

Creating conditions for the development of GIs: the role of public policies

Promoting quality linked to geographical origin by means of Geographical Indications (GIs) can help support rural development. In this respect, governmental authorities at the national, regional and local levels, as well as other officials with public duties or representing public interests, have an important stake in ensuring the sustainability of the GI system framework, especially when targeting initiatives at the local level.

The public sector can play a key role in all facets of government, including intergovernmental cooperation, in providing the conditions to ensure that GIs are adequately protected, regulated and supported. The sustainable development of GI products requires:

- A sound legal (legislative and regulatory) and institutional framework, enabling the recognition and the protection of collective property rights attached to the GI in a given territory (chapter 5.1).
- An integrated rural development policy that supports local stakeholders throughout the various phases of the quality circle. In order to establish and regulate a sustainable framework for GIs, several different factors should be taken into account by public authorities: the need to promote fair trade; encourage value redistribution along the food chain and for the entire territory; and protect and support public benefits, including the environment and cultural values (chapter 5.2).

5.1 The legal protection of Geographical Indications

Introduction

Under the World Trade Organization (WTO) Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs), WTO members have a mandatory responsibility to recognize and protect GIs as intellectual property rights. This can be done in many ways, and many countries have developed their own legal frameworks to enforce these rights. This section provides an overview of the variety of legal tools available to protect GIs that can be tailored to the needs and priorities of countries and their product markets.

Legal tools

Since 1995, the TRIPS Agreement has required all WTO members to establish a national legal framework for the protection and use of GI names for specific products (see box 1).

Most Governments have adopted legal instruments that protect GIs, although there are significant differences among them. Tools for GI protection range from general national laws on business practices designed to prevent unfair competition or protect of consumers, to specific regulations for the registration of GIs.

Two main approaches can be distinguished at the national level:

- Public law approach: this is the case when public authorities enact legislation dedicated to the specific protection of GIs (*sui generis* system). This approach generally consists of an official recognition of GIs by granting the status of a public seal of quality, often through a common official logo, where Governments can protect the use of the GI *ex officio*.
- Private law approach: using laws against unfair competition, passing off, and trademark laws, where the protection is primarily based on private actions.

Other intellectual property rights may also be used to protect GI products. For example, GIs may involve logos of distinctive shapes. However, these are generally registered as graphic trademarks. They may also involve the use of patents for processing or packaging, industrial models and designs, etc. Registration is the most common legal tool to define the circle of legitimate users and ensure protection for GIs. Specific GI legislation (*sui generis* systems) and trademark laws can also be used to this effect.

Sui generis systems and trademark laws

Sui generis (from the Latin meaning “of its own kind”) is a term of art used to identify a legal classification that exists independently of other categorizations because of its uniqueness or as a result of the specific creation of an entitlement or obligation.

BOX 1: TRIPS AND LISBON AGREEMENTS

TRIPS and GI

In 1995, the World Trade Organization (WTO), as an intergovernmental organization, was assigned the mandate to regulate international trade. The WTO provides a global forum for negotiations on trade for goods and services that gave rise to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).

Article 22.1 of the TRIPS Agreement defines GIs as “indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

Under the TRIPS Agreement, three different levels of protection are provided for GIs:

- 1 Article 22 provides for a minimum standard of protection for all products in connection with misleading of consumers and unfair competition.
2. Article 23.1-2 provides for a higher level of protection for wines and spirits only. It strictly prohibits the use of a GI on wines and spirits that have not specified a corresponding place of origin, even if used in translation or accompanied by expressions such as “kind”, “type” or “imitation”.
3. Article 23.3-4 provides the highest level of protection for wines with homonymous indications (with the same name). It requires each Member state to determine the practical conditions under which the homonymous indications will be different from each other in order to avoid misleading the public.

The establishment of a multilateral system of notification and registration of GIs for wines and spirits under Article 23.4 raises the following key international issues:

- a) The legal effects of GI registration, and the scope of application of the registry.
- b) The establishment of a dispute procedure to deal with notifications that are not considered eligible for protection by one or several members.
- c) The costs and administrative burdens of such a register, in particular for developing countries.

The extension of the level of protection provided for wines and spirits to other products under Article 24.1 of the TRIPS Agreement is also a topic of current international debate.

Lisbon Agreement and AO

The Lisbon Agreement of 1958 defines Appellations of Origin as “*the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors*”. The Lisbon system aims at facilitating the international protection of AOs. It is administered by the World Intellectual Property Organization (WIPO), which counts at the moment 26 contracting parties. It offers a means of obtaining protection for an AO by the contracting parties to the Lisbon Agreement through a single registration.

