

Government of India, Ministry of Commerce & Industry, Department of Industrial Policy and Promotion: Frequently Asked Questions on Geographical Indications

In December 1999, the Parliament had passed the Geographical Indications of Goods (Registration and Protection) Act, 1999. This Act seeks to provide for the registration and better protection of geographical indications relating to goods in India. The Act would be administered by the Controller General of Patents, Designs and Trade Marks- who is the Registrar of Geographical Indications. The Geographical Indications Registry would be located at Chennai.

1. What is a Geographical Indication?

- It is an indication
- It originates from a definite geographical territory.
- Is used to identify agricultural, natural or manufactured goods
- The manufactured goods should be produced or processed or prepared in that territory.
- It should have a special quality or reputation or other characteristics

2. Examples of possible Indian Geographical Indications.

- Basmati Rice
- Darjeeling Tea
- Kanchipuram Silk Saree
- Alphanso Mango
- Nagpur Orange
- Kolhapuri Chappal
- Bikaneri Bhujia
- Agra Petha

3. What is the benefit of registration of geographical indications?

- It confers legal protection to Geographical Indications in India
- Prevents unauthorised use of a Registered Geographical Indication by others
- It provides legal protection to Indian Geographical Indications which in turn could also boost exports.
- It promotes economic prosperity of producers of goods produced in a geographical territory.

4. Who can apply for the registration of a geographical indication?

- Any association of persons, producers, organisation or authority established by or under the law can apply:
- The applicant must represent the interest of the producers
- The application should be in writing in the prescribed form



- The application should be addressed to the Registrar of Geographical Indications along with prescribed fee.

5. *Who is a registered proprietor of a geographical indication?*

- Any association of persons, producers, organisation or authority established by or under the law can be a registered proprietor.
- Their name should be entered in the Register of Geographical Indication as registered proprietor for the Geographical Indication applied for.

6. *Who is an authorised user?*

- A producer of goods can apply for registration as an authorised user
- It must be in respect of a registered geographical indication
- He should apply in writing in the prescribed form along with prescribed fee

7. *Who is a producer in relation to a Geographical Indication?*

- The persons dealing with three categories of goods are covered under the term Producer:
- Agricultural Goods includes the production, processing, trading or dealing
- Natural Goods includes exploiting, trading or dealing
- Handicrafts or Industrial goods include making, manufacturing, trading or dealing.

8. *Is a registration of a geographical indication compulsory and how does it help the applicant?*

- Registration is not compulsory
- Registration affords better legal protection to facilitate an action for infringement
- The registered proprietor and authorised users can initiate infringement actions
- The authorised users can exercise the exclusive right to use the geographical indication.

9. *Who can use the registered geographical indication?*

- An authorised user has the exclusive rights to the use of geographical indication in relation to goods in respect of which it is registered.

10. *How long is the registration of Geographical Indication valid?*

- The registration of a geographical indication is valid for a period of 10 years.

11. *Can a Geographical Indication be renewed?*

- It can be renewed from time to time for further period of 10 years each.

12. *What is the effect if a Geographical Indication if it is not renewed?*



- If a registered geographical indication is not renewed it is liable to be removed from the register.

13. When is a registered Geographical Indication said to be infringed?

- When an unauthorised user uses a geographical indication that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which mislead the public as to the geographical origin of such goods.
- When the use of geographical indication result in an unfair competition including passing off in respect of registered geographical indication.
- When the use of another geographical indication results in false representation to the public that goods originate in a territory in respect of which a registered geographical indication relates.

14. Who can initiate an infringement action?

- The registered proprietor or authorised users of a registered geographical indication can initiate an infringement action.

15. Can a registered geographical indication be assigned, transmitted, etc?

- No. A geographical indication is a public property belonging to the producers of the concerned goods.
- It shall not be the subject matter of assignment, transmission, licensing, pledge, mortgage or such other agreement
- However, when an authorised user dies, his right devolves on his successor in title.

16. Can a registered geographical indication or a registered authorised user be removed from the register?

- Yes. The Appellate Board or the Registrar of Geographical Indications has the power to remove the geographical indication or an authorised user from the register. Further, on application by an aggrieved person action can be taken.

