



## **The definition and the implementation of a system of Geographical Indications in an economy in transition, the case of China**

**Examples of the tea of Longjing, the ham of Jinghua, and the Shaoxin yellow wine**

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Plan of the presentation

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## **1. Problématiques: définition**

The objective of my PhD is to study through the example of the implementation of the Geographical Indications system, the mechanisms of reforms and the institutional changes that influence the economic and political transition in China since the middle of the 80s.

Looking at the evolution of the Geographical Indication system is a very good example to illustrate the context of the transition from a planned economy towards a market economy.

Correlated with the intensification of trade, the arrival of new products has affected the confidence of the consumers. In the purpose to reassure and better inform on the origin and quality of the products, some identification marks of quality and origin are created which bring to the consumers some of the reference that help them to make their choice.

The Geographical indication (GI) of the foodstuffs is an important asset of the agricultural policy, in addition to protect the consumers interests, this promotion of quality is also an essential tool in the rural development policy and to protect the know-how.

The regulations concerning GI systems are not the same in all the countries around the world. They particularly differ according to the cultures and traditions.

They are implemented and controlled by several actors who intervene at different levels: the State, the local authorities, the producers associations. They must however be classified among the category of the intellectual properties and are covered by regulations established by international institutions such as the WTO.

When China acceded to WTO in December 2001, the government was forced to speed up the reforms and to modernize the institutions to be able to answer the criteria required by the international organization, particularly in terms of agricultural policy. China must now adapt to a competitive market and meet the international standards of quality. The stake is crucial because it involves the future of the 800 million Chinese peasants (60% of the population) and the success of the rural development in China, probably one of the key factor to preserve the social stability in the country.

## **2. Theoretical framework and choice of the concepts**

- Analysing the institutions in the context of the economic transition:

China starts its economic reforms at the beginning of the Eighties. For almost thirty years, the country is under a very strong economic development and an exceptional growth. The reforms and the post-socialism transformation represented a unique historical opportunity of organisational, institutional and systemic change in this country. This unfinished experiment constituted a considerable challenge for the orientation and the interpretation of a process of economic and social transformation without precedent. This is a particular case of interest for the theorists of both orthodoxies and heterodoxies opinions.

The large international organizations, whose role will appear essential in the orientation of the policies of transformation, represent some essential vectors of the neo-liberalism. They have inspired the "Washington consensus" which advocates stabilization, liberalization and privatization (B. Chavance, 2004).

The WTO objective concerning the agricultural market is to reach a liberal and equal exchanges system. Since China joined the WTO, from one side, the Chinese market must now comply with the international rules, but on the other side, one cannot neglect the real situation of the country. Therefore, to have the most complete results of the institutional analysis, it is necessary to analyze through social, economic, legal and political aspects.

The analysis of the Geographical Indications falls under questions much vaster, that we will not treat in details, but which we cannot be unaware such as: Which measures must be taken to open the market? Which level of liberalization has to reach the domestic market and the external market? What is the role of the State in these processes?

- Sustainable development of the rural areas:

The agricultural policy cannot be designed as an isolated policy but must be integrated in a global rural development concept. This step must make it possible to preserve a profitable economic activity in some often marginalized zones which cannot assume on their own, the challenge of the international competition. Nowadays, food quality is not only the aptitude for nourishing well the man and the animal, it is often attached to the concepts of localization, of local inheritance, of ecological and human requirements, and regionalism (C. Pivot 1998). The concept of quality in the context of the rural development becomes the pivot of economic and cultural changes to implement (B. Hervieu 1993).

There are 800 millions of Chinese who live in the countryside, which accounts for approximately 60% of the total population. In order to help the farmers to defend their interests and to adapt to the international competing environment, the Chinese State decided to develop at the same time both quantitative and qualitative agriculture (G. Wang, 2005). The introduction of the signs of quality policy is one way to support the development of the rural zones and to protect the knowledge.

## **3. Assumptions**

3-1. The paramount role of the endogenous factors in the evolution of the institutions of a country

-1. Definition of the formal and informal institutions (D. North, 1981, 1990, B. Chavance, 2001, 2007). Definition of the Chinese institution.