Sui generis methods of intellectual property protection may provide legal protection for signs and characteristics associated with a product, such as a logo or a specific shape, by including them in the related product specifications. The GI may be considered as a collective *sui generis* right as its use is normally reserved for those producers who respect a CoP that is defined by a community of producers and approved by a competent authority. The GI is then linked to the geographical place, and becomes non-transferable.

GIs may also be protected under trademark law, in the form of a trademark (TM), a certification mark or a collective mark, depending on the categories existing in the country. A trademark is a distinctive sign which is used by a firm to identify itself and its products or services to consumers. It is a type of intellectual property involving a

name, word, phrase, logo, symbol, design, image, or a combination of these elements. Trademarks do not refer to generic terms, nor do they exclusively refer to geographical terms. They do not protect against the use of terms such as “blend” and “type” in conjunction with a geographical origin.

BOX 2: THE *SUI GENERIS* SYSTEM FOR PROTECTED DESIGNATION OF ORIGIN (PDO) AND PROTECTED GEOGRAPHICAL INDICATION (PGI) IN THE EU

In 1992, the European Union approved two categories for the protection of Geographical Indications: Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI). These intellectual property rights extend to all food products with the exception of wine and spirits and they have replaced national pre-existing intellectual property rights for these indications in many European countries. The definition of a PDO implies that all phases of the production process should be localized inside the production area and the quality of the product should be strictly related to a particular geographical environment by its inherent natural and human elements. The PGI covers agricultural products and foodstuffs closely linked to a geographical area, where at least one of the stages of production, processing or preparation takes place within the given area.

The EU PDO/PGI regulation provides EU-wide protection to names of agricultural products and foodstuffs to prevent the use of registered names unless the products originated from the specified territory and according to a specified Code of Practice. As a result of amendments introduced under EU Regulation 510/2006, this protection is also provided to names of products produced in countries outside the EU, if these names are themselves protected in their own country of origin. The EU Commission can now also receive applications directly from non-EU producers. In order to benefit from PDO/PGI protection, EU producers can apply to register a name with their national authorities. The application for review and publication of a GI by the EU commission is free of charge. All applications must refer to a CoP that must include at least the following:

1. The name of the product comprising the designation of origin or geographical indication.
2. A product description, including raw materials, if appropriate, and principal physical, chemical, microbiological or sensory properties of a product (involving taste, colour, odour and feel).
3. The geographical region of production (and any details relating to the origin of raw materials used in production of the product).
4. A description of the method of production, including local know-how and packaging of the product, where appropriate.
5. Details of the relationship between the quality or characteristics of the product and the geographical environment in the case of a PDO or, as the case may be, the link between the specific quality, reputation or other characteristic of the product and the geographical origin in the case of a PGI
6. The name, address and specific tasks of the authorities or bodies verifying compliance with the provisions of the specification.
7. Any specific labelling rules for the agricultural product in question.
8. Evidence that some quality, reputation or other characteristic associated with the product is linked to the region of production.

If the application is successful and the name is registered, then any producer from within the region complying with the product specifications and controlled by a control body or national authorities can use the registered name.



5.1

Two types of trademarks may refer to a geographical name to indicate specific qualities of goods: the certification mark and the collective mark (See glossary and Table 1 in this chapter). It is important to note that standards and norms that have to be established in order to register a collective or a certification mark do not necessarily specify the links between local resources and the quality of the product, nor provide a guarantee system.

Case Study

Case Study 1: Generic name or not? A GI product with a collective trademark COTIJA CHEESE (Mexico)

The reputation of genuine Cotija cheese (see case study 10 in chapter 1.4) has been under threat by producers using the designation “Cotija type” for cheeses that may have been produced outside the original production area. Consequently, the name Cotija is often used in a generic way. “Cotija type” cheeses are often made through industrial processes (through intensive production, without maturation and with fillings, etc) and as a result they tend to be cheaper, although the taste can still be distinguished from authentic Cotija cheese. In order to preserve the distinctive way of life of Jalisco mountain farmers and to ensure a sustainable income for their products



