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Worldwide Perspectives on Geographical Indications

Crossed views between researchers,
policy makers and practitioners



Food and Agriculture
Organization of the
United Nations

OPEN ACCESS



Springer

Chapter 1

Introduction—A Worldwide Perspective of Geographical Indications in a Time of Changes: Crossed Views Between Researchers, Policy Makers and Practitioners



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Abbreviations

ASEAN	Association of Southeast Asian Nations
PDO	Protected Denomination of Origin
PGI	Protected Geographical Indications
SDG	Sustainable Development Goals
TSG	Traditional Specialty Guaranteed
TRIPS	Trade Related Aspects of Intellectual Property rights agreement

Geographical indications (GIs) are signs used to designate products having a specific geographical origin and possessing qualities or a reputation that are due to that origin. Actually, the world's food and artisanal heritage encompasses a multitude of products linked to their origin that rely on the knowledge, skills, practices and traditions developed collectively by local producers over time and transmitted across generations. GIs are an intellectual property right granting exclusive right to use the

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name that can particularly benefit local producers, and particularly smallholders, and be therefore a tool to preserve and promote origin.

While the commercial success of origin products is very ancient since Antiquity, laws governing the registration and protection of the names of the origin products as Geographical Indications have mushroomed around the world in a very diverse manner, translating the variety of meanings and objectives attached to them. These range from market-based approaches targeting unfair competition practices, to approaches directed at non-market objectives, including territorial development, and preservation of cultural heritage and natural resources, driven by public policies inspired by success stories in context of long-standing GI development.

Considering the plurality of actors and interests involved in the public and private sectors, researchers in all parts of the world have explored the connections between GIs and their many dimensions. These include, among others: the nature of the links between the products' qualities and their geographical origin and how it is translated into specifications; the role of public authorities; the collective organization of producers; quality control systems; governance and enforcement mechanisms; the recognition of the specific know-how of local producers, including women and indigenous and local communities; international and national protection, including the type of legal protection; marketing issues; biodiversity conservation; preservation of environment and cultural heritage; sustainable development; food heritage and healthy diets when related to food products; and tourism.

In this context, in 2022, to give space and time for sharing knowledge and experiences on these topics among researchers, policies makers and practitioners, the Food and Agriculture Organizations of the UN and the French agricultural research and cooperation organization (Cirad) in collaboration with the Swiss Institute for Intellectual Property and oriGIn, have organized in Montpellier the conference “***WORLDWIDE PERSPECTIVES ON GEOGRAPHICAL INDICATIONS: An international conference for researchers, policy makers and practitioners***”. The conference gathered more than 200 researchers, public authorities, producers and their collective organizations, public authorities and international organizations, coming from 47 countries representing all the regions of the world: Europe, Asia/Oceania, Africa, South and North America, who showed the importance of GI and of its multitude facets, through new perspectives, approaches and practices that have led to an increasingly complex, heterogeneous, dense and evolving picture of GIs.

The core objective of this book is to reflect the variety and density of the topics raised during the conference, regarding the nature of GIs and their development in various contexts of the world. This analysis is reflected in xx chapters organized in four parts:

- Part I explores the unique nature of GIs as intellectual property right,
- Part II provides an overview of GI protection systems and the role of public actors;
- Part III looks at the relation between GIs and territorial development; and
- Part IV showcases the sustainability of GIs.

The originality of this book, disseminating the outcomes of the Conference, resides in its multi-actors perspective. Practitioners describe their experience in implementing GIs in the field and public authorities their roles in regulating and supporting GIs at international, national and product level, both providing important insights and specific approaches to enrich the landscape of GI trends. Academics analysis through empirical and theoretical research GI strength, weaknesses and challenges, in different contexts, with a comparative approach, to put light on certain phenomenon. Crossing stakeholders views in each part offers a dynamic and multifaceted understanding of the topics and possible evolutions, as described in details below.

1.1 Part I: The Unique Nature of GIs as Intellectual Property Right

More than for other intellectual property rights, the legal history of GIs is characterized by a variety of concepts, a diversity of legal instruments and overlaps with other areas of law. Over the last decades, this history has been particularly rich in developments, at both national and international level. Looking at international harmonization, we are still in the middle of the road. It is not surprising, therefore, that legal issues relating to GIs and to nature of this unique concept are abundant and topical, with this part providing relevant and diverse overviews.