17. How a geographical indication is different from a trade mark?

- A trade mark is a sign which is used in the course of trade and it distinguishes goods or services of one enterprise from those of other enterprises.
- Whereas a geographical indication is an indication used to identify goods having special characteristics originating from a definite geographical territory.

(From, Government of India, Ministry of Commerce & Industry, Department of Industrial Policy and Promotion, http://ipindia.nic.in/ipr/qi/qi_faq.htm)



Government of India, Intellectual Property Office: Guidelines for Filing of Geographical Indication Application

The application should include the various requirements and criteria for processing a geographical application as specified in Rule 32(1) which details inter alia:

- How the indication serves to designate the goods as a Geographical Indication?
- The Class of goods;
- The territory ;
- The particulars of appearance ;
- Particulars of producers;
- An affidavit of how the applicant claim to represent the interest;
- The standard bench mark or other characteristics of the geographical indication;
- The particulars of special characteristics;
- Textual description of the proposed boundary;
- The growth attributes in relation to the G.I. pertinent to the application;
- Certified copies of the map of the territory
- Special human skill involved, if any;
- Number of producers; and
- Particulars of inspection structures, if any, to regulate the use of geographical indication.

On receipt of the application, a number will be allotted. Thereafter, the application would be examined to check whether it meets the requirements of the Act and Rules. For this purpose the Registrar shall ordinarily constitute a Consultative Group of experts to ascertain the correctness of the particulars furnished. After issuance of the Examination Report submission would be considered. If no objections is raised it would be accepted and would be advertised in the Geographical Indications Journal. An opposition can be lodged within a maximum of four month period. If the opposition is dismissed, the application will proceed to registration in Part A of the Register unless the Central Government otherwise directs.

After a geographical indication is registered any person claiming to be the producer of the registered geographical indication can file an application for registration as an authorised user in Part B of the Register. The procedure for registration as an authorised user is similar to that for the registration of a geographical indication.

For more information please address your queries to

The Registrar of Geographical Indication,
Guna complex, No.443/304 Anna Salai,
Teynampet, Chennai-6000 018
Phone: 044-4314293/94/95/96/97/98

(From, Government of India, Ministry of Commerce & Industry, Department of Industrial Policy and Promotion, http://ipindia.nic.in/ipr/qi/qi_guidelines.htm)



World Intellectual Property Organisation: Note on Geographical Indications

What is a geographical indication?

A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin. Most commonly, a geographical indication consists of the name of the place of origin of the goods. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. Whether a sign functions as a geographical indication is a matter of national law and consumer perception. Geographical indications may be used for a wide variety of agricultural products, such as, for example, "Tuscany" for olive oil produced in a specific area of Italy (protected, for example, in Italy by Law No. 169 of February 5, 1992), or "Roquefort" for cheese produced in France (protected, for example, in the European Union under Regulation (EC) No. 2081/92 and in the United States under US Certification Registration Mark No. 571.798).

Can geographical indications only be used for agricultural products?

The use of geographical indications is not limited to agricultural products. They may also highlight specific qualities of a product which are due to human factors that can be found in the place of origin of the products, such as specific manufacturing skills and traditions. That place of origin may be a village or town, a region or a country. An example for the latter is "Switzerland" or "Swiss," which is perceived as a geographical indication in many countries for products that are made in Switzerland and, in particular, for watches.

What does a geographical indication do?

A geographical indication points to a specific place or region of production that determines the characteristic qualities of the product that originates therein. It is important that the product derives its qualities and reputation from that place. Since those qualities depend on the place of production, a specific "link" exists between the products and their original place of production.

Why do geographical indications need protection?

Geographical indications are understood by consumers to denote the origin and the quality of products. Many of them have acquired valuable reputations which, if not adequately protected, may be misrepresented by dishonest commercial operators. False use of geographical indications by unauthorized parties is detrimental to consumers and legitimate producers. The former are deceived and led into believing to buy a genuine product with specific qualities and characteristics, while they in fact get a worthless imitation. The latter suffer damage because valuable business is taken away from them and the established reputation for their products is damaged.

What is the difference between a geographical indication and a trademark?