The collective trademark “Queso Cotija región de origen”

without forcing them to relocate from the region, the producers of the Cotija cheese have been engaged since 1999 in a process of qualification. They have sought to obtain legal protection for the reputation of authentic Cotija cheese through the use of an Appellation of Origin. The Mexican Intellectual Property Office rejected the AO request in 1994, as it considered the denomination to be generic but registered the name “Cotija region of origin” under a collective trademark. The name “Cotija” can still be used for cheeses produced elsewhere. The decision has been open to debate, as it is necessary to assess the generic characteristics with market studies, and to distinguish the generic name from the AO (where a specific link to a territory and its potential for rural development should also be considered). Although the quality circle process engaged locally has resulted in positive impacts, including the development of the local economy through collective actions to support the development of direct sales, better market recognition of the specific quality and an increasing price (between 1997 and 2007 the price has doubled relative to “Cotija type” cheeses), local stakeholders are still concerned about the absence of special protection under a *sui generis* AO system. There are increasing concerns over the potential for a shift away from local production, the transfer of intellectual property rights away from the local community, as well as misuse of the name by other producers outside the area who do not comply with the local CoP.



Source: Poméon T., 2007

Table 1: Main differences between *sui generis* GI, certification TM and collective TM

	<i>Sui generis</i> GI	Certification trademark	Collective trademark
Right holder	Private right often with strong involvement of public authorities (definition, implementation, enforcement). There is often no definition of the owner of the right, as the public definition of the legitimate users makes it unnecessary The recognition is provided by the State and the administration generally corresponds to the GI organization.	Private right. The intellectual property and administration belong to a firm or an association which cannot directly use the certification mark.	Private right. The intellectual property and administration belong to an association of manufacturers or producers.
Definition	General definition applying to all GIs at the national level (e.g. PDOs and PGIs defined under European Regulation 510/2006).	Rules and requirements defined and controlled by the owner of the certification mark	Rules defined by the owner, either through specific requirements or restrictions on the range of authorized users (for example membership of an association).
Purpose	To protect the authentic designation of origin of a given product and the link between the origin of a product, its quality and reputation.	To certify quality, characteristics, geographical origin and/or a method of production, etc.	To indicate membership to an association or a group sharing product quality, characteristics, place of origin, and/or materials, etc.
Duration of protection	In principle, protected from the date of registration until the conditions of registration ceases to exist. Generally no need to renew the registration. Registration is often free of administrative charge for applicants.	Must be renewed after a certain period of time. There are fees for the application of a TM and for each renewal of registration.	
Basis of protection	Based on the actions of national authorities (if provided by law) as well as private actions.	Primarily based on private actions.	
Scope of protection	Exclusivity of denomination use (at least prohibition of use) and often based on associated characteristics (shape, packaging, etc.).	Generally protection is associated with a combined trademark (verbal and graphic elements). Exclusivity of a geographical denomination may be granted only as an exception to the general rules (public domain, distinctiveness, descriptive nature).	
Use	Close link between the GI and a specific product; in some cases, different types of the same product may also be labelled with the GI according to the CoP.	May cover several kinds of products or be limited to one specific product, depending on the trademark registration and marketing strategy.	
	Open to any producer who can meet the requirements for use of the GI or the certification mark	Membership in the association with entitlement to use the collective mark may be restricted upon a decision by members.	
Marketing issues	The pre-existing reputation of the denomination and/or the GI registration as a quality sign per se may mean that less marketing is needed, thereby lowering costs	High investments in advertising are necessary to establish the trademark reputation in the market.	

5.1

The choice of appropriate legal tools by local stakeholders

Generally speaking, the interest of local stakeholders in GI legal tools goes beyond the protection from misuse of geographical names in national and international markets even if it is an essential point to consider. The “protection only” purpose may exist in limited cases where the GI product is highly reputed, with a much higher price than similar products and where market imitations are widespread. Very often, local stakeholders are also interested in the overall approach to the codification of process, including product characteristics linked to geographical origin and in the official recognition that legal protection may provide. Recognition serves not only to provide consumers with a kind of guarantee but also to reinforce the local identity and pride in the product and the community, particularly in rural areas.

Each legal mechanism to protect a GI has its own constraints, costs and advantages which may differ from one national context

to another. GI producers should explore and use all the available means to obtain protection, considering the location of markets for their product. The protection of GIs must first be established within the domestic market before it can be obtained in international markets (See case study 2).

A GI protected under a *sui generis* system in the country of production may be registered as a certification or collective mark in countries where it is exported and where *sui generis* system does not exist. For example, GI producers of Champagne wine and Roquefort cheese in France had to register their GI as a collective TM in the United States in order to benefit from legal protection of their GI on the US market.