The emergence of new institutions often occur after crises or conflicts. It is carried out within the framework of the State-nation, insofar as the political sphere remains the essential place of the formation and the legitimization of the understood concepts (B. Chavance, 2007. P.85). Indeed, the influence or the importation of foreign institutions or forms of organization is not necessarily linked with the national configuration, it is a process of institutional or organisational hybridization (R. Boyer, 2004b, P. 197)

-2. The Chinese institutions are influenced by the supranational institutions

-3. The Chinese institutions are internally influenced:

- internal factors: the definition

-endogenous factors: the definition

-endogenous institutions

-4. Path dependence and locking system

3-2. Does the existence of costs of transaction have an influence on the political institutions? How to deal with?

When looking at the costs of transaction, it gives us a framework of analysis to explain the Chinese political situation. For example, one can analyze how the Party manages its bureaucratic organization as well as the domination of the central level towards the local levels.

Wilson (1989) puts a question about the theory of the costs of transaction: why some public services must be provided by the public sector rather than by the private sector?

3-3. How to overcome political opportunism?

Many kinds of opportunisms exist in the market economy. these opportunisms also appear in the market policy. The theory of the costs of transaction provides a theoretical framework of analysis. With this theory, it is possible to understand how opportunisms influence the economic and political institutions.

3-4. Is it possible to estimate the effectiveness of the market policies? (D.North, 1990, A. Dixit, 1996)

3-5. By the political analysis on the costs of transaction, (compared to the analysis of the costs of political transaction)

-1. We may understand why there are so many actions of political opportunism

-2. Is the competition in politics able to force to establish new political systems to lower the costs of transaction?

3-6. Legislation externality

-1. Externality of implementation of the law at local level

-2. Externality of application in the public administrations:

- Is there free exchange between the provinces?

- How to make so that the externalized economic laws become internalized?

3-7. The question of local protectionism is also related to the idea of the rural development: the dual structure (rural world and urban world) and the economic

development. Is it possible to change this structure from the dualism type towards the monism?

-1. Some of the factors which slow down the modernity of agriculture in China are mainly some policies which prevent advances of new technologies and the changes of the institutions. As a consequence, we can note a recession in the development of the agriculture that increases the gap of incomes between cities and campaigns.

-2. The insufficient investment in the agricultural sectors involves less technological means and therefore, the potential capacity of the productivity cannot be transferred in reality.

The industrial policies force to a strong development of the capital, thus technologies absorb little additional labour from the countryside.

Moreover, another cause difficult to neglect is that the local governments (district, commune, village) request too many loads from the peasants.

3-8. Is it possible to use the concept of “right of ownership” to help the rural development?

#### 4. Field data analysis

Our first field investigation has been just completed, it proceeded over a three weeks period from 08 to 26 May 2008. The results of this investigation are still being analysed but we can already take some interesting points out of them.

We choose to study three GI products to help us to better understand the GI system in China works. These products are the Shaoxin yellow wine, the Jinghua ham and the longjing tea. These are three famous products which are located in the south of the country in the Zhejiang province. The capital town of this area is Hangzhou.

First, I will make a rapid presentation about the situation of the protection of GI products in China.

Currently, in China, there is a duality of the methods to protect products GI:

Public Office	Means of protection	Level of protection	Date for the Beginning of protection	Type of protected product
AQSIQ <sup>1</sup>	System especially reserved for GI products	According to the decree n° 78 published by the AQSIQ	1995	Foodstuffs, alcohols...
SAIC <sup>2</sup>	Marks registration	According to the marks law	1993, IG is protected by the denominations “certification mark” or “collective mark”	Fruits, teas, alcohols, mineral products, porcelain

<sup>1</sup> AQSIQ : General administration of quality supervision, Inspection and Quarantine

<sup>2</sup> SAIC : State Administration of Industry and Commerce

From 1995 to 2006, there are around 600 requests for registration of GI products in SAIC. Among them, 32 are products of foreign origin and 171 products are protected in addition by a denomination “certification mark” or “collective marks”<sup>3</sup>. In 2004, more than 300 GI were registered in AQSIQ.

After three weeks of field work, we have been able to collect many information and data base. We met some representatives of the AQSIQ and SAIC administrative offices and also we got some opportunities for direct discussions with the producers, the transformers and the distributors.

