Global Struggle over Geographical Indications

By
Aline El Jurdi

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Student Name: Aline El Jardi, I.D. #: 201700385

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School: Adnan Kasser school of business

The undersigned certify that they have examined the final electronic copy of this thesis and approved it in Partial Fulfillment of the requirements for the degree of:

LL.M in the major of Business Law

Thesis Advisor's Name: William MELHi

Signature: [redacted], Date: 13/12/2018

Committee Member's Name: Dr. Raed El-Khalil, Dr. Khodr Elkh

Signature: [redacted], Date: 21/12/2018

Committee Member's Name: Abdal-Nasser Kassar

Signature: [redacted], Date: 13/12/2018
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Dedication Page

To my loving parents
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Global Struggle over Geographical Indications

Aline El Jurdi

ABSTRACT

Geographical indications and trademarks have always been at the heart of debates, knowing that the numerous countries implicated espouse diverse laws concerning that matter. The protection of these assets is a fundamental factor in safeguarding not only a country’s economy, but also the indigenous knowhow and methodology, among others. Falsification and imitation have driven many to endeavor and demand the protection of their respective geographical indications.

This thesis will explore all the information and benefits correlated to geographical indications, present all neighboring notions, thoroughly analyze the various legislations, accords and agreements, as well as the misguidances and controversies between some of them. Then, it will tackle the focal debate of them all, between, on one hand, the Old World especially the Europe Union, who strives to preserve its GIs, and on the other hand, the New World, the USA, who claims these limitations are not justified. Each presents its own arguments that will be mentioned below, and a potential solution will be proposed.

KEYWORDS: Geographical Indications, Trademarks, New World, Old World, USA, EU, Agreements, Protection.
# Table of Contents

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I- Introduction</strong></td>
<td>1</td>
</tr>
<tr>
<td>1.1 Story of French farmers and relevant issue</td>
<td>2</td>
</tr>
<tr>
<td><strong>II- Geographical indications:</strong></td>
<td>3</td>
</tr>
<tr>
<td>2.1 Benefits of a GI</td>
<td>3</td>
</tr>
<tr>
<td>2.2 GIs’ constructive aspect</td>
<td>11</td>
</tr>
<tr>
<td><strong>III- Neighboring notions:</strong></td>
<td>13</td>
</tr>
<tr>
<td>3.1 Comparison between GIs and appellations of origin</td>
<td>13</td>
</tr>
<tr>
<td>3.2 Importance of GIs in SMEs</td>
<td>14</td>
</tr>
<tr>
<td><strong>IV- Legal protection of GIs</strong></td>
<td>16</td>
</tr>
<tr>
<td>4.1 Regional Legal Framework</td>
<td>16</td>
</tr>
<tr>
<td>4.2 International Legal Framework</td>
<td>18</td>
</tr>
<tr>
<td><strong>V- Controversies between GIs and Trademarks in virtue of TRIPS</strong></td>
<td>22</td>
</tr>
<tr>
<td>5.1 Comparison between GIs and Trademarks</td>
<td>22</td>
</tr>
<tr>
<td>5.2 Interpretation of GIs in virtue of the TRIPS agreement</td>
<td>26</td>
</tr>
<tr>
<td><strong>VI- Global struggle over GIs:</strong></td>
<td>31</td>
</tr>
<tr>
<td>6.1 EU and US positions towards different types of protection</td>
<td>31</td>
</tr>
<tr>
<td>6.2 The story of Champagne as a clear example of the US-EU conflict</td>
<td>35</td>
</tr>
<tr>
<td><strong>VII- Potential resolution of the conflict:</strong></td>
<td>38</td>
</tr>
<tr>
<td>7.1 Inter-American Convention on Trademarks and Unfair Competition</td>
<td>38</td>
</tr>
<tr>
<td>7.2 A breach of hope in the EU-US conflict, propositions and problems faced</td>
<td>41</td>
</tr>
<tr>
<td><strong>VIII- Conclusion:</strong></td>
<td>46</td>
</tr>
<tr>
<td><strong>Bibliography:</strong></td>
<td>50-53</td>
</tr>
</tbody>
</table>
Chapter One

Introduction

A geographical indication denotes the label or emblem, exploited to designate products that refer to the specified geographical region or are in a certain way related to the root source for example the nation, region or town. It also fulfills the role of marking certificate reflecting that the mentioned product has unique qualities and good reputation because of its origin and because of the stated geographical location. The following notions: the benefits of GIs, the relationship between a GI and a trademark, the TRIPS agreement and many more, as well as the controversies that emerged will be discussed in this thesis. Furthermore, it will focus on the dissention between major countries because of various opinions concerning the protection of GIs and trademarks. After detailing all the information one needs to know, it thoroughly studies all aspects of both, explores all pertinent facts and knowledge, provide solid evidence and debates the argument. It also explores the diversified points of view and all testimonies, insuring an objective unfolding of the problem, striving to provide a comprehensive solution to the conflict that will be benign for both countries.
1.1 Story of French farmers and relevant issue:

It all began in Europe, where rural fabricators, farmers and manufacturers brought their homemade products to food markets in big cities and sold them. The demand on these products broadened year after year, which was very advantageous for the rural fabricators, farmers and manufacturers, as customers now knew them and what they manufactured. Seeing how their businesses grew, other farmers started imitating them and developed similar merchandises. The original rural fabricators, farmers and manufacturers were angered by that matter and asked the authorities for protection, since they were the ones who initiated the practice. The concept of the protection of GI then emerged.

This led to the implementation of the Lisbon Agreement in 1958 that made it quite easier through the adoption of a unique registration. Then another system, that permits to register GIs, trademarks and collective and certification marks, on an international level. Later came the Madrid Agreement and the 1989 Protocol.
Chapter Two

Geographical Indications:

2.1 Benefits of a GI:

The geographical indication is a badge employed on products possessing a definite geographical origin and carrying characteristics or distinction related to that origin (e.g. Mexican Tequila). It is imperative that the geographic location echoes the product with specific features or attributes. Product and location necessitate to be intertwined. Sometimes, “the area of origin” could advocate the value of the distinct product aspect or quality to the purchaser. Therefore, consumers are often accustomed to spend more on such products. Knowing that brand identification is a prevalent marketing character, geographical indication is the key factor that assembles information about a product’s origin. Along these lines, geographical indication can be a dominant element in developing rural economy. As such, GI is viewed as an elemental arrangement of rural development, which can persuasively uphold economic and commercial attractions, in addition to augmenting territorial interests similar to environmental, cultural and traditional preservation. Through the marketing of goods and services at an international level, GI administers legal representation, protection and reinforcement of local
economies and culture while shielding artisanal and traditional skills or indigenous knowhow, and the particular expression assets of a certain locality.

A third party cannot use a GI if it does not fulfill specific requirements. However, the GI holder cannot stop a third group from manufacturing a similar product in a similar manner.

“In the jurisdictions in which the Darjeeling geographical indication is protected, producers of Darjeeling tea can exclude use of the term “Darjeeling” for tea not grown in their tea gardens or not produced according to the standards set out in the code of practice for the geographical indication” states the World Intellectual Property Organization (WIPO), created in 1967 and functions as one of the 15 specialized agencies of the United Nations.