Early protection to prevent generalization and expropriation of the geographical indication

Two major problems can arise for producers in relation with the loss of their legitimate right: when the name becomes generic or synonymous (common use outside the area, generalization) and when the GI has been registered by an actor outside the territory (expropriation). The perception of the generic nature of a geographical name may vary among consumers, producers and countries and has often caused disputes that have been very difficult to resolve. In some cases, producers in the original area have managed to obtain the “re-localization” of the GI, that is, preventing producers outside the territory from the use of the GI. This is more likely to occur if the use of the geographical name is not too widespread, or if the geographical name is well-known outside the territory and the economic and political stakes are high and favourable for the protection of the GI (see case study 5 and Box 3).

Generalization occurs when an unprotected GI is used as a general term, thus also to designate products originating from outside the original area, as a result of the spread of reputation and specific characteristics of the original “model”. Such geographical names are said to have become generic or synonymous terms.

Expropriation occurs when the GI is registered outside the territory before the local legitimate stakeholders have been recognized as such and have obtained protection for their GI.

Conflicts, usually complex ones, can occur between the owner of a previously registered TM and local producers wishing to protect their GI. This often generates high costs for administrative and judicial procedures (See Box 4).

BOX 3: WHEN A GI BECOMES GENERIC, THE EXAMPLE OF CAMEMBERT

“Camembert” has been the name used for over a century to define a type of cheese that is produced in several countries. As a result, it has not been possible to reserve the right to use the term for producers localized in the region of Camembert (Normandy, France). The only intellectual property protection over the name has been granted to “Camembert de Normandie” as a PDO.

To avoid expropriation or generic use, it may be important to provide the basis for the required protection at a later date and consider early strategies to reinforce legal rights. In particular, producers should look for ways to increase public awareness of the GI product, with the support of public authorities if possible (See Box 5 on public inventories).

BOX 4: WHEN A GI IS REGISTERED OUTSIDE OF THE TERRITORY, THE EXAMPLE OF ROOIBOS

The problem of prior TM registration by external non-legitimate producers is well illustrated in the “Rooibos” case in South Africa. Rooibos was registered as a trademark in the US by a Rooibos exporter in 2001, giving rise to difficulties for South Africans attempting to export Rooibos to the US. Litigation, in which a number of US coffee houses participated, concluded reportedly with an out of court settlement at a cost to the Rooibos industry of about US\$1 million.

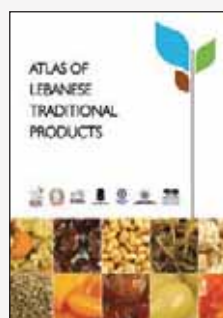
Conveying the GI as the heritage of a local community of producers, in relation with a specific product and a defined geographical area may support a claim against infringement in good faith. The reputation of a GI may also be promoted through the internet (such as through a dedicated webpage or a definition in Wikipedia and references to websites), or through the participation in international associations such as OriGIn, etc.

BOX 5: EXAMPLES OF INVENTORY OF PRODUCTS

The Atlas of Lebanese Traditional Products is a collection of traditional products of the Lebanese cuisine with a strong link to the territory, the history and local production. It was developed in the framework of the cooperation project “Activation of Mechanisms to Sustain Rural Territories and Communities in Lebanon” (TerCom) promoted by the Italian Ministry of Foreign Affairs through the Italian Directorate-General for Cooperation and Development, in the context of the “Early Recovery Assistance” with the contribution of the Apulia Region and implemented by CIHEAM-IAMB. The products included in the ATLAS have been identified through field visits of the TerCom team with the collaboration and support of MoA experts and the Local Action Groups established in the framework of the project.

The information was collected by meeting in local communities, mainly with women producers, individually or organized into cooperatives. The objectives of the ATLAS are to promote the richness and uniqueness of Lebanese territory and communities and to preserve, encourage and promote the production and consumption of traditional foods in the era of globalization.

www.tercom.org/?q=content/atlas-lebanese-traditional-products



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Cyberterroirs (Cybermontagne) has been developed in a framework of cooperation between FAO and the International Centre for Advanced Mediterranean Agronomic Studies (CIHEAM). This platform is both an internet-based information system dedicated to mountain products from four Mediterranean countries (Algeria, Morocco, Lebanon and Syria) and a tool for identifying and facilitating projects for the promotion of such products.
www.cyberterroirs.org



The culinary patrimony of Switzerland: a website lists the traditional products for each of its regions.
www.patrimoineculinaire.ch



The Registry on Traditional Knowledge in agricultural products and food of Austria describes the different Austrian agro-food products linked to traditional local knowledge
www.traditionelle-lebensmittel.at



