

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

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**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

**BAHRAIN**

The present document reproduces the text<sup>1</sup> of the Draft Law (2001) on Trade Secrets, which is under consideration by the competent authorities of the Bahrain Government, notified by Bahrain under Article 63.2 of the Agreement by means of a communication from its Delegation dated 28 November 2001.

**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**BAHREÏN**

Le présent document contient le texte<sup>1</sup> du projet de Loi de 2001 sur les secrets commerciaux, actuellement examiné par les autorités compétentes du gouvernement bahreïnite et notifié par Bahreïn au titre de l'article 63:2 de l'Accord dans une communication de sa délégation datée du 28 novembre 2001.

**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**BAHREIN**

En el presente documento se reproduce el texto<sup>1</sup> del proyecto de Ley de Secretos Comerciales de 2001, que está siendo examinado por las autoridades competentes del Gobierno y que Bahrein ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo mediante una comunicación de su Delegación de fecha 28 de noviembre de 2001.

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<sup>1</sup> In English only./En anglais seulement./En inglés solamente.

**DRAFT LAW NO. ---- (2001)**

**ON TRADE SECRETS**

**Article 1**

Disclosure of trade secrets, in a manner contrary to honest commercial practices, by any natural person or legal entity shall be prohibited, including:

- (a) information considered as secret if it is , as a body or in its precise comoponents, unknown or circulated among or readily accessible to persons who deal normally with the kind of information in question;
- (b) information that has commercial value because it is secret;
- (c) information that has been subject to reasonable steps under the circumstances by the rightful holder to keep it secret.

**Article 2**

The prohibition on disclosure of trade secrets referred to in the preceding Article shall extend to undisclosed tests or data the origination of which involves a considerable effort, and which have been submitted to the competent authorities for the purpose of obtaining approval for marketing of pharmaceutical or of agricultural chemical products which utilise new chemicals entities.

The competent authorities which receive such tests or data shall protect them against disclosure as from the date they are received until they are no longer secret, and shall prohibit their unfair commercial use by preventing any third party not having the consent of the person who submitted them from relying on such data or tests in the marketing of similar drugs or products for 5 years following the date of marketing approval of the drugs or products in Bahrain.

Disclosure of the tests or data by the competent authorities shall only be made where necessary to protect the public or unless the necessary steps are taken to ensure that the data are protected against unfair commercial use.

### **Article 3**

The holder of rights in trade secrets shall be entitled to prevent third parties from infringing such rights by any acts which are contrary to honest commercial practices.

The right holder - or his successor in title - may dispose of trade secrets to others with or without compensation.

### **Article 4**

For the purposes of this Law, performance of any of the following acts, in particular, shall be considered contrary to honest commercial practices:

- a. Disclosure of secret information acquired by a party to a “confidential agreement.
- b. Disclosure, or inducement to disclose, secret information in breach of a duty of trust.
- c. Misappropriation of information by unlawful means including fraud, espionage, theft or other improper means.
- d. Acquiring trade secrets from another person while knowing – or being capable of knowing – that such other person has acquired the trade secrets by committing one of the acts specified in the above items.

### **Article 5**

Officials designated by the Minister of Commerce and Industry to ascertain the implementation of the provisions of this Law as well as decisions issued for the purposes of its implementation, shall have the capacity to enter the concerned establishments.

Such officials shall have the authority to control infringements, establish the necessary official reports and refer them to the general prosecutor.

## Article 6

(a) The President of the competent court may, upon demand from the interested person or pursuant to an order concerning a request, order one or more of the following measures and any other appropriate provisional measures in case of, or to prevent, infringement of any right provided for under this Law:

1. Preserving the evidence and establishing an official record and a detailed description of goods and products, including imported articles upon their arrival, as well as machines and tools used for that purpose; and safeguarding the relevant evidence, where necessary;

2. undertaking provisional seizure of the objects referred to in the preceding paragraph.

3. Order the infringement to cease or prevent it from taking place.

(b) The request shall be accompanied with sufficient evidence proving that the applicant is the right holder and that such right is, or is likely to be, subject to infringement.

The President of the court may require from the applicant to provide the necessary information to assist the authorities responsible for implementing the provisional measure in determining the relevant goods.

(c) The President of the court may, as appropriate, issue the said order urgently without summoning the other party - where any delay in issuing such order is likely to cause irrecoverable damage to the applicant or result in the destruction of evidence - provided that the other party is notified upon issuing that order. This order establishing any such measures may include the designation of one or more experts to assist in implementation and prescribe the deposit of an appropriate bank or money bail for the safeguard against any unfair prejudice deriving from the procedure. The person against whom the order is issued may file an appeal with the competent court within ten days from the date on which the order is issued or on which he is notified, as the case may be. In such case, the court may confirm the order or reject it in full or in part.

(d) The case concerning the substance of the conflict shall be initiated within 15 days from the date on which the order is issued, otherwise the measure taken shall be void.

### **Article 7**

Without prejudice to any more severe sanction provided for under any other Law, any person who, in an unlawful manner, discloses, acquires or uses trade secrets protected under this Law while knowing that they are considered as secret and acquired in that same manner, shall be punishable by imprisonment for a period of at least three months and not exceeding one year and by a fine of at least 500 Dinars and not exceeding 2000 Dinars or by either one.

The court may prescribe the publication of the order in one or more issues of a daily newspaper at the expense of the party against whom the decision is taken.

In case of a second offence, infringement shall be punishable by imprisonment for a period of at least six months and not exceeding two years and a fine of at least 500 Dinars and not exceeding 4000 Dinars or by either one, together with the closure of the commercial establishment or business or the cease of the activity, as the case may be, for a period of at least 15 days and not exceeding six months. Such order shall be published in one or more issues of a daily newspaper at the expense of the party against whom the decision is taken.

In case of conviction, the court may order the seizure or destruction of the products or goods obtained from the offence, including imported articles upon their arrival, as well as the machines and tools used for that purpose.

In case of discharge, the court may order the seizure or destruction of the objects referred to in the preceding paragraph if they have caused any damage or been used to infringe the rights of the right holder.

The General Prosecutor shall initiate sanctions on the offences referred to in this Article

### **Article 8**

The Minister of Commerce and Industry shall promulgate the Regulations and Decisions necessary for the implementation of this Law.

### **Article 9**

Ministers shall, each within their capacity, implement this Law upon its publication in the Official Gazette.

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