It is crucial because it acts as a “source-identifier” for the product. People cannot employ the name of the geographical region as a brand name for their product.

The holder of a geographical indication can seek legal remedies to protect from potential infringements. The holder can also avoid illegal use of a Registered Geographical Indication. Nevertheless, a product will not obtain the right of having a geographical indication unless its name becomes realistically famous.

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Studies show that GIs can be an added-value to rural development as they help in creating new jobs in order to create a strong community, stopping the exodus of young people who feel disadvantaged in rural areas in order to decrease challenges, and enhancing the region’s security and protection levels in order to reach the development needed. Not to mention that the exodus of young people leads to a certain instability. GI also boost exports.

However, it is important to mention that there are many criteria to meet to help GIs’ contribution in development such as the incorporation of human factors (e.g. artisanal and handicraft products). For instance, protecting GIs is crucial: they provide a wide range of direct and indirect assets. Direct assets start with having different socio-cultural values to more forthright economic gains following the increase in job creation, revenues and more accessible markets. On the other hand, indirect assets can be translated in improved local governance and tourism – an example of diversity, job creation and services. In tourism, every detail is related, thus, we can draw the attention on the relation between local food and gastronomy with tourism, for example: a region well known for its culinary diversity attracts tourists, enhances the economy, promotes the region and brings an added value to GIs (e.g. Bordeaux Wine).

In addition, it is said that protecting GIs legally might pave the way to producers’ development on the socio-economic scale. This development will include local products as well as village communities. In other terms, GIs are crucial for the protection of traditional knowledge. In this context, many agreements were struck to protect these products such as the TRIPS agreement tightening protection on wines and spirits aiming at granting protection to the traditional knowledge of local European wine producers. On
The World Intellectual Property Organization (WIPO) defines traditional knowledge as such “tradition-based literary, artistic or scientific works; performances; inventions; scientific discoveries; designs; marks, names and symbols; undisclosed information; and all other tradition-based innovations and creations resulting from intellectual activity in the industrial, scientific, literary or artistic fields.” Traditional knowledge is not an acquired theory but it is more like a daily process helping in people’s income by unconsciously practicing and applying it.

Geographical indication identifies traditional knowledge’s products as well as products resulting from traditional practices and reflecting a certain region or even a population. These products may include handcrafted products using present natural resources that are specific to this geographical region and origin. Although GIs seek traditional knowledge’s protection, they protect it by preserving it for upcoming generations but this knowledge remains under the protection of intellectual property systems.

It is said that traditional knowledge cannot be easily categorized in any IP system, that is why it could be protected under the trademark’s, copyright’s category… despite this dilemma and because of characteristics related to the territory and culture, experts said that GI protection is way better than any intellectual property protection granted. One of the main reasons supporting this idea is that GI provides non definite time for protection.

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2 WIPO, Glossary of Terms
3 Sunita K Sreedharan, Geographical indications and traditional knowledge.
It is important to note that not all traditional knowledge is known and accessible to the public. In some cases, the traditional knowledge is a complete secret in the region and outside it and only the people working in this business know the process and pass it to the next generation. In other cases, the knowledge is publically known and available to every person interested in this domain. After comparing these situations we can deduce the following: the GIs’ protection of a widely-known traditional knowledge never prevents TK from being used in other productions sold under different names. Effective TK protection take place when it is totally private and producers use GIs.

In order to translate what has been said and concretize it, we will give an example of registered GIs in India such as:

- **Kancheepuram Silk Sarees:** sarees of pure mulberry silk are produced in Kancheepuram, using a special technique in threading and finishing and in which Zari is the main component.

- **Vazhakulam Pineapple:** known as the pineapple city, Vazakhulam is a fruit with unique aroma and sweet juice. The fruit’s plantation started in Muvattupuzha taluka of Ernakulam and is one of the region’s specialties.

- **Malabar Pepper:** India’s spices are widely known. However, this pepper is grown in the geographic regions encompassed in the Malabar region of the erstwhile Madras Presidency.

- **Muga Silk of Assam:** Assam silk’s industry reached its highest level by the 7th century. Muga state is known for its silk – the state’s most popular export- preceded by Assam tea.
It is inappropriate to employ traditional, culture or folkloric expressions or adaptation thereof in a manner that does not uphold their specific community as their birthplace. It is compulsory to respect names, signs, symbols and words which represent the prior mentioned traditional, culture or folkloric expressions, adaptation or derivatives thereof and not degrade, aggrieve or deceitfully offer a relation between the specified community or draw it into disdain or dishonor.

Competent and valid legal measures that would secure that:

- Any deformity, falsification, alteration or defamatory action related to a traditional, culture or folkloric expression may be averted and/or subjected to punitive measures.

- Any distorted, disconcerting or deceptive accusation that refers to goods or services intertwined with a traditional, culture or folkloric expression of a specific community that advocates any support or relation with that community may be averted and/or subjected to punitive measures.

- The appropriate community is named the birthplace of any labor or production complementary to a traditional, culture or folkloric expression.

Internationally, these assets are a source of differentiation and competitiveness. Thusly, GIs take a multifunctional aspect in the rural development; they need low levels of innovation helping producers to demand a GI protection without having to worry about the rate and investments linked to innovation. Furthermore, they could assist in avverting bio-piracy and piracy of traditional knowledge, e.g.: “farmers producing the PDO Jersey
Royal Potato use seaweed harvested from Jersey beaches as a natural fertilizer. This practice dates back to the 12th century. Planting and harvesting are done by hand because of the slopes’ steepness. Therefore, the PDO Jersey Royal Potato is helping in achieving a rural and sustainable development through the preservation of traditional knowledge and sustainable agriculture practices using the natural fertilizer.” In addition to that, they could help in enhancing the ecosystem through the preservation of landscapes and biodiversity. GIs encourage the use of endemic fauna and flora rather than lessening biodiversity by introducing copy of fauna and flora (e.g. in the Mescal region, the agave sugar required to make Tequila is grown and managed however in regions outside Mescal, the tequila agro-industry encourages genetically identical Agave and intensive land usage). If there also lie plant varieties bettered by traditional knowledge and that fit into a particular region, geographical indication can be also used to protect this product subsequent from a certain geographical region.

According to the TIPS Agreement, the products originating from a certain locality possess specific qualities proper to the sub mentioned locality. These qualities vary from one region to another in connection with diverse elements; climate, geography… It is thusly advised to focus on the protection of:

- GI related factors such as water, stones, salt, earth…
- Animals, their meat, milk… in accordance with their survival’s intimate relation with the GIs.