For cultural reasons, the concept of GI has emerged mainly in Southern Europe, first under the concept of appellation of origin and eventually the concept of geographical indication, the latter encompassing the former. The European Union (EU) common legal framework has evolved since its first introduction in 1992, with the last regulation recently adopted in April 2024, EU Reg. 2024/1143 merging GIs protection for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products, together with for the first time a legal framework for the protection of GIs for craft and industrial products, the EU Regulation 2023/2411. The respective international references are the 1958 Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (Lisbon Agreement), and the 1994 Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS Agreement) including a chapter on GIs. Maintaining this differentiation between AO and GI, as in the Geneva Act of the Lisbon Agreement of 2015, or choosing to recognise only one category, opens up fields of investigation that are still relatively unexplored about the nature of the link to the origin codified in the specifications.

Looking at the EU, from the perspective of consumer expectations and choice criteria, in Chap. 2, Martijn Huysmans, Daniël van Noord and Gero Laurenz Höhn point certain paradoxes within the vast corpus of PDOs and PGIs registered in the EU. Looking beyond a few specific PDO/PGIs questioning cases, characterized by the considerable extension of the geographical area, the extended area of origin of

the raw material for some PDOs or the choice of the name of the GI referring to a place which is not within the defined geographical area (examples of Gouda and Stilton), the authors look at the ‘black box’ of the specifications. Behind the official symbols and logos that signal to consumers that they belong to the large family of GIs, the uniqueness of each GI, embedded in its specifications, poses a major challenge for consumers. Indeed, while belonging to the same GI family, not all GIs have the same meaning for consumers, world-famous names are different from ‘small’ GIs, as well as local scale GIs compared to international scale GIs.

The study by Tifenn Corre, Sylvette Monier-Dilhan and Julie Regolo on the combination of PDO and organic certification in the context of the French cheese market in Chap. 3 takes a similar view of the significance of GIs from consumer expectations and preferences. While, generally speaking, the two quality labels are complementary and do not conflict, the situation varies greatly depending on the level of awareness of the PDO in question. In short, there is certainly a GI family, but its members have contrasting fates, which makes it difficult to generalise. One might think that the distinction between PDOs and PGIs would at least show more uniform siblings. But this is not so obvious.

Indeed, in Chap. 4, Maurizio Crupi examines the difference between PDO and PGI, looking at amendments in specifications for processed meat products. This study raises a number of interesting points, on the evolving balance between tradition and innovation, or on divergent national trends towards stricter requirements or greater flexibility regarding the link to the origin. It does not, however, provide universal conclusions, due to the inherent limitations of the corpus under consideration and, here too, to the casuistry that each GI justifies as soon as looking into the details.

While the EU legal framework on quality signs includes since 1992 another legal tool, the Traditional Specialty Guaranteed (TSG), it is still a blind spot that Vincente Gimeno Beviá’s reveals in Chap. 5. While the TSG is not considered to be a GI, being a quality standard with no link to a specific geographical origin, the chapter shows that some TSGs are clearly on the fringes of GIs, either because certain elements of their specifications de facto imply a geographical origin, or because the name in question evokes a precise geographical origin. This is the case for the *Jámon serrano* TSG, which is the subject of this chapter. The discussions underway within the industry to decide whether or not to move from TSG to PGI shed new light on the issues and meanings of the GI concept.

The degree of sophistication of the GI “system” in the EU has evolved considerably, influenced by the context of the internationalization of the GI concept in other parts of the world, especially since the implementation of the TRIPS Agreement with a marked acceleration over the past decade, providing fertile ground for reconsidering the fundamentals of the legal conceptualization of GIs.

The experiences of South America, analyzed in Chap. 6 by Patricia Covarrubia and Kerry Purcell, and of Algeria, presented by Fadhila Bacha and Fatima El Hadad-Gauthier in Chap. 7, show the extent to which consistency between the legal and institutional framework and the motivations of producers is crucial for GI success. Does the success of GIs in Europe require a ‘cultural’ rather than a technological

transfer? Can the recommendations put forward by the authors encourage the development of GIs in the interests of producers? These two chapters shed a harsh light on the limits of adopting GI legislation when the elements needed to bring it to life are lacking, such as the motivation of value chain actors to protect the reputation of their product.

