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Geographical Indications as Instrument for Development

By their ability to promote traditional products and know-how, Geographical Indications can play a significant role in the development.

The term 'Geographical Indications' (GIs) entered the terminology of international intellectual property (IP) law by way of its inclusion in the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO), signed as part of the Uruguay Round in 1994. A GI is the generic designation of a product, pointing out that it comes from a specific area, as long as the product enjoys certain qualities or reputation essentially deriving from that area. A basic feature of a GI is that each and every producer which is located in the area to which the GI refers has the right to use the said indication for the products originating in the said area, generally subject to compliance with certain quality standards or other requirements. A GI successful in the market becomes an asset of the producers authorized to use it, since it generates accumulated goodwill. Without such protection, it would be difficult for such producers to appropriate the benefits derived from maintaining the quality or other attributes of their products and they would have little or no incentive to invest for that purpose.¹ The TRIPS Agreement provided the 'minimum' standards of protection for GIs, which WTO Member countries were bound to comply with in their respective national legislation and leaves it up to the Member countries to determine the appropriate method of implementing the provisions on GIs within their own legal framework.

IP rights found the major concentration in developed countries (97% of all world patents belong to rich countries) and also GIs are unequally distributed, however, for their ability to promote traditional products and know-how, they have the potential for a more equitable distribution within the less developed countries. In developing countries, identifying the geographical origin of a product could serve to identify quality characteristics on international markets. GIs, helping to protect goods with reputation linked with a specific place and know-how, may be used to maintain quality standards as well as to protect and increase the market share of products and, in turn, the investment. GIs may also enhance the reputation associated with a region and, therefore encourage

¹ WIPO, *What is a Geographical Indication?* (2002: Geneva), available at <<http://www.wipo.int/about-ip/en/index.html>> (last visited 23 October 2012)

tourism, an activity with increasing potential in developing regions. For instance, the CTA² reported in 2004 that in China, the recognition of Shaoxing yellow rice alcohol as a GI helped limit fakes from Taiwan and Japan. Prices increased by 20%, the local market developed and exports to Japan increased by 14 %. Giving possibility to use the designation to a group of producers and not to fixed production producers, GIs provide a tool to protect and promote *traditional knowledge* and 'reward collective traditions while allowing for continued evolution'³. Another benefit of protecting local products within GIs is that GIs constitute a response to bio-piracy, trade-related imitation and fraud. Without them designations of geographical origin that developed over time in southern countries are at risk from fraud: for instance 10 million kg of Indian 'Darjeeling' tea are produced in India but 30 million kg are sold under the same name in other countries.

The cases of China and India have been analyzed by different authors and could provide good examples of countries where a system for the protection of GIs were implemented creating benefits, notwithstanding some difficulties. More than a hundred GIs of Indian origin have already been registered with the GI Registry. A unique characteristic of Indian GIs is the variety of product categories of which they belong. These products are often based on traditional knowledge being transferred from one generation of producers to another, demonstrating the rich heritage of artisan traditional knowledge in India and the potential of GIs in protecting this knowledge. Examples of Indian GIs are Darjeeling (tea), Pochampalli Ikat (textiles), Chanderi (sarees), Basmati (rice), Kashmir Pashmina (shawls), Mysore (agarbathis), and Kandapalli (toys). The predominance of artisan and agricultural-related products among the registered GIs, which taken together constitute almost the 95% of the total, clearly shows that GIs have a significant potential to facilitate rural development in India. Differently from other parts of the world where GIs are protected since centuries, China began to implement a system of protection of GIs only in the first years of 1990s. In terms of agriculture, China accounts for 50 percent of the world's pigs, while 48 percent of the world's production of vegetables and 16 percent of its production of cereals (27 percent of the rice, 18 percent of the maize and 14 percent

² Technical Center for Agricultural and Rural Cooperation ACP-EU (CTA).

³ Addor, F., Thumm, N. and Grazioli A. (2003) Geographical Indications: Important Issues for Industrialized and Developing Countries. The IPTS (Institute for Prospective Technological Studies) Report No. 74, 24-31. European Commission, Luxembourg. The IPTS Report No. 74, 24-31. European Commission, Luxembourg.

of the wheat) originate in China. On the basis of this information, can be easily understood the potential of the protection. Some of the products protected as GI in China are wine, tea, traditional medicinal herbs, fruits, condiments and vegetables. Examples are 'Sheyang Rice', 'Jingdezheng Porcelain', 'Fuling Zhacai' (Chinese vegetables) and 'Anxi Tieguanyin' (Tea from China) and the already mentioned 'Jinhua Ham' and 'Zhangqiu Scallion'. GIs in China created positive economic benefits like the expansion of production scale, the constant rise of product's pricing level and the increase in the income of GIs users.

GI products represent thousands of years of culture and tradition, their special characteristics give them a strong potential for competing on the market, although most of the products lack sufficient added value. Considering that the most of the GIs are associated to traditional knowledge, culture and lives of the communities, developing countries should build the brand image of their local products by highlighting the historical and cultural aspects linked with them. It is necessary for developing countries to further explore the strategies to strengthen the image of the GI logo, while noting the special characteristics of GI products, such as local expertise, and promoting the linkage between the territory and the quality of the products. GIs internationalisation is on the move: by going global, GIs will better reflect the multiplicity of social, political and economic systems. Developing countries should have the ability to recognize the potential that GIs have for the marketing of their production and find mechanisms to protect GIs more cost-effectively. The need for further research on the matter by developing countries and the international community cannot be underestimate.