It is crucial to adopt a strict protection system for the GIs after an attentive scrutiny taking into consideration many factors. Many GIs confirm having to spend huge amounts of money to ensure their protection for getting better results and setting new
strategies covering the access to the markets, preventing bio-piracy, preserving biodiversity, supporting rural development initiatives…

It is decisive to note that GI preservation lies within process and agricultural products, which combine not only agriculture harvested products but gross aspects for agriculture such as carcasses, meat, dairy, fish and animal excretions, in addition to salt, water, stone, earth… Knowing that animals’ and their products’ continuation is analogous to climatic and geographical conditions. For instance, the Hindu religion views water as a God ‘’Ganga Jal’’. It is the unique water that might be kept for longer and do not stench in comparison to other water. As soon as the Basma rice GI case is decided upon based on ‘’the yield evolving in Gangtic terrain’’, the element of Ganga water cannot be avoided.

Despite the fact that the extension of basic food can be recorded for GI combining dairies, fish and meat, it is crucial to deduce Article 22 of TRIPS Agreement, by virtue of which, none of the products alleged to that particular geographical location or condition are expelled.

Moreover, GIs increased the developments in different areas, inter alia, regional cooperation between municipalities, authorities, commercial and social partners and at different levels (economic, regional, socio-cultural, ecological…)

It is compulsory to provide customers with GI knowledge and gain their trust in GIs for them to fulfill their mission adequately.
2.2 GIs’ constructive aspect:

Based on thorough research, analysis and data collection, it has been proven that GIs are constructive in society for miscellaneous aspects, which are the following:

-Economics: The protection of GIs will aid in localized production and in cost-effective business opinion, which will generate increasing demand. It will also safeguard quality and assure safety for clients, for example, French Bresse poultry’s price is 4 times the price of poultry meat. In addition, GIs are none competitive, which permits them to be imported minus added duties. Furthermore, GIs maximize the partition of benefit between contributors, since they are associated with short food supply chains. Their protection will as well incite to entrepreneurship and innovation in rural areas, especially in case these areas realize their power of competition, due to the uniqueness of their products’ GIs, that will be used as effective marketing tools establishing new market infiltration, premium prices, customer education…

-Employment: With broadening demand, there will obviously be an increase in production, thus the necessity for more employment creation, which will be the cornerstone to decrease rural emigration.

-Governance: Along with the geographical indications and the rising demand, the mission of the government and various governing bodies that dwells on the protection and the promotion of their interest will boost, thus inciting the local citizens and their taking part on governance. In conclusion, more protection of the geographical indications will naturally advertise cooperation inside the region and empowerment of community institutions.
-**Environment:** This will also maintain biodiversity and conserve the environment and the region’s trivial resources.

-**Culture:** It will insure quality safeguarding and traditional locale aptitude to process and produce. It will also prepare for more incorporation of local production linked with climate, geography…

-**Education:** It will advocate heritage alertness and agglomerate the disposition and intelligence as well as agitate affinity and set off education.

-**Society:** GI protection will naturally enhance the income per capita, society education, and finally living standards. It will shield from unfair competition, protecting the producers in a specific region from being supplanted by others and grant customers transparency.  

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4 Traditional Knowledge and the “discriminative” Nature of Intellectual Property, ISLA Journal Of International & Comparative Law, Volume 15, pp. 553-557
Chapter Three

Neighboring Notions:

3.1 Comparison between GIs and appellations of origin:

What about appellations of origin? They are a special type of geographical indications. This term is mentioned in the Paris Convention and its definition is given in the Lisbon Agreement. Both appellations of origin and geographical indications provide the consumer with information and characteristics specific to the place of origin. However, this link between the product and its place of origin should be stronger in the case of appellations of origin. In other words, in case of appellations of origin, the characteristics or the quality of the product should be attributed to a certain geographical territory along with the processing of the product, while in a geographical indication, a single characteristic is enough. In the case of the latter, the product can be processed elsewhere.

The GI protection is based on three axis:
- GI signs are greater than appellations of origin since the former can be symbols or images while the latter are mild names.

- Preconditions to relate GIs and product quality are lighter than those for the appellation of origin are.

- The reputation of a geographical indication is sufficient to protect goods that are not protected by appellations of origins.\(^5\)

### 3.2 Importance of GIs in SMEs:

Intellectual capital, in contrast to that of financial and physical, is more and more considered as an important source of competitive benefit for enterprises, nations and individuals. Small and medium enterprises (SMEs) are frequently considered as significant innovators in a country’s economy. SMEs often have difficulty commercializing their product as it exceeds their budget. Consequently, they form a joint partnership with big companies in order to help them grow and commercialize their products. In this case, SMEs needs intellectual property legal protection in order to preserve their presence in the market. In case where the product has a direct link to the country or land where it is being manufactures, then a geographical indication is a must.\(^6\)

\(^5\) Conflict between geographical indication and trademark protections under the trips agreement and Vietnam Laws. (2018).

\(^6\) CETA and the Future of Geographical Indications Protection in Canada.
It is adequate to shield a part of intellectual capital, considering it as property through contractual agreements using official legal rights. Small businesses may benefit from the same legal protection regarding their intellectual assets, preventing their use by bigger enterprises or them being stolen away. As such, intellectual property rights are a very powerful shield and a huge assistance to SMEs against big corporations. SMEs associations can register collective marks to market jointly the products belonging to a group of SMEs and, thus, improve the recognition of a good.

The basic difference between certification marks and collective marks lies in the use if the mark where collective marks can be used exclusively by a certain group of firms such as members of an association whereas certification marks can be used by anyone who follows the standards indicated by the holder of a certification mark.
Chapter Four

Legal Protection of GIs:

4.1 Regional legal framework:

Due to the increasing trade and the increasing dematerialized nature of trade, the EU courts are facing more and more questions on how to tackle various issues. Therefore, the “Territoriality and Jurisdiction in EU IP Law” is very important to solve all occurring conflicts. The law is applicable to intellectual property disputes, jurisdiction generally as to IP and related disputes, and as to patent disputes.7

In the EU, one can apply for EU wide-patent, design, plant variety and trademark protection. One can also apply for IP protection on a national basis in each individual country of interest.

There exists 3 European Union schemes of geographical indications and traditional specialties that promote and protect names of quality agricultural products and foodstuffs:

1. Protected Designation of Origin (PDO)

7 Journal of Intellectual Property Rights, 2014
2. Protected Geographical Indication (PGI)

3. Traditional Specialties Guaranteed (TSG)

Products registered may be, therefore, marked with the logo for that scheme to help identify those products. The schemes rely on the legal framework stipulated by the EU Regulation No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs.

This regulation\(^8\) ensures that only products truly coming from that region have the privilege to be identified as such in commerce.

Regarding the US, state and federal courts have parallel competence. The federal courts decide copyright and patent issues. The state courts do not have the right to make decisions concerning copyright issues and substantive patent. On the other hand, they are allowed to make decisions in some related issues like the intellectual property rights ownership, license disputes, and assignment. “Trademark issues are subject to parallel state and federal systems, and a trademark owner can pursue a claim in either state court or federal court, depending on the rights they are trying to enforce.” In the United States, the state court systems are distributed on the 50 territories and states. These differences might be substantial in some cases.