In spite of a wide number of countries with GI legal and institutional framework, with now a broad consensus on the benefits that GIs can bring, in particular with many examples in developing countries, the risk of GIs existing only on paper, also called sleeping GIs is a real challenge.

Unexpectedly, silent GIs also exist in Europe, as described by Andrea Zappalaglio, Giovanni Belletti, and Andrea Marescotti's Chap. 8. Using an original methodology, the authors open up prospects for future work that could help to refine, through an analysis of failures, the conditions necessary for the success of a GI. Another "blind spot" in the GI ecosystem that needs to be addressed!

Finally, Latha R. Nair's contribution in Chap. 9 takes us into the virtual world, where the protection of GIs against frauds is becoming an important issue. The author shows that GIs are still struggling to gain a legitimate status similar to that enjoyed by trademarks in front of registered internet domain names comprising a GI name. The new EU Regulation 2024/1143 on PDOs and PGIs now explicitly addresses this issue.

In conclusion, the chapters of this part illustrate the many issues currently at stake in the conceptualization of GIs: a major work-in-progress that is in full swing, requiring dialogue between diverse and complementary experiences and perspectives.

1.2 Part II: GI Institutional Systems

In Part II the book explores the importance of the legal and institutional framework set up by public authorities in optimizing GIs objectives. GI public policies and institutional frameworks were primarily focused on ensuring the protection of the Intellectual Property right against frauds and infringement, as required by the TRIPS agreement, but are increasingly integrating other public policies, with a strong support to stakeholders in the application for GI registration and management. Among the legal approaches for GI protection, the *sui generis* system and the certification/collective trademark have emerged as the two main legal instruments to recognize and preserve the name, typicality, quality and reputation of products linked to their origin.

In two decades, a multitude of new GIs has been recognized in many different countries in all regions of the world, according to either a *sui generis* or a trademark system or both. For example, in the Chap. 10, the authors Hui Xu, Xuan Yang, and Xin Gu, describe the complex situation in China, a country with now 3 GI systems, two under the IP umbrella, *sui generis* GI and trademarks, and one under the Ministry of Agriculture umbrella, deriving from a progressive establishment of the

institutional system. The chapter describes positive impacts of GIs on the local economy and is rich of lessons from country experiencing gradual establishment of their GI legal and institutional framework in order to address national context and evolving needs.

The Chap. 11 retraces the rich institutional experience since the initial legal framework established in 1995 until its final form of 2017. The authors Özden İlhan, Neşe Altıntaş, Nazlı Şimşek, and Sertaç Dokuzlu describe the different roles of the public institutions and their coordination, especially between the GI competent authority, the Turkish Patent and Trademark Office and the Ministry of Agriculture and Forestry, to maximize GI success. The chapter illustrate what are the key success factors through two emblematic GI cases *Gemlik Zeytini* (black table olive of Gemlik) and *Bursa Siyah İnciri* (Bursa Black Fig).

Chile represents another fruitful country experience to illustrate the role of public actors in promoting GI as an efficient a tool for rural development, as described in the Chap. 12. Paola Guerrero Andreu explains the importance of government programs for the promotion and protection of products of origin, and the need for an active role of the government in accompanying producers and artisans in the registration and use of their GI.

Establishing a legal framework for GIs may not be easy in countries where the concept is new and require perseverance from GI value chain actors and a strong dialogue between public and private actors to clarify the procedures. An example is the case of South Africa described by Johann Kirsten in the Chap. 13, where the registration phase of *Karoo Lamb* GI has required efforts to overcome the initial confusion of the evolving legal framework and its understanding by the value chain actors.

Another issue for newly established framework is the lack of coordination between public institutions and different areas of laws such as IP law dealing with GIs and food safety regulations. Claire Philippoteaux and Yudy Paola Pineda Suarez in Chap. 14, describe the issue of registered GIs for food products not complying with pre-existing food safety product standard. The authors show the consequences on control and certification and highlight the need of coordination between institutions as crucial for GI system efficiency.

The question of controls and certification includes controls in the market, which is a crucial aspect for GI efficiency, and seems to remain difficult in any country, either with long or recent experience in GI protection. In Chap. 15, Barbara Pick describes a very relevant comparison between France and Vietnam on how frauds are tackled, providing important lessons for other countries.