BOX 6: THE ORGANIZATION FOR AN INTERNATIONAL GEOGRAPHICAL INDICATIONS NETWORK (ORIGIN)

In 2003, in response to the increasing risks in terms of abuse and misappropriations faced by GIs, producers from all over the world joined forces to advocate for the establishment of an effective international system of protection for GIs and to promote GIs as a tool for sustainable development for local producers and communities. OriGIn - the Organization for an International Geographical Indications Network - was launched in Geneva as an NGO for this purpose. Today, OriGIn represents some 80 organizations of producers from more than 30 countries in both the developed and developing world. OriGIn is a key actor on the international stage for GIs, as well as an excellent communication vehicle for GI producers worldwide. The goals of OriGIn are to promote GIs as a tool for sustainable development and an instrument to protect local knowledge. OriGIn also advocates for more effective legal protection of GIs at the national, regional and international levels, through campaigns aimed at decision-makers, media and the public.
www.origin-gi.com



Case study 2: Different legal tools used for protection

DARJEELING TEA (India)

Darjeeling Tea benefits from a global reputation. It is cultivated, processed and manufactured in the hilly areas of the Darjeeling district in the state of West Bengal in India. About 10 000 tonnes are produced in a year, 70 percent of which is exported. But it is believed that much more tea labeled as “Darjeeling” was sent to world markets as a result of blending with other teas and GI misuse. This situation has led the Tea Board of India to protect the name and the logo of the Darjeeling Tea by different legal means. Nationally, Darjeeling tea is protected under the Geographic Indication Act, registered in 2004 as the first GI product registered in India, and as a certification trademark under the Trade Marks Act. The artistic work is protected under the Copyright Act. At the international level, the logo and the word “Darjeeling” are registered as Certification Trademarks in the United Kingdom, United States and Australia. The word Darjeeling has been registered as a community collective mark in the European Union.



Source: Datta T.K., 2009

TEQUILA (Mexico)

Legal tools used by the Tequila organization (provisions are illustrative, not exhaustive).

Provisions	Objective
1949: Defined by the law as an industrial standard for spirits made from blue agave, distinguishing aged (2 years) and non-aged tequilas.	To prevent unfair competition and avoid misleading consumers.
1968: Extension of the geographical area, obligation to mention “tequila” on the bottles, and obligation to indicate the addition of flavours or colorants.	To extend the supply area in order to satisfy growing consumer demand and for meeting information requirements for consumers.
1974: Recognition of tequila as the first Mexican “Denominación de Origen” (DO), according to the law adopted in 1972.	To protect the Tequila DO from misuse in other countries on the basis of the national registration.
1977: Tequila is registered under the Lisbon Agreement for the Protection of Appellations of Origin.	To ensure protection for the use of the Tequila DO in other countries.
1993: Creation of the Consejo Regulador de Tequila (interprofessional body) which began to manage controls.	To manage the supply-chain and ensuring that quality requirements are met.
1994: Recognition of the DO Tequila by the United States and Canada under the North American Free Trade Agreement.	To protect the Tequila DO in its main foreign markets.
1997: Recognition of the DO Tequila by the European Union through a bilateral agreement; thereby extending the geographical area.	To protect the DO in EU countries, in particular those not part of Lisbon agreement.
2004: Obligation to bottle the Tequila DO in the DO territory.	To maintain the added-value within the geographical area and to prevent potential misuse of the name when the product is bottled abroad.

Source: Bowen S., 2008



5.1

Tools for an effective legal framework

The level of protection offered to GI products is a very important but not the only aspect of the legal framework that national governments can promote. The recognition of the GI as an intellectual property right also requires the establishment of “rules of the game”. These rules need to ensure the participation of all relevant stakeholders in the development and management of a GI system, to avoid the exclusion of concerned stakeholders and to ensure that both social and economic issues are addressed.

The existence of a sound legal framework for the protection of GI-related intellectual property rights, both inside the country and at the international level, is an important condition for the economic sustainability and the implementation of a GI system. This requires the integration of many different policy aspects at the local, national, regional and international levels to ensure the system is transparent, enforceable and efficient.

A transparent registration procedure is necessary, one that clearly defines the conditions for application without making the procedure too complicated. Indeed, small-scale producers for example are likely to be discouraged from applying for GI protection if this involves highly technical, bureaucratic or complex registration procedures. In these circumstances, large producers who may have more resources to devote to the process are likely to gain an unfair advantage in the GI market.