Administrative trademark structure is used by the Geographical Indications system of the US. Moreover, the latter provides several opportunities in the benefit of interested parties to either cancel or oppose a registered geographical indication. Applications for

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\(^8\) This regulation is enforced within the EU and being progressively widened on international level through bilateral agreements between the EU and non-EU countries.
trademarks and for GIs are processed by the governmental authority USPTO (the United States Patent and Trademark Office). 9

4.2 International Legal Framework:

There exists international treaties dealing with the protection of geographical indications entirely or partly. The World Intellectual Property Organization (WIPO) governs treaties providing general standards of protection and governs registration systems to obtaining protection.

• WIPO-administered treaties offering universal criteria of protection:
  - “Paris Convention for the Protection of Industrial Property”: Adopted in 1883, the Paris Convention is applied to industrial property in general. It includes trademarks, patents, industrial designs, service marks, trade names, utility models geographical indications in addition to the repression of unjust competition. The first main step taken was in the form of this international agreement in order to let inventors be sure of the protection of their intellectual property in various countries.
  - “Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods”: According to this agreement, all goods having a deceptive or false indication of source, such as having a place mentioned that

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9 CETA and the Future of Geographical Indications Protection in Canada.
is indirectly or directly indicated as the place or country of origin, ought to be seized upon importation. Importation as such should be prohibited, and sanctions along with other actions should be applied regarding such importation.

- WIPO-administered treaties administering registration systems for gaining protection:

  - “Lisbon Agreement for the Protection of Appellations of Origin and their International Registration”: The Lisbon Agreement offers protection for names of origin, which means, 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 geographic environment, including natural and human factors". The Bulletin "Appellations of Origin" is the Lisbon system official publication.

  - “Madrid Agreement Concerning the International Registration of Marks”: Madrid Agreement, concluded in 1891, and the Protocol pertaining to that Agreement, concluded in 1989, both govern the Madrid System for the International Registration of Marks. The system allows one to safeguard a mark throughout numerous countries through obtaining an effective international registration in all of the selected Contracting Parties.

  - “Protocol relating to the Madrid Agreement Concerning the International Registration of Marks” (which also affords for the international registration of certification marks)
• World Trade Organization TRIPS Agreement “Trade-Related Aspects of Intellectual Property Rights”: The TRIPS Agreement became effective on 1 January 1995. It is until this day considered the most inclusive multilateral agreement regarding intellectual property.

The intellectual property areas TRIPS Agreement covers are:

- copyright and related rights such as broadcasting organizations, sound recordings producers and performers’ rights; industrial designs; trademarks that include service marks; geographical indications that include origin appellations; the integrated circuits’ layout-designs; patents that include protecting new diversities of plants; and unrevealed information that include test data and trade secrets.

The three central features of the TRIPS Agreement are benchmarks, implementations, and conflict settlement.

Geographical indication is mentioned in TRIPS Agreement in articles 22.1, 22.2, 22.3, 23, and 24. These articles give general guidance concerning geographical indication and highlight the importance of having legal means to prevent any misinterpretation or wrong indication of a good.

Canada has numerous free trade agreements, the following include provisions on GI (CETA and the Future of Geographical Indications Protection in Canada, n.d.):

• Free Trade agreements signed based on the Trans Pacific Partnership (Feb 4, 2016).
Chapter Five

Controversies between GIs and Trademarks in virtue of TRIPS:

5.1 Comparison between GIs and Trademarks:

Geographical indications and trademarks both convey information that tell the consumer about the origin of the product. In a geographical indication, the characteristics of a product are related to the origin place, while in a trademark the characteristics of a product have nothing to do with the place where it originated. A geographical indication can be used by all those who have products originating in that exact same place with typical characteristics; whereas in a trademark only the holder has the right to use it and no one else can use it without his/her permission. A geographical indication gives the consumer a sign that the product has originated from a particular geographical territory from where it gained its reputation or special quality; however, a trademark is a sign that the product is coming from one trade and nothing else.

Trademarks and GIs are employed as commercial indicators. It is imperative to note that some trademarks are recorded as GIs and contrariwise, which often breeds a clash
between the two elements’ protections. The mechanisms to dissolve this struggle vary between countries simultaneously with the differentiation of the implemented distinguished GIs regulations. The TRIPS introduction sets an innovative measure on GI protection globally. It views GIs and trademarks as two heterogeneous components and advances, for the first time, a solution to the issue.

Many global conventions specialized in industrial property consider a trademark as an intellectual property rights object. It has also been specified by the TRIPS agreement.10 Thus, a trademark assists in variating between competitors’ products using any name, figure, image… It safeguards the products’ commercial root and not their quality, which detains consumers’ loyalty. It is important to note that any element adopted to refer to a geographical origin for example an emblem is recognized as explanatory, and is often omitted from trademark protection. In order to bypass that an individual right of a collective sign is granted to a specific company, the TRIPS agreement and local legislations decline the registration of an ambiguous or misleading trademark, exempting the ones who do not, for themselves, account for any goods or services and in case they promote distinctiveness. The trademark’s right is granted through the merge of two principles. Protection is based on the ‘first to file’ basis prioritizing the premium applicant, however some countries, such as the United States, adopt the ‘first to use’ ethic, preferring the first user. The TRIPS accept the first user, and in accordance to it, the user gains a 7 years renewable exploitation right.

10 ‘Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark… Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use.’
The TRIPS agreement defines GIs\(^{11}\). GIs should invoke the area of origin of a specific product, whether using emblems, signs or names, which can be the appellation of a country (e.g. Columbia), a city (e.g. Bordeaux), even a bridge (e.g. London Bridge)… The indication should not necessarily be a location but rather evoke one; e.g., Basmati rice (Basmati not being a concrete GI but referring to India). Iconic symbols and images are accepted by the TRIPS agreement as GIs for example the Tour Eiffel for French products, and Che Guevara’s picture for Cuban cigars. Nevertheless, these might generate confusion; for instance is the London Bridge a symbol of London itself or Great Britain as a whole?

Each country possesses its own procedure of protecting GIs. For example, Canada, the USA and New Zealand employ a system of collective and certification trademarks. In addition, business and competition laws have keys roles in the matter. The variation of GIs’ protection mechanisms generated struggles especially concerning trademarks and GIs.

After comparing between trademarks and GIs, the conflicts bred between the two would resurface. As such, trademarks and GIs differ in their diacritic elements. Battles of rights and interests between GIs and trademarks are often due to the disparity between the GIs’ protection legal frameworks and the aptitude to register flags referring to geographical roots as trademarks or GIs, knowing that an exceptional bond unites a product’s specialty and its place of emergence.

\(^{11}\) ... ‘GIs are, for the purposes of this Agreement, 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. Two important elements are inferred from the above definition: indications identify geographical origins of the goods and The goods have “quality”, “reputation” or “other characteristics” essentially attributed by its geographical origin.’
Trademark proprietors may use and forbid others from employing such trademarks without consent. In the meantime, GIs’ use is appropriated to all producers stationed in that geographical region. Here comes the question: who is privileged to handle elements granting GIs, owners of trademarks or those of GIs? This matter will influence not only the competitiveness of the current geographical region but the quality of their products as well. Rivalries come from the aftermath of a trademark’s uncommonness character and the aggregate character of GIs. Strives culminate from the synchronicity of these two matters. Unless some specialized stipulations are put into place, (in both cases regarding registration), both elements may exist side-by-side.

