IP rights.
- Capacity building of IP officers and enforcement bodies
 - GCC countries should build the capacity of IP officers to have a knowledgeable and competent IP administrative body capable of managing efficiently IP offices including performing IP operations and examinations using best international practices.
 - The police, customs, sworn IP officers, general attorneys, judges, municipalities' officers, and all enforcement bodies involved in IP matters should be trained on IP principles as enshrined in national laws and the value of and its socio-economic impact on the development of countries.

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- <https://www.worldtrademarkreview.com/anti-counterfeiting/procedures-and-strategies-anti-counterfeiting-saudi-arabia>
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Annex 1

Membership of GCC countries in IP Agreements/ Treaties

	BAHRAIN	KSA	KUWAIT	OMAN	QATAR	UAE
WIPO CONVENTIONS						
Beijing Treaty on Audiovisual Performances (2012)					April 28, 2020	April 28, 2020
Berne Convention for the Protection of Literary and Artistic Works (1886)	March 2, 1997	March 11, 2004	December 2, 2014	July 14, 1999	July 5, 2000	July 14, 2004
Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974)	May 1, 2007			March 18, 2008		
Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1967)						
Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh VIP Treaty 2013)		February 21, 2019			January 24, 2019	September 30, 2016
Nairobi Treaty on the Protection of the Olympic Symbol (1981)		Considering joining (Royal Decree on accession issued since 1985)		March 26, 1986	July 23, 1983	
Paris Convention for the Protection of Industrial Property (1883)	October 29, 1997	March 11, 2004	December 2, 2014	July 14, 1999	July 5, 2000	September 19, 1996
Patent Law Treaty (2000)	December 15, 2005	August 3, 2013		October 16, 2007		
Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (1971)		Considering joining				
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961)	January 18, 2006				September 23, 2017	January 14, 2005
Singapore Treaty on the Law of Trademarks (2006)						
Trademark Law Treaty (1994)	March 18, 2007			October 16, 2007		
Washington Treaty on Intellectual Property in Respect of Integrated Circuits (1989)						
WIPO Copyright Treaty (WCT) 1996	December 15, 2005	Considering joining	Act of accession sent to WIPO	September 20, 2005	October 28, 2005	July 14, 2004
WIPO Performances and Phonograms Treaty (WPPT) 1996	December 15, 2005	Considering joining	Act of accession sent to WIPO	September 20, 2005	October 28, 2005	June 9, 2005
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for	November 20, 2012	January 16, 2021		October 16, 2007	March 6, 2014	

	BAHRAIN	KSA	KUWAIT	OMAN	QATAR	UAE
the Purposes of Patent Procedure (1977)						
Hague Agreement Concerning the International Registration of Industrial Designs (1925)		Considering joining		March 4, 2009		
Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1979)				Sultani Decree No. 19/2021 issued for the accession to the Geneva Act.aa		
Madrid Agreement Concerning the International Registration of Marks (1891)						
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1981)	December 15, 2005	Considering joining	Considering joining (Letter sent to WIPO)	October 16, 2007		Considering joining
Patent Cooperation Treaty (PCT) 2001	March 18, 2007	August 3, 2013	September 9, 2016	October 26, 2001	August 3, 2011	March 10, 1999
Locarno Agreement Establishing an International Classification for Industrial Designs (1979)		December 3, 2020				
Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1979)	December 15, 2005	Royal Decree on accession issued. Waiting for Accession Act to be sent to WIPO				
Strasbourg Agreement Concerning the International Patent Classification (1979)		January 16, 2021				
Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (1985)		December 3, 2020				
OTHER CONVENTIONS						
TRIPS AGREEMENT	January 1, 1995	December 11, 2005	January 1, 1995	November 9, 2000	January 13, 1996	April 10, 1996
UPOV	June 9, 2005			November 22, 2009		
CBD	November 28, 1996	January 1, 2002	October 31, 2002	May 9, 1995	November 19, 1996	May 10, 2000
ABS		October 8, 2020	August 30, 2017	September 21, 2020	April 25, 2017	December 11, 2014

Annex 2

GCC IP Legislation

GCC Copyright legislation						
	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
Laws & Regulations	Law No. 22 of 2006 on the Protection of Copyright and Related Rights (as amended up to Law No. 5 of 2014)	Law No. 75 of 2019 on Copyright and Related Rights	Law on Copyright and Related Rights (promulgated by Royal Decree No. 65/2008)	Law No. 7 of 2002 on the Protection of Copyright and Related Rights	Copyright Law (promulgated by Royal Decree No. M/41 (August 30, 2003)) Implementing Regulations of Copyright Law (May 9, 2019))	Federal Law No. 7 of 2002 on Copyrights and Related Rights Ministerial Decision No. 133 of 2004 on Collective Management of Copyright and Related Rights Ministerial Decision No. 134 of 2004 on Compulsory Licensing of Copies or Translations of Works