In addition to registration, it is also important to establish an efficient system for the coordination and enforcement of GIs in practice. The national institutional framework will greatly influence the effectiveness of the GI system in this regard, in addition to the role played by local stakeholders in ensuring adequate self-regulation and internal controls, such as through the establishment of a participatory guarantee system (See chapter 3.5).

To be effective, the legal framework should be accompanied by an adequate provision of information on the objectives and characteristics of the normative framework, as well as capacity-building measures, both for public institutions and production system stakeholders.

PRACTICE

Think about the issues raised in this chapter in relation to your situation.

Answer the following questions

- What are the available legal tools to protect the GI in your country?
- Are there any other intellectual property rights that should be taken into account for your product?
- What would be the expected outcomes of legal protection of the GI?
- Is there a representative group of producers interested in applying for GI registration to legally protect the GI?

List in the table

Analyse and list in the table the opportunities offered by different means of legal protection with regard to objectives of the collective action (*examples are provided in the table*).

Objectives	Requirements, opportunities and constraints of the legal means		
	Collective/certification TM	<i>Sui generis</i> registration	Other
Counter imitations based on a distinctive shape	Very difficult to get a protection on the shape through a TM	Description of the distinctive shape in the CoP	Patent?
Access to remote markets in other (developed) countries	High costs for monitoring misuses in third countries	Benefit from third countries protection if GI recognized	
Collective management of the supply-chain	The power of a collective organization is related to the degree of protection granted	Need to establish an efficient organization that continues to manage the supply-chain after the GI registration	
FILL-IN:			

5.2 Supporting a GI system through public policies

Introduction

As a result of the potential for GI products to contribute to economic, social and environmental goals, public stakeholders are more and keener to support the use of a GI as a tool for sustainable development. Public intervention is necessary to ensure the effective regulation of such tools, but also to support the process at different levels to improve the likelihood of the success of GI systems. Local stakeholders involved in the GI system need to become familiar with the policy tools that are available to them. Therefore, cooperation between public and private stakeholders is of fundamental importance in order to effectively develop the GI product system and ensure its sustainability.

Different approaches and different roles for public policies

As we have seen, public actors play an important role in providing a sound legal framework for the recognition and protection of GIs, but the role of public stakeholders goes beyond simply establishing the legal framework. The value of the origin-linked quality virtuous circle is subject to constant review and evaluation. The effects of this quality circle are not automatic: they depend on effective strategies from both private (individual and collective) and public stakeholders to define the relationships between a GI product, local resources, communities and markets.

BOX 7: POSSIBLE ROLES OF PUBLIC ACTORS ALONG THE QUALITY CIRCLE

Identification: information and sensitization of stakeholders to the nature of GI products and their potential for rural development; support for the identification of this potential and; providing legal tools and an institutional framework to protect the reputation of these products.

Qualification: support for conducting necessary studies, establishing a participatory process and for a sustainable approach in elaborating rules and codes of practice and; information on national procedures for the official recognition/protection of GIs.

Remuneration: enforcement of legal protection, nationally and worldwide and; information to consumers on the nature of GIs and support for communication tools (see box 5 in chapter 5.1).

Reproduction: support for assessing the impacts of GI systems and ensuring the sustainable evolution of rules.

5.2

Public policies can provide an important contribution to creating favourable conditions for harnessing the potential of GI products. Public stakeholders at various levels have a diversified set of policy tools at their disposal. Many of these tools are not specific for GI products, but they can be used and coordinated into a comprehensive and proactive “GI policy” approach. A “proactive” GI policy is a policy that spans the entire GI constitution and valorization process to maximize potential positive effects and minimize negative ones. In this process, it is essential to evaluate the positive and the negative elements on the basis of the principles of economic, social and environmental sustainability. In this context, GI products are only part of a broader policy that may be implemented and GI protection schemes can be seen as only one of many available tools for promoting rural development.

It is also essential to ensure that there is an appropriate mix of public and private initiatives for the GI system to function correctly; the balance will depend on the context. In some cases, public actors can intervene directly in GI implementation by participating with producers and other private stakeholders in the elaboration of the rules (CoP) or in compliance enforcement. In these situations, the direct intervention of public stakeholders should not replace the private and economic functions. In other situations indirect intervention may be more effective, for example by helping producer organizations accomplish some of the relevant activities and functions of the process: identification, qualification, remuneration and reproduction (see chapter 1.4 “Sharing a common approach” and case study 3 in this chapter). In any case, when benefiting from public support, it is important that producer organizations really represent the various categories and interests of the GI system and act within transparent and balanced rules allowing the participation of all interested parties in decisions (see chapter 3.1: “Building an organization to manage the GI system”).