Nevertheless, while both GIs and trademarks tote facts about products’ provenance and prominence, they are usually quite diversified. In fact, trademarks focus on material concerning the corporation or any authoritative individual or group of individuals over the goods, whereas GIs target their geographical inducement, individuality and predication. Notwithstanding, some samples of trademarks, also called guarantees or certifications and collective marks might be and are employed for GIs’ protection. ‘‘Roquefort’’, for instance is protected in France as a collective mark while in the USA as a certification mark. Both are quite diverse from individual trademarks that target individual companies. As such, many producers who meet the demands for the use of that certain mark can adopt them. The right holder of a certification mark cannot capitalize it while the owner of the collective mark can do so.
5.2 Interpretation of GIs in virtue of the TRIPS agreement:

Article 23 of TRIPS grants additional protection to wines and spirits, completely. It also tackles the problems of two various regions bearing the same name. For instance, Rioja, regions in both Spain and Argentina, which are both offered shielding. Lastly, it addresses upcoming discussions in order to set up a multilateral agreement for wine registration.

On the other hand, Article 24 has many controversies regarding the previously mentioned articles. It stipulates that a trademark may be registered:

- Prior to these provisions’ application date
- Prior to the protection implementation of the GIs home country.

However, these provisions will not be functional in case of any kind of similarity between this trademark and a GI. TRIPS protects from future misappropriation and very neatly covers up past acquirements. Then comes the transition from GIs and onto generic terms in article 26. In accordance with this article, the United States does not violate any terms in case a geographical appellation in the Europe Union is contemplated as generic in the US. The TRIPS did not spare any efforts to change the already existing

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12 Each member shall oppose the employment of wine related GIs not directly rooted in the convenient origin.
status of things. Article 24 declares that if a GI is generic in its home country, it does not demand protection.  

Conflict settlement between GIs and trademarks is at the heart of the international debates about intellectual property. The following information clarifies how to manage to do so in virtue of the international law (1) and the national legislation (2).

1) The TRIPS Agreement reinforces a scope in order to apply intellectual property protection nationally. It states that geographical indication and trademarks are two aspects of intellectual property and must be equivalently guarded. As such, the link between the two should be acquired in the regulations implemented on the two. The trademark regulations developed a certain principle named: “exclusive rights of a trademark registered previously in a good faith”. This arrangement certifies that the trademarks’ owners possess the unshared right to avert the employment of interchangeable or analogous clues for indistinguishable or akin products in order to refrain from disorientation. By way of explanation, a trademark may englobe a geographical indication if the latter’s application does not misguide the public, respectfully to location of emergence. Correspondingly, an American corporation registered the “Bordeaux” trademark for biscuits, which is permitted since it does not unlawfully affirm that the biscuits come from Bordeaux, France.

13 Looking Beyond the Known Story: How the Prehistory of Protection of Geographical Indications in the Americas Provides an Alternate Approach (Chapter 9) - Geographical Indications at the Crossroads of Trade, Development, and Culture.
2) The TRIPS Agreement annihilates the registration of a trademark featuring a geographical indication in case it violates what has been previously stated\textsuperscript{14}. For spirits and wines, it is strictly and without exceptions precluded.

Nevertheless, some exceptions\textsuperscript{15} are valid. The below provision allows a GI’s protection identical or comparable to the one implemented on trademarks. However, many explanations emerge from these exceptions due to the variety of the local jurisdictions’ points of view concerning this subject.

In fact, some countries prioritize the protection of trademarks such as the USA, Australia or Canada, since their GI protection system is merged in their already present laws on trademarks. These countries impede the enrollment of any geographical indication collateral to a preregistered trademark to circumvent misperception. This is equal to the implementation of “exclusive rights of a trademark registered previously in a good faith” so it is unfeasible to record a GI as a trademark. In order to shelter the GI’s appellation, certification marks shall be catalogued, on the condition that it is employed fairly and safeguards the interests of its possessors and third parties, e.g. Rioja wine for Spain. Per contra, this protection cannot be applied if the related name is viewed as

\textsuperscript{14} “Each member shall (…) refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in that member’s country is of such a nature as to mislead the public as to the true place of origin.”

\textsuperscript{15} “Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either:

– before the date of application of these provisions in that Member as defined in Part VI; or

– before the geographical indication is protected in its country of origin; measures adopted to implement the protection of geographical indication shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication “
generic. On the other hand, for European countries who favor GIs, it is inconceivable to enroll a trademark englobing a GI in case it has already been enrolled. The only exception to the 24.5 TRIPS Article is applied to the indexation of a GI. As such, a parallel GI can exist with a duplicate trademark. The GI’s submission will not be tolerated in case a comparable or matching trademark was already itemized and widely acknowledged, and in case its usage might cause miscalculation regarding the roots of the products.

New Zealand, the United States and Australia assume that the European Union’s definition is shifting from the TRIPS Agreement’s Article 16.1 about restricted trademarks. When the two matters coincide, the owners of trademarks cannot forbid other from adopting GIs despite the fact that they are matching with their own trademarks. This engendered a conflict between these countries in the World Trade Organization. After a year, on March 15, 2005, the WTO admitted that EU’s provisions do not trespass its own.

In conclusion, TRIPS did not find a suitable solution to the battle between GIs and trademarks protections’, even though it was the first to clarify the matter. As such, each assemblage of countries interpret it as it pleases.

It is clear that states are parts of this conflict. In fact, a given nation state is supposed, if it is part of the conflict to have an unswerving stand in it. In the lawsuit concerning the United Kingdom Budweiser, the rivals were the American Anheuser Busch and the Czech Budvar. In the WTO, only member states were allowed to be parties to a dispute, thus the European countries, the USA and Australia, were the ones to debate in the
World Trade Organization Dispute. The member states of the WTO arranged the TRIPS and pursued talks in Doha. Alternative category of interest might be invoked: the profitmaking interest of concealed blocs.

The differentiation between the WTO and the disputes between private parties can be spotted by comparing the European Union Regulation where it was defended by the European Union, and the Feta query, where Germany and Denmark confronted Greece’s listing of the “feta” under the Regulation. France, being a proponent of GIs, shook the masses when it contested the designation of “feta” as a GI. France’s outlook clearly reflects the struggle of defining pressure of a country versus another. Through analyzing the “Feta Dispute” it becomes evident that the involved products best shape the stiffness between supporters of trademarks and those of GIs. It is dissimilar to the Old World vs New World assessment as even Old World countries are prone to disagree to the protection of a GI.
Chapter Six

Global Struggles over GIs:

6.1 EU and US positions towards different types of protection:

1) Cultural protection: values yoke and outline a population; this is why core value rivalries erupt more emotional retorts. In a number of cases, it is palpable that the wiles of the Old World nations refer to culture, history and tradition, while the New World states, protagonists of a trademark establishment, echo an essence of deceitfulness because of economics, agricultural policy and trade.

