

Geographical Indications: A tool for Economic, Social and Cultural Development

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IP Trends and Challenges

➤ **Globalization of IP issues**

- All economic sectors are concerned/involved by IP
- New stakeholders (emerging economies, Friends of Development, developing countries)
- Development agenda

➤ **Politicization of IP issues**

➤ **Marketing of IP issues (trade related..)**

- Impact of WTO negotiations

➤ **Consumerism**

- Involvement of civil society and consumers in IP debate

➤ **Limits of Multilateralism**

- Anti-harmonization , anti IP groups
- Bilateral agreements and FTAs

➤ **Emergence of multiple IP providers**

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GIs and International Trade

- ☞ Globalization of international trade and increased mobility of goods has led to:
 - Increased potential for confusion as to the origin of the products
 - Increased potential for deliberate free-riding on the reputation of a product
 - Need for a better reliability of trade sources to ensure that goods can be traced back to their producers

Geographical Indications at WIPO

- GIs Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT)
- Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration
- Unified Dispute Resolution Procedure (UDRP) for domain names
- Economic Development Sector (EDS)

GIs in the Economic Development Sector

☞ Activities

- Awareness raising and information seminars
- Legislative advice
- Fact-finding missions and study visits

☞ Cooperation

- Intergovernmental organizations (WTO, EPO /ECAP, OAPI ..), NGOs (Origin,
- Member States



GIs: a Tool for Development?

- ☞ GIs from a non legal and political perspective
- ☞ Genesis of the of the GI system
 - Born from a crisis as a social policy instrument
 - “Rights of the poor and deprived”
- ☞ Agricultural products: main resource of DC
- ☞ GIs: an IP right out of the North-South divide
- ☞ GIs: The magic tool for developing countries?

National Branding Strategies

☞ Globalization and Nationalism

- National identity
- Nation branding
 - ◆ Tourism, handicrafts, agro and mining products

☞ Indications of source reinvigorated?

- “One village, One product” (OTOP)
- Collective and certification marks
 - ◆ “Grown in ...” for agricultural products
 - ◆ “Made in ..” for handicraft products

Geographical Indications from a Development Perspective



GIs from a Development Perspective

- ☞ Rural policies
- ☞ Agricultural policies
- ☞ Protection of the biological diversity (*In situ* concervation)
- ☞ Protection of traditional knowledge and practices
- ☞ Producers
- ☞ Consumers as new stakeholders



GIs and the Place of Origin

- ☞ Contribute towards rural development
- ☞ Maintain qualified population in deprived areas
- ☞ Encourage agricultural diversification
- ☞ Preserve bio-diversity
- ☞ Combat desertification
- ☞ Preserve local know-how and natural resources
- ☞ Attract and develop eco and cultural tourism

GIs as a Rural Development

Instrument : *Reinvigorating the “old rural economy”*

- Presumption of a strong commercial potential for goods coming from the rural, agricultural and handicraft sectors of the economy
- Transformation of rural areas from places of production to places of consumption
- Focus on the development of local institutions and entrepreneurial capacity rather than maintaining centrally managed subsidies for a fixed set of traditional activities
- Need to improve partnerships among different levels of government

GIs and Agricultural Policies

- To promote, in a rural development context, the diversification of agricultural production
- To respond to the increasing pressure to reduce taxpayers subsidies given to farmers
- To have a better control of the informal economy (handicrafts, agro-products)
- To create a more diversified profit-oriented agriculture
- To encourage producers to abandon commodity production in favor of high quality, high value products associated with geographical location

GIs and the Environment

- ☞ In zones with low rainfall, mountains, forests, etc., products such as viticulture, olives, cheese, handicrafts, etc., to which there are few real alternatives, plays a fundamental role
 - in preventing rural depopulation and the desertification of the territory
 - in contributing to the protection of landscape and the environment and
 - the preservation of wildlife and the maintainance of the biodiversity



GIs and Local Communities

(notably Indigenous People)

- ☞ Identified as one of the more suitable mechanism for the protection of traditional knowledge (based on human/natural factors)
- ☞ Rights preserved collectively
- ☞ Rights protected indefinitely, Low cost
- ☞ No institution (firm or indiv.) exercises an exclusive monopoly control over the knowledge information embedded in the protected indication