GCC Trademarks legislation					
Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
<ul style="list-style-type: none"> Law No. 6 of 2014 on Approval of the Trademarks Law of the Gulf Cooperation Council States Decision No. 65 of 2016 on the Issuance of the Implementing Regulation of the Trade Mark Law of the Gulf Cooperation Council States (GCC), approved by Law No. 6 of 2014 	<ul style="list-style-type: none"> Law No. 13 of 2015 on the Approval of the Trademarks Law of the Cooperation Council for the Arab States of the Gulf 	<ul style="list-style-type: none"> Royal Decree No. 67/ 2008 on Industrial Property Rights. Royal Decree No. 33/2017 on Approval of the Trademarks Law of the Cooperation Council for the Arab States of the Gulf Regulation No. 105/2008 under the Law on Industrial Property Rights and Their Enforcement for the Sultanate of Oman 	<ul style="list-style-type: none"> Law No. 7 of 2014 on Approval of the Trademarks Law of the Gulf Cooperation Council States Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs 	<ul style="list-style-type: none"> Royal Decree No. M/51 of 26 Rajab 1435H (May 26, 2014) on Approval of the Trademarks Law of GCC States 	<ul style="list-style-type: none"> Federal Law No. 37 of 1992 on Trademarks as amended by Law No. 19 of 2000 and Law No. 9 of 2002. Federal Decree No. 52 of 2007, adopting the GCC Unified Trademark Law of 2013

GCC GIs Legislation	
Bahrain	Law No. 16 of 2006 amending Law No. 16 of 2004 on the Protection of Geographical Indications. Law No 6 of 2014 approving the GCC Trademark Law of 2013
Kuwait	Law No 13 of 2015 approving the GCC Unified Trademark Law of 2013
Oman	Royal Decree No. 67 of 2008 on Industrial Property Rights Ministerial Decision No. 105/ 2008 on the issuance of the implementing regulation of the Industrial Property Law.
Qatar	Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications and Industrial Designs Decree No. 7 of 2014, adopting the GCC Unified Trademark Law of 2013.
Saudi Arabia	Royal Decree No. M/51 of 2014 on the approval of the GCC Unified Trademark Law of 2013
UAE	Federal Law No. 37 of 1992 on Trademarks (as amended by Law No. 19 of 2000 and Law No. 8 of 2002)

GCC Patent Laws & Regulations					
Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
<ul style="list-style-type: none"> Legislative Decree No. 1/2004 on Patents and Utility Model 	Law No. 71 of 2013 ratifying the GCC	<ul style="list-style-type: none"> Law on Industrial Property Rights promulgated by the zz 	<ul style="list-style-type: none"> Law on Patents promulgated by Decree 	<ul style="list-style-type: none"> Law on Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs promulgated by Royal 	Federal Law No. 17 of 2002 on Regulating and Protecting Industrial

GCC Patent Laws & Regulations					
Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
<p>as amended by Law No. 14/2006</p> <ul style="list-style-type: none"> Legislative Decree No 12 of 2004 adopting the GCC Unified Patents Regulations in Bahrain 	<p>Unified Patents Regulations</p>	<ul style="list-style-type: none"> Implementing Regulation No. 105/2008 Ministerial Decision No. 14/ 2000 recognizing the GCC Unified Patents Regulations as the Patent Law of Oman. 	<p>Law No. 30 of 2006</p> <ul style="list-style-type: none"> Law No. 12 of 2003 adopting the GCC Unified Patents Regulations as the Patent Law of Qatar 	<p>Decree No. M/27 of July 17, 2004.</p> <ul style="list-style-type: none"> Royal Decree M/28 of 2001 recognizing the GCC Unified Patents Regulations Decision of the Council of Ministers No. 536 of July 3, 2018 (Implementing regulation) 	<p>Property for Patents, Designs and Industrial Drawings, as amended by Federal Law No. 31 of 2006 and the GCC Patent Law</p>

GCC industrial designs Laws & Regulations					
Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE
<p>Legislative Decree No. 6 of 2006 on Industrial Designs and Models</p> <p>Ministerial Order No. 1 of 2010 on the Issuance of the Implementing Regulation for the Law of Industrial Designs and Models No. 6 of 2006</p>	<p>Law No. 4 of 1962 on Patents, Designs and Industrial Models (as amended by Law No. 3 of 2001)</p>	<p>Law on Industrial Property Rights promulgated by Royal Decree No. 67/ 2008</p> <p>Implementing Regulation No. 105/2008</p> <p>Ministerial Decision No. 14/ 2000 recognizing the GCC Unified Patents Regulations as the Patent Law of Oman.</p>	<p>Law no. 10 of 2020 on the Protection of Industrial Designs on April 19, 2020</p> <p>which revoked Law No. 9 of 2002 on Trademarks, Trade Names, Geographical Indications, and Industrial Designs</p>	<p>Law on Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs promulgated by Royal Decree No. M/27 of July 17, 2004.</p> <p>Implementing Regulations of the Law of Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs (as amended up to Decision of the Board of Directors of Saudi Authority for the Intellectual Property No. 5/8/2019 of 04/09/1440H (May 9, 2019))</p>	<p>Federal Law No. 17 of 2002 on Regulating and Protecting Industrial Property for Patents, Designs and Industrial Drawings, as amended by Federal Law No. 31 of 2006 and the GCC Patent Law</p>