



SINER-GI project

Budapest Regional meeting

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Case Studies presentations

Basmati: from plant variety to

Geographical Indication,

Overview of the legal aspects

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Protection Schemes

- ❑ India is not member of Lisbon Agreement
- ❑ Bases for enactment of the GI Act are the TRIPs Agreement: only trade objectives
- ❑ Statement of Objects and Reasons as appended to GI Act: ‘exclusion of unauthorized persons from misusing geographical indications would serve to protect consumers from deception, add to the economic prosperity of the producer of such goods and also to promote goods bearing Indian geographical indications in the export market”

Indian GI Act

- The Geographical Indications of Goods Act, 1999 (48 of 1999)
- The geographical Indications of Goods (Registration and Protection) Rules, 2002
- Entry into force: 15 sept 2003
- Oct 07: 96 applications, 40 granted, 13 oppositions
- Textiles, handicrafts, agro-food products

Cultural Arguments

Statement by Ministry of Commerce, nov 05:

- ☐ Matter of National Pride – Cultural Patrimony
- ☐ Protection of Reputation, Goodwill
- ☐ Protection of Quality
- ☐ Protection of the ‘Original’ Product
- ☐ Advances in Plant Breeding and Biotechnology
- ☐ Protection of Traditional Knowledge

Basmati

- ❑ Misuse in the US, UK
- ❑ Protection of Basmati plant varieties
- ❑ Preferential export duty to Europe
- ❑ Increase of export to Europe
- ❑ Difficulties of GI protection at national level in India and Pakistan Towards a GI in India and Pakistan?

EXPORT QUALITY

VISIT THE A

Shayra Pain Oil

...the ...

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જાણીતી અને અસાધ્ય રોગોના નિદાન અને સારવાર માટે સર્વશ્રેષ્ઠ સેવાઓ આપવાના હેતુએ આ હોસ્પિટલની સ્થાપના કરવામાં આવી છે.



Pre

PICKLES, MUR

DAA

BASMA

Pain Oil



Pain Oil

करेला कल्प
आपका संकल्प और करेला कल्प
करेगा शुगर की बेहतर रोकथाम
★ 24 जड़ी-बुटियों का अमूल्य मिश्रण
★ मूत्र व खून में शर्करा को नियंत्रित करें
★ मधुमेह की कमजोरी का निवारण करें।

अश्वगंधा पाक
जोड़ो का दर्द, घु
कमर दर्द, धारी
15-20 साल
में अत्यन्त
बेहतर परिणाम के लिए
अश्वगंधा पाक का सा

Basmati as plant variety:
from traditional varieties
to evolved varieties

Definition of Basmati for Indian market: ministry of Agriculture

- ❑ Ministry Agriculture: Seed Act, 1966
- ❑ One parent shall be traditional variety or landrace variety to be called Basmati
- ❑ 11 Basmati varieties notified: Basmati 370, Basmati 386, Type 3, Taraori Basmati (HBC-19), Basmati 217, Ranbir Basmati (IET-11348), Pusa Basmati- I (IET-10364), Punjab Basmati-1 (Bauni Basmati), Haryana Basmati 1-(HKR228/IET-10367), Kasturi IET-8580 and Mahi Sugandha.

Definition of Basmati as seed in Pakistan

- ❑ Seed Act, 1976, provides mechanism for controlling and regulating the quality of seeds of various crop varieties by "Federal Seed Certification and Registration Department (FSC & RD)" which works under the Ministry of Food, Agriculture and Livestock
- ❑ The Basmati Rice Varieties e.g BAS370, BAS385 ect. are registered under Seed Act 1976

Definition of Basmati for export

Indian Ministry of Commerce

- ❑ Huge increase of export of Basmati from India: development of trade
- ❑ 1990 : for the first time mandatory control and inspection prior to export, recognises the national standards of importing countries, the contractual specifications between the foreign buyer and the exporter
- ❑ "Basmati Rice" shall mean Basmati Raw Milled Rice, parboiled Rice and Dehusked and unpolished (Brown) Basmati Rice, produced in India.

Definition of Basmati by EU

- ❑ Exempting Basmati from India and Pakistan of duty since 1996, due to high quality of Basmati
- ❑ 1996: for husk brown rice, parboiled, length grain a length/width ratio equal to/greater than 3
- ❑ irrespective of whether it is a traditional 'pure line' or a crossed hybrid variety containing only one true-line parent.
- ❑ Later 96: "Basmati rice originating in India and Basmati rice of the varieties 'Kernel Basmati' and 'Super Basmati'

Change of paradigm in the 2000's

- ❑ 2000: importance of defining more precisely what is Basmati to protect it from misuse as occurred in the case of the Basmati Affair against Rice Tech
- ❑ Min agriculture: “traditional varieties fetch better price in the international market and should be distinguished from the evolved varieties according to product parentage criterion”.
- ❑ The Ministry of Commerce and Industry, proposes to use DNA fingerprint method as well as audit trail from farm to consumer.