A trademark is a sign used by an enterprise to distinguish its goods and services from those of other enterprises. It gives its owner the right to exclude others from using the trademark. A geographical indication tells consumers that a product is produced in a certain place and has certain characteristics that are due to that place of production. It may be used by all producers who make their products in the place designated by a geographical indication and whose products share typical qualities.



How is a geographical indication protected?

Geographical indications are protected in accordance with national laws and under a wide range of concepts, such as laws against unfair competition, consumer protection laws, laws for the protection of certification marks or special laws for the protection of geographical indications or appellations of origin. In essence, unauthorized parties may not use geographical indications if such use is likely to mislead the public as to the true origin of the product. Applicable sanctions range from court injunctions preventing the unauthorized use to the payment of damages and fines or, in serious cases, imprisonment.

How are geographical indications protected on the international level?

A number of treaties administered by the World Intellectual Property Organization (WIPO) provide for the protection of geographical indications, most notably the Paris Convention for the Protection of Industrial Property of 1883, and the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration. In addition, Articles 22 to 24 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) deal with the international protection of geographical indications within the framework of the World Trade Organization (WTO).

What is a "generic" geographical indication?

If a geographical term is used as the designation of a kind of product, rather than an indication of the place of origin of that product, this term does no longer function as a geographical indication. Where that has occurred in a certain country over a substantial period of time, that country may recognize that consumers have come to understand a geographical term that once stood for the origin of the product - for example, "Dijon Mustard," a style of mustard originally from the French town of Dijon - to denote now a certain kind of mustard, regardless of its place of production.

What is WIPO's role in protection geographical indications?

WIPO is in charge of the administration of a number of international agreements which deal partly or entirely with the protection of geographical indications (see, in particular, the Paris Convention for the Protection of Industrial Property, and the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration). Furthermore, through the work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, made up of representatives of member States and interested organizations, WIPO explores new ways of enhancing the international protection of geographical indications.

(WIPO, http://www.wipo.int/about-ip/en/about_geographical_ind.html#P16_1100)



Organization for an International Geographical Indications Network Note on Geographical Indications and Development

GI AS A TOOL FOR DEVELOPMENT

Geographical Indications bring many benefits not only to producers, but also to consumers and local communities. They create added value and improve market access while providing for the protection of local know-how and natural resources. As such, GIs can be a key development tool.

GIS: A TOOL TO PROMOTE RURAL DEVELOPMENT

Geographical indications are an excellent means to promote rural development. Studies have shown that when the name of a product obtains a protection as a geographical indication, there is a positive socio-economic impact on local communities. The geographical indications:

- Increase production, create local jobs and prevent rural exodus
- Help producers to obtain a premium price for their products in exchange for guarantees offered to consumers on production methods and quality
- Allow for a better redistribution of the added value in the production chain
- Bring value to the land of origin
- Have other indirect positive effects, such as on tourism

GIS: A MARKET ACCESS TOOL

Geographical Indications encourage variety and diversity of production. They allow producers to market differentiated products with specific characteristics that are clearly identifiable. As such, GIs are an excellent market access tool.

In the context of globalised markets, consumers are increasingly looking for unique quality products with a specific origin.

GIS: A TOOL TO PRESERVE LOCAL KNOW-HOW AND NATURAL RESOURCES

GI protection has wider positive benefits on local communities. In particular, Geographical indications encourage the preservation of biodiversity, local know-how and natural resources. GIs:

- Prevent the standardization of food. Geographical indication protection ensures that producers can offer consumers unique and different products. In doing so, it contributes to the preservation of biodiversity. In parallel, consumers can enjoy more choice as well as different tastes. In the tea sector for instance, Kenyan teas would certainly benefit from a strong legal protection as a GI which would help them defending their unique qualities towards traders and consumers.
- As an important part of our culture, they contribute to the social cohesion as they can help local producers to work together and to solve common problems.
- Play a positive role on local and national identity by making producers and consumers proud of their unique traditional products.

In conclusion, it is clear that geographical indications contribute positively to the socio-economic dynamics of local communities around the world. They are a very interesting and useful development tool.

(From, OriGIIn, http://origin.technomind.be/29_0.html; OriGIIn, the Organization for an International Geographical Indications Network, was launched in Geneva on June 11, 2003 by producers of Geographical Indications (GIs) from Africa, Asia, Latin and North America, Eastern and Western Europe

