



Briefing Note

Intellectual Property Rights and Rural Development

Protection of Geographical Indications of Origin of Agricultural Products

Background

Geographical indications of origin (GI) provide the consumer with information about quality characteristics of a product that are closely associated with its place of origin, thereby distinguishing it from products of different provenance. Geographical site conditions such as soil quality and climate, as well as traditional knowledge of the ways in which plants and animals can be used and processed, provide products with unique selling points. This is the case with, for example, Darjeeling tea, Parmigiano-Reggiano cheese, Mexican tequila or basmati rice.

In an ideal situation the protection afforded by geographical indications of origin contributes to the attainment of economic, environmental and social objectives. In contrast to private-sector certification schemes, product differentiation by means of GIs is intended to benefit a region rather than individual businesses and to promote the economic capacity, special environmental features and cultural identity of that region.

For example, the marketing of regionally specific products derived from agricultural processes can contribute to rural development. This approach is appropriate to regions in which traditional agricultural products and foods is made that consumers associate with particular characteristics, qualities or flavours; examples of such products are Schwarzwald ham and Moroccan argan oil.

The legal framework

Protection of geographical indications of origin is provided at three levels:

1. **Protection on a national basis**, e.g. under the German Trademark Act;
2. **Protection at regional level**, e.g. in the European Union (EU);
3. **Protection at international level** under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Protection on a national basis. National systems for the protection of geographical indications of origin vary widely.

More than 100 countries – including Switzerland, Norway and China – have their own certification systems and labels as a specific means of protecting geographical indications of origin. The EU also has its own system, which is mandatory for all member states.

More than 50 countries – including the USA, Australia and some African and Arab states – protect the geographical origin of products by means of trademarks rather than by a direct method. The USA has a trademark regime that involves certification marks, collective marks and simple trademarks. There is no separate legislation in the USA to protect geographical indications of origin. Canada and Australia protect geographical indications of origin through certification and collective marks; protection is provided by means of statutory regulations on fair competition.

These legal differences affect all exporters of protected goods, but especially developing countries. Where

countries market a product using an indication of geographical origin, it is therefore extremely important that they consider for which market they are producing the goods and under which system their product is to be protected. In 2009 the number of products of geographical origin under protection worldwide was in excess of 10,000, and their sales exceeded 50 billion US dollars. In 2009 only 22 countries outside the EU had had products of geographical origin registered. In other countries, especially in sub-Saharan Africa, laws on the protection of indications of origin exist, but because certification processes are complex and making use of them is expensive, they are rarely used. In many countries there is no protection of geographical indications of origin at all. Overall there is considerable need for advice on GIs in partner countries and potential for development cooperation in this respect.

Protection at regional level – the example of the EU. The EU, in its Regulation on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, has created its own certification system with stringent requirements. This distinguishes between Protected Designations of Origin and Protected Geographical Indications. Designations that meet the requirements can be entered in a register kept by the European Commission. Under this system non-EU countries can also register their products within the EU in accordance with its criteria. However, this is only possible for products that have protected status under the relevant national regulations.

In the EU there are three forms of protection, two of which are for geographical indications of origin:

- **Protected designation of origin PDO**
Production, processing and preparation take place within a defined geographical area and involve a recognised, specified process. Examples include Parma ham from Italy and feta cheese from Greece. There must be a clear connection between the production area and the special characteristics of the product. In February 2011 there were 505 protected designations of origin in the EU.
- **Protected geographical indication PGI**
At least one of the stages of manufacture (production, processing or preparation) must take place within a defined geographical area. Examples include Schwäbisch Hall quality pork and South Tyrol apples. There are currently 465 protected geographical indications in the EU.
- **Traditional speciality guaranteed TSG**

This indicates that the product is of traditional composition or produced by a traditional process. Mozzarella cheese and Serrano ham are examples of TSG products. In February 2011 30 products had been awarded TSG status in the EU.

The expansion of the EU and growing interest on the part of producers in third countries has led to a sharp rise in the number of applications in recent years. All registered products are listed in the Commission's online database DOOR.

Protection at international level. At international level the first steps towards protection of geographical indications of origin and intellectual property rights were taken by the World Intellectual Property Organization (WIPO) in Geneva. To date, however, its work in this area has had little impact. During the Uruguay Round of multilateral negotiations (1986-1994) in the World Trade Organization (WTO), the TRIPS Agreement on trade-related aspects of intellectual property rights was signed by the EU in 1994. The TRIPS Agreement ensures the protection of geographical indications of origin for all products from WTO member states. There is special protection for wines and spirits. Under the Agreement, WTO member states must create a legal framework for the protection of geographical origin in their country by 2006. To this end product specifications must be drawn up and compliance with these specifications must be regularly monitored by independent institutions. The product specification describes the product's quality and production process, the characteristics that justify its protection, and the delimitation of the product area.

Implementation status

Geographical indications of origin are at the heart of three issues that are the subject of much debate worldwide: intellectual property rights (IPR), world trade and agricultural policy. The WTO negotiations on the protection of geographical indications have not yet produced an outcome. Disputed aspects are the scope of 'special protection' and the establishment of a multilateral registration system of geographical indications of origin in the WTO. Advocates of more stringent protection mechanisms such as the EU, India, Thailand, Turkey and Switzerland are in favour of awarding special protection under the TRIPS Agreement both to agricultural products and foodstuffs and to other goods and want to introduce a mandatory registration system among members. India's economy, for example, is largely based on its own resources and culture; this is manifested in the export of traditional clothing such as saris just as much as in the export of

agricultural products such as Darjeeling and Assam tea and basmati rice.