India 2003

difference between traditional and evolved varieties

- ❑ Same list of 11 varieties as before with distinction between traditional and evolved
- ❑ Traditional varieties: Basmati 370, Basmati 386, Type 3, Taraori Basmati (HBC-19), Basmati 217, Ranbir Basmati (IET-11348)
- ❑ Evolved varieties: Pusa Basmati- I (IET-10364), Punjab Basmati-1(Bauni Basmati), Haryana Basmati 1-(HKR228/IET-10367), Kasturi IET-8580 and Mahi Sugandha.

Same trend in EU: only traditional varieties

- ❑ fight against blend of high quality Basmati which are the traditional varieties with other varieties or non Basmati rice varieties: frauds are massive: amendment of the conditions of exemption of duty by (EC) No 2294/2003
- ❑ Only the traditional varieties as defined by India and in for Pakistan : Evolved varieties Super Basmati and Pusa have been removed: only exemption to the best quality of Basmati
- ❑ exemption is without any restriction on quantity, as it is understood that the quantity will be always limited, due to the low yield of traditional Basmati varieties.
- ❑ 2004: claw back of Super from Pakistan and Pusa from India

India : Extraordinary rush to the evolved varieties for export

- ❑ 2006: notification by Ministry of Commerce of Super Basmati: parental line are Basmati 320 and IRRI 662: conflict with Pakistan and it is not supported by Ministry of Agriculture because of doubtful parentage
- ❑ 2007: notification of Basmati 320 by Ministry of commerce
- ❑ July 2007: notification of Improved Pusa Basmati-1 by Ministry of Agriculture
- ❑ September 2007: Ministry of Agriculture itself expands the definition of Basmati and proposed to remove the bar of having one of the two parents from among the traditional basmati varieties: includes in the family history (genealogy), a Basmati variety (Traditional or evolved) notified under Seed Act 1966: to help poor farmers

From plant varieties to GI: possible
definition of Geographical Area and
its link with the quality of Basmati

Which geographical area

- ❑ India : S.O. 68 of 2003 defines Basmati as rice grown in the Indo Gangetic plains, without more details
- ❑ Europe, when in 2003, the conditions of exemption of duty were amended as to limit the varieties eligible to only the traditional ones as they are of best quality, mention was made of the geographical area of production:
- ❑ Indian and Pakistani specific areas of the Indo-Gangetic Plains: Punjab, Haryana, Uttaranchal and Western Uttar Pradesh
- ❑ 2004: Commission Regulation (EC) No 1549/2004 Basmati rice is produced in certain geographical areas but does not specify anymore the area.

Welcome of GI registration in EU

- 2004: The novelty is the provision that “India will protect Basmati rice as a geographical indication and that the EC would welcome an application for protection as a geographical indication of Basmati rice under (EEC) No 2081/92 ... The EC shall process any such application as expeditiously as possible...”

Indian GI Application for Basmati

- ❑ 2003: Ministry of commerce was asked to file a GI application by Indian Government as GI Act came into force
- ❑ 2004: application at the GI registry by NGO « The Heritage »
- ❑ Examination by Consultative group
- ❑ New application was filed with list of varieties notified before 2006 (trad and evolved)
- ❑ Geographical area defined
- ❑ But application still not advertised ...because of necessity to go for joint application?

Pakistani

GI Application for Basmati

- ❑ 2005: GI Basmati application as a collective Mark under Section 82 of the Trade Marks Ordinance, 2001, no progress
- ❑ The Definition of GI in the regulation is exactly the definition of the Indian Act and not the Pakistani's trade mark Act one
- ❑ Geographical area is defined as the indo-gangetic plains referring to several districts of the Punjab
- ❑ Basmati shall bear at least one parent of an historical landrace basmati variety and is historically being cultivated in the areas which presently consist of several districts of the Punjab. Thus the Varieties claimed are Basmati 370, Basmati Pak (Kernel), Basmati 198, Basmati 385, Super Basmati, Basmati 2000, Shaheen Basmati.

Common GI between India and Pakistan

- ❑ Share of the geographical area between India and Pakistan as it was a single nation before partition in 1947
- ❑ EU suggested a joint action between India and Pakistan
- ❑ 2005 : creation of a Joint Study Group
- ❑ But since that first meeting, nothing happened concretely

Conclusion

- ❑ Huge increase of demand for export
- ❑ Conflict between increasing demand and quality requirements : evolved varieties vs traditional varieties
- ❑ If evolved varieties, it can be cultivated anywhere in the world (see evolved varieties from Rice Tech in Texas)
- ❑ but yet policy is on notification of new varieties and not on GI protection

Conclusion

- ❑ Protection of Basmati is to gain quick access to market: only trade issues protection of consumer but on the ground of the definition of variety and not GI: faster and easier to track with DNA
- ❑ No attention to the link with place of origin: no rural development in region of production and risk of delocalisation
- ❑ No attention to preservation of traditional varieties: risk of loss of biological diversity to meet the demand of the market

Conclusion

- ❑ Different approach in India and EU in the 21st century due to implementation of GIs at different period: mainly trade objectives
- ❑ What about the objectives of GI to preserve biodiversity and cultural diversity, which was the ground in the battle against RiceTec
- ❑ What about long term scenario: if quality is lost, no more market...