Different levels in the definition of GI public policies

Different public stakeholders may be involved in developing GI policies, depending on their competencies and levels of intervention. Public institutions involved in the food and agricultural sector and linked to intellectual property are key stakeholders as a result of their competencies, but there may also be institutions involved in cultural, educational, training, and industrial activities, for example.

From a geographical standpoint, international (United Nations organizations for example), national (central governments or individual ministries), regional and local public institutions should also play important roles in the definition and implementation of GI policies. The distribution of public functions and the integration and harmonization of policies at all levels are important factors to consider.

The integration of public policies in the local project around the GI

There is no single “appropriate policy” for all GI products. Different support tools are required for the various types of GIs, from long- standing and well known GIs (where protection of the name is the primary goal) to “new” GIs (where the main objective is to bring stakeholders together around a common identity for a product name or project).

BOX 8: MAIN ROLES OF LOCAL PUBLIC ACTORS

Public stakeholders at the national level should guarantee a sound regulatory framework from both a legal and economic standpoint. However, local public stakeholders should also play a very important role in the design and management of these policies, promoting GI initiatives and supporting them in the field. As a result of their proximity to the GI product supply chain, local stakeholders should play the following main roles:

- Ensure a balanced representation of stakeholders in the GI system and that smaller players are given an equal voice.
- Regulate the definition process of the GI and, mediate potential conflicts in light of general aims, and orientate collective choices if needed.
- Encourage stakeholders to take into account local specific resources and the Environment.
- Support the operation of the GI system through capacity-building measures to encourage GI product market development.

The specificities of the product, its production system and the individual goals of each stakeholder, particularly at the local level, also need to be taken into account. The success of a GI policy is dependent on coordination between various stakeholders and the different policy tools, with special attention paid to local conditions. There are many possible tools for implementing and/or strengthening the value quality circle of a GI product. Table 2 provides some examples of these tools and is categorized according to the various stages of the value circle.

Case Study**Case Study 3: Public and local authorities support LIMON OF PICA (Chile)**

In 1999, the cooperative of Pica was nominated by the Foundation for Agrarian Innovation of the Ministry of Agriculture to participate in an initiative aimed at establishing a differentiation strategy and system for Limon of Pica (see case study 11 in chapter 3.3). Three projects followed, from 1999 to 2007, to provide investments, studies, capacity building and organizational support. The project also received support from the Chilean Government to build the packing house. Finally, the National Institute of Agricultural Development, supported additional capacity building measures, including visits for producers to learn about specific marketing channels for fruit export (such as PROCHILE).



Source: Vandecandelaere E., 2007



Public policies can provide tools to support the development of each phase of the virtuous quality circle, by designing them in consultation with local stakeholders. For local stakeholders, it is important to identify the different policy tools and initiatives that can be used in a developing collective strategy for GI products and to initiate discussions with local institutions to assist in developing local policies that are tailored to suit their needs.

Table 2: Examples of policy tools and possible actions

Phase	Policy aim	Possible actions/tools
Identification	Improve awareness among producers and other local stakeholders of GI characteristics and potential	<ul style="list-style-type: none"> • Design technical and socioeconomic assistance projects for GI product characterization; • Raise awareness of GI products in public administrations; • Support local actor involvement (also through producer and consumer associations, etc) in national inventories; and • Support the establishment of "GI local groups" to discuss GI issues.
	Strengthen knowledge of the roles of local specific resources (biodiversity, human capabilities, etc.) for GI specificities (characterization)	<ul style="list-style-type: none"> • Support studies to analyse the role of specific local resources on the quality of the GI product; • Encourage debate among local stakeholders on the importance of local resources for GI specificity; • Promote the identification and characterization of local production practices; and • Provide technical assistance, research programmes and training courses.
	Integrate GI schemes with initiatives linked to the protection of biodiversity and preservation of the environment	<ul style="list-style-type: none"> • Consider the link with the ecosystem as one of the criteria of GI specificity; • Support inclusion of rules related to environmental protection in the CoP based on technical and economic justification; and • Consider the potential for creating a quality hallmark to identify "good, clean and fair" GI products.
	Improve societal information on GI concep	<ul style="list-style-type: none"> • Promote national information consumer awareness campaigns as well as information on CoPs and the differences between legal tools that use geographical names; and • Make websites and other information tools accessible for GI representative associations.
Qualification	Allow the participation of all the categories of local stakeholders in defining the CoP	<ul style="list-style-type: none"> • Empower local stakeholders by improving access to information; • Create local discussion forums for GIs and encourage the active participation of stakeholders, especially small-scale producers; • Support the development of local stakeholders groups and associations; • Carefully consider the effects of the CoP on the distribution of benefits among stakeholders.
	Improve knowledge of GI protection schemes and minimize confusion between the different legal tools that use geographical names	<ul style="list-style-type: none"> • Provide clear information on GI protection schemes and their benefits/risks; • Provide training for local administration staff to increase their ability to assist producers and consumers; • Provide instructions on how to apply for GI protection from regional/local authorities to producer organizations (booklets, websites, training courses); and • Emphasize practical examples of related GI systems and the potential benefits for local stakeholders.
	Support local efforts to apply for the GI protection/recognition	<ul style="list-style-type: none"> • Support innovative policies to encourage collective and multidisciplinary actions; • Provide financial mechanisms to increase public access to the GI application process; and • Provide technical assistance for the GI application process; support local and regional forum to assess strengths and weaknesses of GI application system.