Finally, another important characteristic of the evolution of the GI institutional frameworks is the need of harmonization of national legislations of various countries, primarily at regional level. In the Chap. 16, Miranda Risang Ayu Palar exposes the situation of the Association of Southeast Asian Nations (ASEAN) where member countries have different legal means to protect GI but where through cooperation, the Intellectual Property (IP) offices look forward to aligning the way to demonstrate the link to origin which is reflected in the GI specification.

In conclusion, all chapters of this part, whoever the authors are, either public authority representatives, researchers or value chain actors, converge in showing the

dynamic capacity of public actors to identify weaknesses and improve the GI scheme accordingly, strengthening institutional coordination and expanding the functions of GIs from policies protecting consumers and producers' interests to underpinning territorial development policies.

1.3 Part III: GIs and Territorial Development

The potential of GIs as a development tool is well-documented in the literature. Indeed, by anchoring a production in a specific territory and promoting its origin-based quality, GIs secure employment and livelihood opportunities in rural areas while also preserving cultural heritage, ancestral know-how and local natural resources, thus contributing to the economic, socio-cultural and environmental sustainability of local stakeholders.

Drawing from case studies of GIs both in developed and developing countries, this part explores potential impacts of GIs, in terms of territorial development. In the Chap. 17, Juan J. Ferrero-García and Julia Martín-Cerrato illustrates how PDOs and PGIs can make a significant contribution to the sustainable development of disadvantaged regions, as Extremadura region in Spain is, and where GIs form an integral part of the rural development policy strongly supported by the Regional Government through a wide range of actions; from funding operating expenses to carrying out direct promotional activities.

Territorial development and biodiversity are crucial issues for a GI product collected fresh from the forest by traditional pickers and then processed into sirop and other processed product by different stakeholders. Stéphane Fournier, Pape Tahirou Kanouté, Maimouna Sambou, and Fanta Sow show in their Chap. 18 on "*Madd de Casamance*", how a GI can meet a range of sustainability challenges in Senegal. A number of challenges had to be overcome in drawing up the specifications, in terms of the nature of the GI product (fresh and/or processed), the delimitation of the geographical area for processing, the control and traceability. The impact that registration of this GI could have on the sustainability of the sector is assessed *ex ante*.

In territories where GIs have been registered in more recent years, GIs are considered as a promising tool for reaching a balance between providing income to local communities of producers and environmental preservation. This is all the more valuable in territories, such as the Amazon in Brazil, where the rich biodiversity is under threat, as described by Paulo de Tarso Anunciação de Melo and Suzana Romeiro Araújo in the Chap. 19 on the GI transforming role in the Pará state.

While GIs hold considerable potential for territorial development, its fulfillment depends on stakeholders' way of operationalizing this tool. In some cases, GI implementation is motivated by governmental objectives of export expansion and economic growth, rather than the protection of local traditional know-how and cultural heritage preservation. For example in Japan, Hart N. Feuer and Fatiha Fort in their Chap. 20 describe how the GI authorities' top-down approach and utilitarian

focus on boosting production have placed traditional products at a disadvantage in the case of the *Mikawa region*.

With a similar perspective, Kae Sekine, in her Chap. 21, depicts a first controversy case in Japan of alienation of legitimate stakeholders (i.e., traditional manufacturers) in favor of economic benefits of bigger modernized producers of *Hatcho Miso GI*. The trajectory of registration of *Hatcho Miso GI* has led to a nation-wide controversy, ultimately calling into question the GI system in Japan.

Furthermore, the level of state intervention in the registration and implementation of GIs impacts the degree to which producers can derive economic benefits. The Chap. 22 by authors Orachos Napasintuwong, Chitra Parayil, and A. M. Radhika, compares two cases of GIs on red rice in India and in Thailand and shows that GI premium price and export opportunities remain limited when the government assumes a large role in GI management, contrary to when the producers' group is more actively involved.

In conclusion of this part, the six chapters illustrate, well in different geographical and political contexts, how GI processes are contributing to territorial development, while they also highlight the current and future challenges that stakeholders must address in order to avoid pitfalls and fully leverage the benefits of GIs.

1.4 Part IV: GIs Processes and Sustainability

The Part IV aims at contributing to the debate on the potential roles and limits of GIs as a tool for sustainable development. An important milestone for sustainability at global level is the Agenda 2030 and its 17 Sustainable Development Goals (SDGs). In this perspective, a number of best GI practices can contribute to sustainable development and sustainable food systems. The cases presented in this part show how GI systems, embedded in their local context, offer an origin(al) way to contribute to this global agenda through a territorial approach.

