



The Economic Relevance of Geographical Indications in Africa

Introduction, Strengths and Weaknesses of GIs in Africa

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Agenda

- ◇ General introduction and explanation of technical terminologies
- ◇ International recognition of GIs
- ◇ GIs in practice
- ◇ Relevance of GIs in the socio-economic development of states
- ◇ Test your knowledge of GIs – interactive exercise
- ◇ Continental strategy for GIs in Africa: 2018 – 2023
 - ◇ The way forward
- ◇ Want to know more? Check out these readings...

Introduction and Terminologies

- ◇ GIs constitute a **link** between **product** and **place (terroir)**
- ◇ **Link** encompasses all **natural** (i.e. Conditions of soil, climate, plant varieties, etc) and **human** (i.e. Historic, generational skills, know-how, etc) factors.
- ◇ Usually confused with; or used analogously with TMs. Why?
 - ◇ Has the same basic Image and Communication functions of TMs.
 - ◇ But this is only to an extent. Because GIs protect more than just the signs. They also protect/preserve collective heritage/culture
- ◇ Indication of Source (IS)
- ◇ Appellation of Origin (AO)
- ◇ Code of Practice; Product Designation/Specialisation, etc
- ◇ Collective Trademarks
- ◇ Certification Trademarks
- ◇ Protected Designation of Origin (PDOs)
- ◇ Protected Geographical Indication (PGI)
- ◇ Traditional Specialities Guaranteed
- ◇ Unfair Competition Law
- ◇ Tort of Passing-Off

International Recognition of GIs

- ◇ *Indication of Source/Provenance* - Paris Convention for the Protection of Industrial Property, 1883, Art. 1 and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891
- ◇ *Appellation of Origin* – Lisbon Agreement for the Protection of Appellations of Origin and their International Registrations, 1958, Art. 2 and the Geneva Act, 2015 (revising the Lisbon Agreement)
- ◇ *Indication of Geographical Origin* – WIPO
- ◇ *Geographical Indications* – Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement 1994) Article 22, 23, 24 – 2 routes and extra protection for wines and spirits; minimum standards & national treatment.
 - ◇ French AOC and US AVA
 - ◇ EU Regulation 510/2006: PDOs and PGIs – ‘production, processing and preparation in a given geographical area’
Note: 1/2/ or 3/3 vs 3/3.
 - ◇ EU Regulation 509/2006: TSGs – agricultural products and foodstuffs ‘Specific character’ in production of trad.raw materials and/or trad.composition of product and/or trad.mode of production and/or processing.

GIs in Practice

- ◇ Interaction with TMs
 - ◇ Prior GI and later TM = GI (Principle of Priority)
 - ◇ Prior TM and later GI = GI and TM (Principle of Co-existence, except in cases of bad faith and well known marks)
- ◇ GI protection is infinite, unless GI registration is cancelled
- ◇ GI do not confer individual rights
- ◇ Subject to the 'Principle of Territoriality'

Relevance of GIs in the Socio-economic development of States

- ◇ Akerlof: Market for Lemons – To avoid high qualities being crowded out by low qualities
 - ◇ Differentiation tools in market strategies
- ◇ To avoid consumers' quality uncertainty and information asymmetry
- ◇ Avoidance of market failure
- ◇ Reduction of search costs and consumer welfare growth
- ◇ Guarantees the IPR of quality producers – ensures premium reputation and higher income
- ◇ Reduces imitation and misrepresentation
- ◇ Potential to increase income in rural areas
- ◇ Potential to improve economic cohesion
- ◇ Preservation of TKs and TCEs

Test your Knowledge of GIs...



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Continental Strategy for GIs in Africa: 2018 - 2023

‘The African continent is blessed with rich natural resources and biocultural diversity. These represent so many assets to preserve and promote against persistent food insecurity and poverty, especially in a context of climate change.’

- ◆ Founded on the aspirations of AU Agenda 2063, adopted by the 24th AU Assembly in 2015 and the Sustainable Development Goals 2030, adopted by the UN General in September 2015.
- ◆ GI not new in Africa – included in African Intellectual Property Organization (OAPI) legal framework since Bangui Agreement of 1977, revised in 1999.
- ◆ State of protection in Africa
 - ◆ Countries fully compliant with TRIPS (TM and/or *sui generis* GI)
 - ◆ Countries non-compliant with TRIPS framework
 - ◆ Countries in the process of being compliant with TRIPS
 - ◆ Countries with little or no GI legislation: Somalia and Sahrawi Arab Democratic Republic (non-WTO members)

Strengths and Weaknesses

- ◇ Success of GI based on:
 - ◇ Product Typicality
 - ◇ GI Governance
 - ◇ Market Linkages
 - ◇ Institutional Framework.
- ◇ Institutional Challenge
 - ◇ Lack of a conformity assessment and enforcement mechanisms for protection, monitoring and enforcements of GI
 - ◇ Protection of products linked to specific quality and origin do not have long history in LDCs, of which the majority of the countries in Africa fall.
- ◇ Resource Challenge
 - ◇ Financing
 - ◇ Lack of skilled and experienced personnel from identification, qualification, remuneration to reproduction of potential GIs.
- ◇ Territorial Challenge: Berlin Conference & scramble for Africa – Cross border
- ◇ Generic Challenge

The way forward...

‘Over the last decade, GIs in Africa have been increasing. Although consumers and producers make extensive use of place names to describe a wide range of products reflecting biodiversity, local production, knowledge or social identities, no GI (except for champagne) had been registered in AU countries before 2013.’ - 46

- ◇ Funding of origin-related promotion in provincial or national and regional agricultural policy
 - ◇ PPP
- ◇ Creation of strong, understandable and enforceable institutional framework
- ◇ Development and maintenance of collective actions and quality building

Want to know more? Check out these readings...

- ◆ African Union Commission, Department of Rural Economy and Agriculture, *Continental Strategy for Geographical Indications in Africa: 2018 – 2023* (AU DCMP Publishing & Reproduction Plan)
- ◆ SF Musungu, 'The Protection of Geographical Indications and the DOHA Round: Strategic and Policy Considerations for Africa' *QUNO IP Paper No.8* (December 2008)
- ◆ UNCTAD, *Why Geographical Indications for Least Developed Countries (LDCs)?* (2015)
- ◆ Chinedu Obi, *et al*, 'Protected Geographical Indication in Sub-Saharan Africa: Issues and Implications' (June 2017 *ARIPO and African University*)1 *African Journal of Intellectual Property* 2
- ◆ Rajiv Kangabam, 'Importance of Geographical Indication for Conservation of Traditional Products' (April 2013 *NECEER*) IV *NeBIO Journal of Environment and Biodiversity* 2
- ◆ T Dagne, 'Beyond Economic Considerations: (Re)Conceptualizing Geographical Indications for Protecting Traditional Agricultural Products' (2015) 46 *IIC* 682
- ◆ D Gangjee, *Relocating the Law of Geographical Indications* (CUP, Cambridge 2012)
- ◆ D Gangjee (ed), *Research Handbook on IP & GIs* (Edward Elgar 2016)

Thank you for your attention...!

Questions!!!