Following some of the first impressions after this trip to China:

> There are two systems which cohabit to protect GI's. AQSIQ is in charge of the protection system application by the mean of decree. SAIQ uses the marks laws to promote GI which is then registered as a certification mark or a collective mark.

It is often difficult for the applicants to distinguish the differences between these two offices from the criteria of protection, the contents and the application of protection. Often, several products have a double recording in both offices. Sometimes, can even appear some situations of dissensions, even of conflict between these two systems and the two administrative offices. These questions must then be brought to the court after long years of procedures.

> China decided to reform the GI system to reach the WTO criteria, but also in the purpose to support the producers as well as the rural development. It seems however that the producers and the consumers are not really aware of what exactly a GI represents. They find more an interest to position on the market. Associations of producers are not really involved in the definition of the GI criteria. The administration will define these criteria and its role is much more convenient than that of associations when those exist.

> For the industrials, getting a GI label is a supplementary factor which guarantee protection but that is not an essential criterion for the success of their product. To guarantee the GI protection on market, the producers are tempted to get a monopoly and prevent competition. They are not always aware investing in technological innovations may ensure their future development.

> The steps to control Hygiene and respect health safety regulations are still weak. Many GI products do not reach yet the criteria of the international health standards.

> Sometimes when a GI has been created, the protection systems are not complete and the regulations are poorly applied.

> More generally, GI label helped to support the organization on the market, often the partnership between the companies and producers makes it possible to fully use the resource provided by the GI. The product is sold at higher price than a standard product and the producers have an absolute advantage for international competitiveness.

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<sup>3</sup> source: <http://sbj.saic.gov.cn/exHTML/dlbznew.htm>.

The support of the local government is very important matter. A lot of GI product are very little developed because of the lack of management and organization on the regional scale.

## **Preliminary analysis of the three study cases**

### 1) Longjing Tea (Well of the dragon)

#### ► Protection zone delimitation

The “Longjing tea” is a green tea of great quality and with a historical reputation recognized for 1000 years. The tea is cultivated on the “Western lake” in the province of Zhejiang, south-east of China. The original production zone is located around the lake “Xihu” (“Western” lake) in the commune of “Xihu”. This case analysis shows the importance to define the zone of protection of the product.

At the beginning of the Eighties, when the country starts the economic reforms, the local representatives of the ministry for agriculture assisted the producers to popularize the Longjing tea. They facilitated the development of plantation and popularized the techniques of production. The zone of production then extended to all the Zhejiang province and even beyond while the name “Longjing tea” was popularized. At the beginning of the 90’s, the local government decided to enforce a double price system to distinguish between the tea from the original production zone from that produced elsewhere. This last was cheaper than the true “Longjing tea”. As a consequence, the original product was facing a very strong price competition and counterfeiting. This results in a serious crisis. In such a situation, it was a crucial question to better define the production area. Some conflicts appear which opposes the representatives of the local government of Hangzhou and the provincial government of Zhejiang. In Hangzhou, they thought that the origin “Xihu” should define the zone of protection which is voluntarily limited to advantage the local producers and to preserve the reputation of the true “Longjing tea”. The regional government of the Zhejiang province argues that since the production of “Zhejiang Longjing tea” is already extended to the province area; the quantity of “zhejiang longjing tea” produced made it possible to supplement the request on the market for the “Xihu Longjing tea”. The quality is almost equivalent. The difference results in a lower price for “Zhejiang Longjing” which would make it possible to the consumers to distinguish to the original. Therefore, they claim the protection zone should cover the whole province. At the same time, appears all over China, some “Longjing teas” associated with the names of other provinces. The name almost became generic and representing more a variety of green tea with green and flat leaves.

For the consumers, all the various names remain difficult to distinguish and for producers, the tendency was to rather indicate by “Longjing” a variety of green tea than a true culture respecting the origin and some original practices.

Looking after the situation, the ministry for the agriculture of Zhejiang province and the AQSIQ office of Zhejiang province published together an official statement in 2003.

When recently meeting with the local representatives of these administrations, we have been explained that they finally defined three zones of production, Xihu Zone (168 kilometers, and 900 hectares) Qiantang Zone and Yuezhou Zone which are

authorized to use the official GI label “Longjing Tea”. As the Xihu Zone is the original source of production, AQSIQ exceptionally authorized a particular GI protection for the tea produced in this zone with the name “Xihu Longjing Tea”.