A number of European GIs are implemented on foodstuffs. What is eaten and drunk does not only mirror a certain society but constitutes the core of a culture, bonds to a language and conveys indigenous and nationwide culture. Moreover, all GIs are commodities where an eminence, trait or status is accredited to a certain geographical area. Since food is a cultural trait and GIs are linked to a locality, it is
obvious to assume that the indigenous people of a certain area would have a strong attachment to any drink or food with a GI protection. Locals breed deep emotions in this regard. Food is contemplated a significant illustration of cultural practices, sensitivity and distinctiveness, both distinct and communal. According to anthropologists, food delineates if an individual affiliated to a social group or is not. In the aftermath, food was combined to language at the hands of literature as a tool to reflect culture. The UNESCO Draft Convention Non-Exhaustive List of Cultural Goods and Services states “culinary traditions” as fragment of “cultural activities”. It is very well defined, as such; why the exponents of GIs embolden amplifying protection and insist it might fade under open market circumstances, saying it is crucial in sheltering “heritage, rural landscapes, and even a sense of regional or national identity”. E.g. a European winemaker16 clearly stated that any wine bottle from the USA or Australia is a “bomb targeted over the rich European culture”.

On the other hand, opponents of GI protection claim that these are generic nomenclatures voicing products’ classifications, signifying they do not compel legal protection, assuring that New World manufacturers may stipulate name rights due to the immigration from the Old World, since immigrants brought back new production lexicon and knowhow. E.g. Anheuser-Busch picked “Budweiser” because of an employee’s attachment to his Czech homeland. Concluding; the New World has the right to utilize the labels.

16 Winemaker from Languedoc, 1999.
2) Economic perspective: GIs limit competition but do not guarantee the ‘‘blatantly market restrictive effects of tariffs or tax trade protectionism’’. In this scope, one can affirm that GIs incite free trade through flowing information heading to ideal market conditions. The Old World claims that GI bonded products sell for ultimate prices for example, milk used to make Comte cheese in France is 10% more pricy than regular milk. Which leads the Old World to assert that manufacturers of unrenowned GI goods lose billions yearly, and that the New World profits from the knowingness of European-worth goods: ‘‘feta’’ and ‘‘prosciutto’’ for example are European IP, and their exterior use is a violation while products bearing the same names are forgery. The New World deliberates that these products draw superior prices heedlessly of distinction since protection links a product to a region and not inevitably to its distinctiveness. This is very infuriating to the New World who is obliged to create marketing campaigns while the Old World challengers gain optimum prices without additional cost or attesting for finest quality. The New World as such, considers that any negotiation in this regard aids European countries’ business while undermining the non-European countries’ corporations and forcing them to spend money on innovative brad labels.

3) Trade and agricultural policy positions: the agricultural industrialization in the 20th century currently allows harvesting enormous excesses of food. Large economies are apt to profit from it, simultaneously hindering small-scale economies. Biotechnology also plays a key role in the matter, what made the small producers in Europe turn to GIs as a legal repost. In fact, GIs focus on
quality rather than quantity, which generates more revenue for conventionally manufactured products. Thus, the EU deems indispensable to promote GI protection measures in order to safeguard small to medium scale manufacturers and to ensure rural economy perseverance. Products will then have price dividends, which will boost small-medium international competitiveness assisted by the creation of finer products. The gathered bonuses could become an alternative to the subvention allocated by the European Commission. On the other hand, GI protection adversaries declare that these measures would encourage inadequacies, since they consider these grants as a sort of protectionism and an ambiguity around the rising tensions for Europeans to release their markets.  

Many scholars have detected that the US’s and the EU’s approaches are just a race to forge new partnerships with mainly Asian countries. It seems to be working since many new agreements have been concluded such as the Trans-Pacific Partnership or TPP and other bilateral accords between Asia and the US or EU. An example of this clash of opinions is Korea that has recently ratified FTAs with both sides, so there are no clear protection measures.

The EU law confines GI protection to a hemmed in subject expanse, meaning protection only smears foodstuffs, spirits and wines. As such, manufactured products and services do not fall under the protection umbrella, despite the fact that the EU is actually

17 Conflict between geographical indication and trademark protections under the trips agreement and Vietnam Laws. (2018).
aiming to broaden its protection capacity while the US seemingly opposes the reinforcement of GI protection. Its motives are purely economic, since it targets the protection of its large food manufacturers who employ European names based on prerogatives that these names are generic terms.

The crucial difference is at the heart of the legal means of these two Worlds. Outstandingly, while the EU would rather adopt a *sui generis* approach founded on the administrative requirement of GI registration, the US tirelessly promotes trademark law singularly. As such, the GI protection in the US is not only based on registration but on market comprehension. Furthermore, for the US trademark law to be apt to shield a geographical name or GI and consider it a commonplace trademark, the name must have gained a subordinate connotation. Besides, US trademark law’s capacity does not include protection against enfeeblement, it is the mission of the region’s manufacturers. Yet, US shelters many GIs as collective and certification marks, knowing that obtaining this genre of protection is quite similar to the pattern followed under the *sui generis* system. 18

18 Looking Beyond the Known Story: How the Prehistory of Protection of Geographical Indications in the Americas Provides an Alternate Approach.
6.2 The story of Champagne as a clear example of the US-EU conflict\textsuperscript{19}: 

Champagne consumption has spread in the United States and the United Kingdom in the last couple of centuries, which led to the generalization of the word ‘champagne’ in these two countries. In fact, their jurisdictions now call champagne: any sparkling, dry wine, whether it is white or rosé, and wherever it has been produced. This drove the Champenois\textsuperscript{20} to strive in order to regain their exclusive right to the name. However, it is debatable whether the French should have hegemony over the word champagne, as its origin is Latin, ‘campania’, which translates to ‘open country’. ‘Campania’ also bred the English word ‘campaign’. Campania is as well an Italian region where Greek settlers manufactured wine during the 7\textsuperscript{th} century BC. Campania is also a town in Tasmania’s Coal River Valley, and is known for its wine producing. In the Canton of Vaud, Switzerland, the tiny village of Champagne has been generating still wine since 1657. This very lucidly summarizes the US’s opinion on the matter.

When looking back at the extravagant history of champagne, the achievements and anguishes of the Champenois, the fundamental steps of the development of the champagne that we taste today and the compound méthode champenoise, it becomes evident how these elements contribute to bond the identity, land, production and people


\textsuperscript{20} Original from the region of Champagne, France.
of Champagne. This powers the Champenois’ drive and will to shield their champagne from all similar but false others.