Phase	Policy aim	Possible actions/tools
Remuneration	Consider bottlenecks in the GI product value chain	<ul style="list-style-type: none"> • Establish credit programmes for structural investments in processing; and • Support local cooperatives and other community stakeholders
	Support joint (collective) marketing initiatives	<ul style="list-style-type: none"> • Create specific learning institutions dedicated to GIs and marketing; and • Support collective promotion initiatives consistent with the values targeted by the product.
	Enhance the recognition of GI products by society and consumers .	<ul style="list-style-type: none"> • Support creation and promotion of a national logo for the GI product category.
Reproduction of resources	Facilitate the evaluation of the GI process to improve economic, social and environmental sustainability	<ul style="list-style-type: none"> • Support regular evaluation, for example by supporting assessment studies, organization of specialized forums, etc.; • Identify more sustainable practices and encourage their adoption by local stakeholders; and • Facilitate the revision of CoP rules, in particular through simple applications.
	Facilitate the use of the registered GI by more and more local producers of the product and by additional categories of actors	<ul style="list-style-type: none"> • Develop temporary financial support programmes for producers seeking to use GI; • Target initiatives to strengthen the weakest and most marginalized producers, including the provision of information, technical assistance and financial support; • Establish training centres for the dissemination of practical skills related to GI products.
	Support adding value for the territory as a whole because of the GI product image and reputation	<ul style="list-style-type: none"> • Encourage development of eco-tourism based on local resources related to the GI product; • Encourage synergies between the GI system, complementary industries and other GI products; • Create "GI product" routes, promoting visits to GI producers, places and other local attractions; and • Encourage the development of tourism circuits in which valuable cultural elements are associated with traditional production methods
	Support local engagement and knowledge awareness of GIs in the local community	<ul style="list-style-type: none"> • Assign value to culturally significant practices, such as festivals, educational events, etc; and • Support popular festivities that are associated with the GI product.
	Support the equitable distribution of benefits from GI protection among different categories of stakeholders in the supply chain and within each sector	<ul style="list-style-type: none"> • Encourage cooperation agreements within the supply chain and among other producers and associations; • Encourage the establishment of professional associations to encourage fair and efficient negotiations among stakeholders; • Ensure that the weakest stakeholders are granted equal access to information, technical assistance and financial support.
	Encourage more sustainable production practices in the GI local production systems	<ul style="list-style-type: none"> • Encourage GI system stakeholders to develop more sustainable practices by identifying and promoting them, for example regarding packaging, energy, transport, etc; • Develop links to product quality attributes and use them as a marketing resource, where relevant.

Source: Belletti G., Marescotti A. (eds.) (2008), "Geographical Indications strategies and policy recommendations", SINER-GI EU Funded project, Final Report, Toulouse (F)

PRACTICE

Think about the issues raised in this chapter in relation to your situation.

Answer the following questions

- What are the main support needs of the economic, environmental and social dimensions of the GI production and marketing system?
- What support policies are currently available?
- How are the different public stakeholders involved in the GI system?
- What are the problems stakeholders face in accessing information related to policies affecting the GI system?
- What are the gaps that could be addressed using local policies?

List in the table

- 1) The main needs of the GI system.
- 2) Available policies and their characteristics related to each need.
- 3) How to access these policies.

1) Needs of the GI system	2) Policies and their characteristics	3) How to access these policies
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