GIs and the Consumers

- Growth of niche markets segments for high quality and healthy products (“fair trade, organic, bio, authentic,” etc.)
- Consumers are willing to pay a premium for higher quality and differentiated products
- Food security considerations (Tracability)
- Examples:
 - High quality corn-fed beef slaughtered in the US corn belt in high demand in Japan (Iowa-80 Beef)
 - Demand for non commodity US cheeses identified with particular regions is growing
 - East Asia demand for Japanese products such as Matsuzaka Beef, Yatsushiro Kumamoto cherry tomatoes, Tochiotome strawberries

GIs and the Producers

- Enhance protection and avoid economic damages from illegitimate users
- Promote development of high quality value added food products
- Increase market access opportunities
- Strategize SMEs exports on a good marketing tool
- Allow better redistribution of the added value in the production chain



Geographical Indications: A Challenge for Developing Countries ?



Challenges for Developing Countries

- ☞ Understand the issue
- ☞ Adopt a system of protection
- ☞ Identify the products
- ☞ Organize the producers
- ☞ Promote the GIs products
- ☞ Protect the indication (against genericization or usurpation)
- ☞ Enforcement



Understanding the Issue

- A new topic for many countries
- A number of existing systems of protection
- A number of international conventions (Paris, Madrid, Lisbon, TRIPS)
- Different terminology (appellation/designation) and concepts (Codex alimentarius, marketing orders, ..)
- A politicized debate (WTO, WIPO, Mb. States)
- Decisions (political or judicial on some cases)
- Multiple “geo labels”
- TRIPS “flexibilities” and open questions

Open Questions

- What can be an indication: Names, symbols, ... traditional expressions?
- Are the elements of the definition alternative or cumulative?
- Shall the production, the processing and the preparation take place in the defined area?
- What size can be the place of origin (a tiny vineyard to .. an entire country)?

Adopting a System of Protection

☞ 3 situations:

- No preexisting specific GI legislation
- Legislation inherited from or inspired from..
- Trademark legislation

☞ WIPO legislative advice

- WIPO Model Law
- Not “One size fits all”

☞ Two steps approach

- Securing the GI under the existing system
- Adopting a system of protection



Scope of the GI Legislation

- Wine and spirits
- Agricultural products
- Non agricultural products
- Handicrafts
- Textile and handloom products
- Mine products ..



Identification of the Products

- ☞ All the products cannot be protected as GIs
- ☞ Other means of protection/marketing exist for origin products (collective or certification marks, unfair competition..)
- ☞ Selection of the products
- ☞ Drafting the specifications



Determination of the Indication to protect

☞ Difficulties

- when the indication is not obvious (lack of reputation, no “geographical” name, etc ..)
- when the indication is considered generic in a number of foreign countries (to add a geographical identifier?)
- when there are homonymous GIs in others countries
- when the indication relates to a plant variety or an animal breed as such

Organization of the producers

☞ Difficulties

- to organize the producers in a collective structure
- to set up a control authority
- to involve all the stakeholders (farmers, processors, traders, exporters, etc ..)
- to determine the tutorship body (IP office, Ministry of agriculture, culture/handicraft..) and the registration body

Problems for the Producers

- ☞ Costs of the procedure
- ☞ Delimitation of the area
- ☞ Minimum/maximum quantities required to benefit from the IGP
- ☞ Difficulties to respect the specifications
- ☞ Lack of financing
- ☞ Lack of accompanying measures to help the producers to meet the specifications conditions

Promotion and Marketing of the Products

- ☞ Important need for advice in developing countries
 - Explaining the market circuits,
 - Explaining the GIs system and its advantages
- ☞ Experts (producers) visits in the field
- ☞ Producers “partnerships” (Origin)

Protecting the GIs

- ☞ To avoid “genericization” and “prior” rights registration
 - Principle: A right cannot be protected abroad if it is not registered first in the country of origin
 - Protection of the indication should be made through the available system of protection
- ☞ To avoid cybersquatting
- ☞ To fight imitations and counterfeiting (usurpation of the name)

Geographical Indications: What Steps developing countries should take?



Steps

- Drafting and adoption of a GI legislation
- Identification of the product(s)
- Organization of the producers in a collective structure
- Drafting of the product specifications
- Drafting of the application for registration
- Application for protection in foreign countries
- Enforcement

Thank You

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