The US claims that the scheme the EU so strongly advocates will generate chaos and become untamable. In fact, knowing that geographic terms are deeply rooted with product cataloguing, any enlargement will demand expanded refurbishment of the food industry, combined with the enormous cost of the new system, which will cripple US’s target to lessen consumer perplexity. US scholars believe it will leave consumers wandering around supermarkets unaware which products they customarily acquire. Nevertheless, this broadened protection will only influence future production, as such, customers will be apt to get used to and be informed of any innovation during the transition period. There will not be any requirement to launch re-marketing and relabeling campaigns, but it will be necessary to change thedictions of the innovative products accordingly with the addition. EU scholars gave an example of sparkling wine in Spain, that had to be called Cava instead of champagne, became more popular and accepted by the public with a just bit of budget and misperception.
Chapter Seven

Potential Resolution of the Conflict:

7.1 Inter-American Convention on Trademarks and Unfair Competition:

In 1929, the United States drafted a convention in order to insure international GI protection, the Inter-American Convention on Trademarks and Unfair Competition, which is still in force today. It aimed to reflect the US superiority in the postcolonial epoch, over Europe and Great Britain, generated from the Pan-American movement and targeted to transform militarism into institutionalism. It insured the creation of a regional market since the US was aware that Latin America was an excellent provider of raw material. As such, it worked on uniting the continent, using various means, such as a common currency, a railway station and a customs union. A whole chapter of this Convention advertised ‘the Repression of False Indications of Origin or Source’, however the employed term is not identical to geographical indication. Knowing the fact that no clear definition is present, this Convention grants protection to a larger concept than that of GIs. For example, among other controversies, Article 23 denies the usage of any indication of GI or source that is not bonded to a specific constituency. It stipulates that fact whether it is or is not misleading. Thus, this article is the reflection of TRIPS Art 23, however, is not restricted to wines or spirits. The Inter-American Convention restricts the employment of
generic terms, as article 27 states that the exclusion to generic terms does not incorporate ‘regional indication of origins of industrial or agricultural products, the quality and reputation of which, to the consuming public, depends on the production of origin’ adjoining the ‘industrial’ to the ‘agricultural’ products in terms of protection. Among other misleading routes. Chapter IV, centering on unfair competition and bigoted use of geographical names in competition, has two out five articles that tackle the usage of geographical terms and focus on the ‘deceptive’ use of geographical terms, which is a disallowed act of dishonest competition. This clearly reflects the duplicity of two of the chapters, if referred to the one revealing the protection of geographical terms. The previous provisions do not seem to mention any regulations the US has abided by. In addition to that, there is not any proof that Latin America was obliged to any provisions at that time. Furthermore, no modern interpretation of the already present then US common law or statutory law seems to appear in the Inter-American Convention. Taking for instance the case of ‘Tabasco’. Tabasco is a Mexican state, known for the fact that it grows a peculiar chili pepper that bears the same name. Nevertheless, ‘Tabasco’ is as well a registered US trademark since 1927, representing a chili sauce. It is indeed extracted from Tabasco peppers, but not the ones harvested in Mexico. Many cases have emerged because of this issue, such as the Gaidry v. McIlhenny Co, case where the court has granted McIlhenny the right to sell his chili Tabasco sauce since the public has obtained a secondary meaning from Tabasco and directly related to the sauce despite the deceptive usage of the geographical term. In 1920, Tabasco became a symbol of the sauce and not the location since McIlhenny has been producing sauce from peppers grown from seeds harvested from the region of Tabasco, Mexico, offering it a distinctive name.

21 Inter-American Convention, supra note 2, art. 27.

22 Looking Beyond the Known Story: How the Prehistory of Protection of Geographical Indications in the Americas Provides an Alternate Approach (Chapter 9)
It is unclear whether the drafters of the Convention actually differentiated the practices related to the past laws or just aimed to create new ones. The most esteemed figures in engineering this Convention were Edward Rogers\textsuperscript{23} and Stephen Ladas\textsuperscript{24}. These two scholars were highly informed on all matters related to international development and trademark law, which permitted them to perfect their Convention. Some rumors about a rising conflict over geographical terms protection means were on the loose. In fact, Ladas later declared that the GI chapter of the Convention was a bettering of the Madrid Agreement. Maybe he thought about Art.4 of the Agreement related to wine protection, despite that the Convention did not show partiality towards wines, spirits or agricultural manufacture.

Many things can be inferred as such; the primary being that the US has a complicated tradition in GI protection related matters. Moreover, the Inter-American Convention was a shot to establish a regional substitute to the Paris Convention, which was at that time subjugated by Europe and not by the US. It is observed that one country is coercing its interests on others, much feebler, which would benefit the US firms in Latin America while no advantage for Latin American firms is perceptible. Ladas claimed that Latin American countries did not face a problem concerning the protection of their trademarks since they rarely itemized any in the US. As such, this Convention represented not only a lack of equilibrium in discussions but was also a complexity as an accord where the signatories only had a desire to forge trade relations in common. This might clarify why the Convention was given away by many actors, except of course, the American

\textsuperscript{23} Best known to be the drafter of the US Trademark Act, litigated many of the Supreme Court and other trademark and unfair competition cases.

\textsuperscript{24} Renamed partner in Ladas & Parry LLP and author of a crucial trademark treatise later represented the US at the 1958 revisions to the Paris Convention.
businesses. Minimally, this Convention certainly adds complications to the US position towards GI protection and disclaims its original anti-GI position.

7.2 A breach of hope in the EU-US conflict, propositions and problems faced:

The council for Trade-Related Aspects of Intellectual Property, also known as the TRIPS council, has a key role in implementing and monitoring the application of the agreement. It is also responsible of easing discussions in order to breed a multilateral registration mechanism for wines as stipulated by article 23. The council’s work is also centered on GI for spirits. Two sides, firstly the European Communities and secondly the United States and Japan among others, have made contributions in the form of proposals for the innovative mechanism:

- The EU proposal: the ‘’TRIPS-plus’’ or ‘’value-added’’ intends to succumb GIs to registration, a process for contrasting itemized GIs and upcoming ways to modify the register in addition to legal impacts. Members may employ the registering through presenting their shielded and documented GIs in their root country plus the pertinent legislation. The deadline to revise the application is one year and members may resist another member’s submission in virtue of TRIPS. After a year, this GI becomes entirely defended in all WTO member states, where all relevant measures should be taken in order to insure its defense. Name admission for protection is deliberate, which drives some
countries to ask if the EU means voluntary participation when proposing so\(^\text{25}\). It is coherent because all members should be part of this protection system so it fulfills its aim. The mechanism will establish an international country-bonding law, non-evasive of each country’s own regulations. The state that was able to stand to the admission process would be the only one discharged from GI protection. Controversially, it breaches the TRIPS since; if a member is successful in opposing the submission based on TRIPS, then the GI is not shielded by the Agreement in the first place, if only one member is relieved as such from GI protection, it defies article 4 concerning \textit{the most-favored-nation treatment}.

A solution to the issue: no registration for such a GI at all. In addition, the EU plans an all-time open register.

- The US proposal: many countries, including the US disparate the EU’s request\(^\text{26}\). They claim that the new mechanism should not inaugurate new compulsions nor shrink the rights of the TRIPS; must lodge all existing systems in all members’ legal routines, be chosen and not force any charges or loads on the WTO Secretariat. The US advises the WTO circulates a detailed list of local GIs, as reference. It argues any member that will contradict another’s submission should do it in its own system and that the universal mechanism must be intentional. The EU disputes that these proposals are a mere databank with no protective aspect.