These regulations seem to be well respected since. The results was to eliminate forgery and thus prevent the Longjing tea to become a generic term representing a variety.

In this case, the point is to guarantee additional protections to fight against the forgery and provide more protection to the label and more rights to the producers.

This shows that for China, a country undergoing economic change, despite GI's belong to the category of the intellectual properties, it is more complicated to protect than patents, marks. The definition of the GI protection zone is strongly dependent with politics and economics and also with the historical context of each product.

## 2) The Jinhua Ham

### ► Conflict between trademarks and GI's

This example shows what type of conflict may oppose the protection provided by the GI system to that of the marks. This particular case also highlight some conflicts of interests between the administrations in charge of managing these systems. The Jinhua ham also named the South ham is produced in Zhejiang province. According to the preparation process, the ham may taste differently: salted ham, bamboo smoked ham, sweetened ham or ham tea dedicated to accompany the tea.

For more than 20 years, a conflict on the property of the label “Jinhua ham” opposes a public company at provincial level and some producers associations of Jinhua area. Finally, this conflict became an emblematic confrontation between the trademarks and GI system:

In 1981, a company located in Jinhua registered a mark “Jinhua Ham” Its mother company at provincial level could later adapt this term under its own name. Because the economic reforms in the country, it became the legal owner of this mark.

In 2002, the ham producers of the area of Jinhua obtained from ASQIQ the official protection for the Geographical Indication and the right to legally use the term “Jinhua Ham”.

However according to the “marks law” in China, a mark owner has the right to prohibit others from using it on similar products. Thus, the Zhejiang Food-processing Company sue the local producers to prevent them from associating the term of the mark and their products.

From now, the local producers face 3 alternatives:

- They use their own mark and produced a so-called “industrial ham”
- They associate their mark to the Geographical Indication and must then respect the regulation defined by the GI system.
- They use the term “Ham of Jinhua”, they are then obliged to pay a franchise to the Zhejiang Food-processing Company.

During our stay in Jinhua, we could visit three companies:



- The first produces ham under both GI regulation and industrial ham. Between these two varieties of production, the difference is the season of preparation. The “Jinghua Ham” GI may be produced only in winter.
- The second company choose to use the GI label to protect its production. However, they worry that the large industrial producers are threatening the small producers who remain limited by the constraints related to GI regulation.
- The third factory which we visited is also in the zone of protection. The creation of this company goes back to 1860. It is at the source of the Jinhua Ham reputation since several generations. Today, this company has a large output and guarantees this production by agreements with 7 large stockbreeders and some smaller stockbreeders located in some less developed zones. Moreover, they have created their own breeding area and to respect the environment, they use tanks to eliminate waste. As their own mark holds already a very good reputation on the markets, it appears that for this company, they use the GI label only to get some additional protection.

Notably, the example of the Jinhua ham makes it possible to go up which type of conflicts can oppose the trademarks and GI's. The protection of a GI product is well regulated but in front of the trademarks protected by the law, it becomes less convincing. This also shows the points which remain to improve in the GI policy and give an exemple what could be in the future the role of the State to regulate the market in the economic transition period.

### 3) The “Shaoxin yellow wine”

#### ► Fight against counterfeit

The Shaoxin yellow wine is a rice alcohol, historically recognized for more than two thousand years, the local producers developed some specific local techniques. The principal ingredients that make up the Shaoxin yellow wine are the water of the Jianhu lake, sticky rice, and some yellow corn. The alcohol level and amino acids rate are higher than the average of other yellow wines in China. It can be preserved many years in time. The Geographical Indication zone corresponds to the district of Shaoxing.

because its particular characteristics, Shaoxin yellow wine was often imitated and counterfeited in China and even internationally. The absence of legal protection made that the Shaoxing term was largely widespread. After obtaining the GI protection in 2000, the imitations and the counterfeits were largely stopped, this resulted in a considerable growth of the local production (one of the companies we visited, thus increased its exports of 14% since the last year), consequently, the producers and local peasants increased their incomes that also resulted in important investments in the production equipments and the promotion of the quality of the products. This is the whole area that must now deal with the benefits of the GI protection.

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