First, the Chap. 23 by Junko Kimura and Cyrille Rigolot on the potential of GI to enhance Sustainable Development Goals, shows with GI Mishima potato as a case study in Japan that, from local stakeholders' point of view and through field observations, the GI system can contribute to at least nine SDGs at the production, transformation and commercialization stages, such as for example the employment of disabled people or nutritional education.

The perception of the GI value-chain actors is an interesting viewpoint to look at the GI impacts on sustainability, as presented in the Chap. 24 by Samir Messaili on the lessons learned from the *Bouhezza cheese GI* in Algeria through stakeholders' perceptions of the economic, social, environmental and cultural effects. The results of focus groups with producers suggest important impacts in terms of market value and volumes sold, reputation, increase of knowledge and environmental preservation.

Still, measuring the GI contribution to sustainability and SDGs is a complex matter, especially if sets of indicators, subjective and objective, need to be identified

and informed for each pillar (economic, social and environmental). In the same time, it becomes crucial for GI producers themselves to be aware of their sustainability challenges to improve their GI system performances. In this perspective, the Chap. 25 by Emilie Vandecandelaere, Luis F. Samper, Florence Tartanac and Massimo Vittori, presents a practical methodology to empower GI organizations in defining their own sustainability roadmap though relevant alliances developed with relevant stakeholders involved in the consultation, building on the traditional three pillars, economic, social and environmental, plus the fourth governance pillar. The roadmap, built through a participative and bottom-up approach, allows identify their sustainability topic priorities, assess and monitor their contributions to these priorities and finally improve the GI systems performance accordingly and in a continuous and iterative manner.

Sustainability in production is also closely linked to the climate change challenges, impacting in particular the environmental and economic pillars. By modifying the natural conditions of production (temperature, humidity, etc.), climate change can undermine the causal relationship between product quality and the local area of production defined in the specifications, and jeopardize the possibility to maintain the GI product specificity in the long term. In the Chap. 26 Claire Bernard-Mongin, proposes to examine the strategic conditions for the emergence of a path of innovation for GI to adapt to climate change and maintain a strong link to origin thanks to a processual definition of the origin-linked quality rooted in the co-evolution of production practices with their environment.

In the Chap. 27, the authors Gilles Flutet, Caroline Blot, Jacques Gautier, Laurent Mayoux, and Alexandra Ognov confirm the need of GIs to adapt to climate change, in the case of France, by adjusting production rules while preserving the authenticity of their GI products and the promise made to consumers. The chapter describes the way the stakeholders from public and private sectors are collaborating, finding concrete solutions, including field and normative experimentations.

Looking specifically at the food sector, sustainability should be considered from a food system perspective, including nutrition and health. Food systems are now expected to re-align from just supplying food to providing, in sustainable manner, high-quality foods as part of healthy diets for all. Emilie Vandecandelaere and Florence Tartanac analyze the relations between GI foods and healthy diets in the Chap. 28. If many GI foods by nature are part of a healthy diets, because notably of their composition, their link to biodiversity and traditional diets, more evidence are needed. The authors advocate for more research and provide some recommendations to stakeholders.

Indeed, the link between GI food and sustainable consumption and consumer health is not so obvious for consumers, as demonstrated in the in the case Norway by Gun Roos and Virginie Amilien in the Chap. 29. Through an ethnographic approach in Norway fieldwork, the authors suggest that consumers lack knowledge of GI products and seldom associate GI products with sustainability and health in their everyday food practices and reflect on how GI products may develop their potential to contribute to a more diversified and healthy diet.

The chapters of this part offered then a diversity of viewpoints on GI contributions to sustainability, from the SDGs to climate change, looking also at nutrition and healthy diets and highlighting the crucial roles of GI producers and alliances, the way GI processes can mobilize the three, and even four pillars of governance are rich and deserve to be explored further.

In final conclusion, we wish that these four part, covering all aspects of GIs, getting into the last trends of GIs systems in all areas of the world, from a rich multi-actors perspective will enjoy the readers and give them food for thought.

The opinions expressed in this chapter are those of the author(s) and do not necessarily reflect the views of the [NameOfOrganization], its Board of Directors, or the countries they represent.

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