\(^{25}\) The establishment of a registration system of geographical indications for wines "eligible for protection in those members participating in the system".

\(^{26}\) "The likelihood that the proposal would change the obligations of WTO members under the TRIPS Agreement, would not be voluntary, and would impose burdensome and costly procedural requirements on both the WTO Secretariat and on WTO members."
After these proposals, the Council, through questions and informal soundings, deducted a "draft Checklist of Questions about national regimes for the protection and enforcement of geographical indications" permitting that members willingly transmit replies. However, the extent of the index procedure constitutes an issue in the discussions and for the EU. According to the TRIPS, the WTO associates will put together an international recording process for wines. The EU wanted to do so in the first place, and when it is feasible, the scope of protection will be expanded to other products. Many other countries, the majority of which are developing, supported that position using Article 24\(^{27}\) nevertheless the US and its cohorts did not agree to that, arguing that the TRIPS never predicted a supplementary scope of protection under Article 22. They claimed it is crucial to focus on the current multilateral protection organism related to wines and spirits, bearing in mind that any other form of protection is currently hasty. It is significant to note that most of these countries were tenacious about the matter since the very start. It is clear that the countries benefitting want to launch the dialogues promptly while the countries who would not would rather abstain. Many problems emerge throughout the discussions, the most persistent being the dissimilarity between national laws adopted in diverse countries.

Another issue related to the debate is the fact that some certification marks might be modulated to become GIs;

- Organic and Sustainable: initially not present in the list of potential GIs since the concept is too broad and a lot of products were covered by the state’s certification. It is improbable that all products grown in an eco-friendly manner inside an exact state

\(^{27}\) Article 24 allowed the negotiations of such an extension to GI protection.
have precise features, eminence or repute. Nevertheless, wines are an exemption, since wine grapes and their result are delicate facing any alternative in the growing environment. As such human factors have an impact on the harvest, which should give sustainable and organic a chance to become a GI.

- Locally Made and Locally Grown: thorough research should be conducted concerning that matter.

- Non-native Livestock and Strictly Controlled, Man-Made Growing Environments: are a particular concern, an example is the ostrich oil. Ostriches are not US native, as such they might not necessarily acquire qualities related to the adaptation to a particular region. Animals that feed on local flora might develop some particular characteristics, e.g. cheese and milk. So, it is possible to import food for the stock from that particular region. The human factor, here too, plays a crucial role. Similarly, man-made environments may hinder the adequate GI representation.

- Breeds: very problematic as well since it would be imperative to prove both roots and attributes.

- Tribal marks and timbers: very difficult to prove, however tie the products to some particularities.

A potential solution to the US-EU conflict would be the preservation of the existing state of affairs, through maintaining generic and semi-generic products, without protection, as GIs; in counterpart, establishing a solid GI protection scheme that would preserve future products from genericism. This resolution would be effective for both sides. Concerning

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the distinct laws, it is imperative to allow their co-existence. The rule that should be applied is the first-in-time, first-in-right rule, since it has been efficient in other law branches, in addition to an international index process, firstly applied to wines and spirits, with a possibility of expansion in due time. The implementation should be swift, permitting the initially opposing countries to reexamine and maybe find the system advantageous.
Chapter Eight

Conclusion:

I strongly support the EU’s position for various reasons. Initially, the US seeks to undermine the value of GIs through imitation or while it manufactures similar products to those of the EU. For some indigenous people or small communities in the EU, the production of handmade or traditional goods is a strong ancestral bond and a means of attachment to their roots, in addition to being an instrument to preserve knowhow that is being passed on from generation to generation. Thus, GIs have a spiritual value.

Furthermore, these products might be their only livelihoods. Actually, when traditional or handmade products are bought from small-scale producers, it allows them to offer a better life for themselves and for their children. It enhances their access to education, to extra-curricular activities, permits to encourage the children’s creativity and their search for knowledge, allows them to grow as people, and promotes their open-mindedness and their acceptance of others. This drives society into a circle of development. After all, education is a necessity that will transform the world into a more prosperous place for all. All of the previous guarantees will help shape a more advanced society, that guards
values and moral, incites education and shields from any forms of unfairness or violence.

In economics, the protection of GIs assumes a crucial responsibility. As such, rich countries, who imitate small producers, while having access to the latest technologies, are victors in this competition race. They are able to employ their funds, their most innovative tools and their resources, plus their marketing campaigns and offers and their wide ability to distribute their products, in order to massively produce identical products. Nevertheless, where does this leave the small-scale producers? Without access to the newest methods, nor enough funds to assure broader production, these small manufacturers will suffer the consequences of the lack of preferences from the customers, which will lead to a regression of purchases. Knowing that all sectors are inter-related, it will not only affect the production sector but others such as the touristic sector, as some tourists seek a particular cuisine for instance in picking their touristic destination, or the agricultural sector, for some products need specific fruits or so. This will generate unemployment in all sectors, and will culminate in the collapse of the economy. It will leave these people bending under the yoke of underdevelopment, which will generate more issues related to healthcare, shelter, education and much more. It only takes a match to start a fire.

As a result, the gap between rich and poor will enlarge, leading to more inequality and instability. Some might even try to take control over the resources and possessions of poorer countries, while launching bloody wars and stealing what rightfully belongs to others, simply to make themselves richer at the expense of the suffering of the poorer. This will only exacerbate the situation and the threats that are currently redundant in
many countries because of the absence of means to protect themselves from the ones who are simply stronger.

Moreover, if we take into consideration large corporations, that offer job opportunities to millions of people, they might not only lose millions of dollars but leave millions jobless, because of the emergence of identic establishments, the loss of trust from consumers and the resurfacing preferences of others.

Additionally, the protection of GIs has a crucial role in environmental sustainability and protection. In fact, in order to obtain that specific taste for example, it is crucial to propound certain weather conditions, particular soil and other climatic factors since they all influence the attained results. As such, the preservation of these characteristics ensures reaching the same conclusion in a distinctive geographical area. This means that the maintenance of traditional farming, without involving industrial production that would have negative effects on the environment, such as the rise of green gas emissions, soil erosion or else, will aid in conserving the environment, especially with the threats of climate change that become more severe every day.

As an advocate of rights, I am a firm believer that geographical indications constitute each nation’s fundamental rights. After having struggled in many cases, these people deserve to be granted guarantees that they are the only ones apt to manufacture such products. How can prosciutto become anything less than Italian? How can champagne be stripped from its French character? Aren’t GIs a stamp that shields these products, gives them their individuality and promotes their uniqueness? Not to mention that some countries depend on the fabrication of exclusive products in order to engineer and move
the wheels of their economies. What will happen if these rights are taken away from them? I consider GIs are a manifestation of justice and justice should always prevail.

In conclusion, as my thesis had demonstrated, GIs’ protection is not necessary but vital, since it not only touches the countries as wholes, but the individual lives of millions of people, and the future of our planet, especially that the manifestations of injustice have become more and more recurrent. This is the reason why we should not spare any efforts, in order to facilitate the lives of people who fight vigorously in order to acquire a decent one, and promote rights and justice above all.
Bibliography