The countries of the Cairns Group – the USA, Argentina, Canada and Australia – support more flexible standards. In their view these standards should apply only to specially protected products such as wines and spirits, since otherwise there is a risk of agricultural protectionism. They would like the registration system to operate on a voluntary basis.

The approach of employing geographical indications of origin has already been utilised successfully in development cooperation (e.g. in marketing the products of the argan tree in Morocco and wild coffee in Ethiopia).

GIZ's position

- 1. Multifunctional effect.** Legal protection of GI products is a means of recognising traditional knowledge, preserving large numbers of small and medium-size production businesses that use traditional methods, and raising prices through product differentiation. GI products are market-oriented, have unique characteristics and provide competitive advantages. The designation of origin boosts the value of the products; in consequence they fetch significantly higher prices on the market than similar products with no designation of origin. In the EU the price difference averages between 10 and 15 per cent. For some products the price has increased worldwide by up to 300 per cent. However, because of the mandatory regional link there are limits on the quantity of a product that can be manufactured.
- 2. Increase in the quantity and quality of gainful employment.** Throughout the value chain (producer, trader, processing business, exporter) there are opportunities to create jobs and heighten the importance of sociocultural values, indigenous knowledge and traditional skills (methods and recipes). People who were previously neither socially nor geographically the focus of interest and whose production systems are often in sharp contrast to the modern systems of large-scale producers attract increased attention. They acquire the opportunity to make use of their skills for financial gain.
- 3. Conservation of agrobiodiversity and sustainable use of natural resources.** GI products often involve extensive, traditional methods of production that have a less detrimental impact on the environment than modern processes. Through their effect on crops, site-specific factors such as microclimate, soil and topography impart to the end product the unique characteristics that distinguish it from the mass and justify its protection. Without the protection of origin, these 'agrobiodiversity products' based on native adapted species, varieties, breeds and microorganisms would be unable to compete in the market with their modern, highly productive and standardised rivals.
- 4. The GI approach is only successful under certain conditions.** The necessary conditions include: products with a unique selling point; strong institutional structures; statutory regulations for effective protection of the GI; equitable participation of the businesses in the region; partnership-based relationships between primary producers and downstream businesses in the value chain. In the absence of these conditions, or if the costs are disproportionate to the benefits, alternative forms of product differentiation – such as trademarks or private-sector certification schemes – should be evaluated. In addition, steps should be taken to ensure that the added financial value arising from this product differentiation remains in the country of origin or with the producer, so that a positive development outcome is achieved.
- 5. GIZ is in favour of extending the special protection of GI to all agricultural products under the TRIPS Agreement.** To tap into markets for higher value agricultural products or into niche markets and to protect products against imitation, the protection of intellectual property must be assured by means of internationally recognised legal regulation (Briefing Note 'Intellectual Property Rights in Agriculture: *Plant variety protection and its effects on food security and biological diversity*').



Action required

- 1. Establishing certified GI products.** Development cooperation interventions assist partner countries in establishing certified products on national and international markets. This includes: Formulating an appropriate statutory framework and promoting its implementation, developing an independent national certification and monitoring system and incorporating the new systems into existing cooperation and trade agreements.
- 2. Marketing.** In many developing countries state institutions have now recognised the potential inherent in product certification. Producers, by contrast, are often as yet unaware of the importance of marketing. The following measures are therefore suitable: Market analysis in the production country with the aim of identifying existing products with a GI-like image, market analysis in the major export countries to identify potential for future GI products, development and marketing of specific products, marketing strategies for products that have potential unique selling points on (inter-)national markets.
- 3. Environmental and social standards.** Protection of the designation of origin does not in itself say anything about the quality of a product, its social acceptability, product hygiene, chemical ingredients or the sustainability of manufacturing practices. Intensification of production methods and specialisation in farming (monoculture) lead in some cases to a regional over-exploitation of natural resources and loss of biodiversity. From the point of view of national markets, the development of GI products for export markets can lead to a shortage of these products and hence to a rise in prices for national consumers.

There is thus a need to monitor activities, in order to capture the effects on national consumers, producers and the environment and if necessary counteract them and draw up specific guidance on the quality of production and processing methods.
- 4. International policy dialogue.** International discourse and the provision of advice to partner countries in relation to GI cannot be conducted without reference to the complex situation surrounding the TRIPS and WTO negotiations. The development of international certification and registration systems and the inclusion of all agricultural products through strong GI rules should be made a part of this policy dialogue. Trans-regional products should also be considered in the discussions.
- 5. Training.** Capacities in relation to GI products must be developed and anchored in research institutions, advisory institutions, producer associations and the relevant state agencies.

Contact

Annette von Lossau
E Annette.Lossau-Von@giz.de
T +49 6196 79-1473
I www.giz.de

Published by:
Deutsche Gesellschaft für
Internationale Zusammenarbeit (GIZ) GmbH
Rural Development and Agriculture
Responsible: Albert Engel

Dag-Hammarskjöld-Weg 1-5
65760 Eschborn, Germany
T +49 61 96 79-0
F +49 61 96 79-11 15
E info@giz.de
I www.giz.de

November 2011