

**Survey Questions for the WIPO Standing Committee on Trademarks, Industrial Designs,
and Geographical Indications Regarding Geographical Indication Examination Practices
and Procedures in SCT Member States**

PROTECTION SYSTEMS & EXAMINATION AUTHORITY

1. Does your legislation establish a GI registry?
2. According to your legislation, are there any other means, other than a registry, for the recognition and protection of GIs?
3. Can geographical indications be protected as trademarks, collective marks, and/or certification marks in your country?
4. Are foreign GIs protectable in your country?
5. Do you have a separate sui generis protection system for 1) domestic GIs, or 2) foreign GIs?
6. Are GIs for which protection is sought via international agreements assessed before a decision is made to protect them? Does this assessment align with domestic processes for GI examination?
7. If GIs protected under international agreements are not assessed under a process equivalent to a domestic process for GI examination, does the protection offered differ between the two?
8. What domestic agencies are responsible for determining whether a domestic geographic designation is a GI? A foreign origin GI?

For the following questions, if you indicated that your country has multiple protection systems, please identify to which one your answer to the following applies.

ELIGIBLE SUBJECT MATTER

1. How is a geographical indication defined in your country?
2. If you have a sui generis regime for the protection of GIs and that regime does not protect GIs for all goods and/or services, which types or categories of goods and/or services are eligible for such GI protection? Are goods other than agricultural products or wines/spirits protectable? How are other goods and/or services protected?
3. Is there any limitation on the size of the production area to which a geographic designation can refer?

4. Is a GI composed of figurative elements or the abbreviation of a geographical name protectable? If so, please provide a particular example.
5. If a GI is protected in the country of origin under a sui generis regime, can that GI be accepted for registration in your certification mark system? Please also answer if the reverse is true for your country, that is, if the GI is protected as a certification trademark in the country of origin, can the GI be accepted for registration in your sui generis regime?
6. If not, what is the rationale for making it a prerequisite that the instrument of protection be identical in both countries, rather than just substantially equivalent?

APPLICATION

1. If your country has a GI registry, what are the specific requirements for the registration of a GI and what are the associated costs?
2. Who is the appropriate legal person to apply for GI protection? Are the national, regional or provincial authorities entitled to apply for GI's located within their geographical jurisdictions? Is this "person" considered to be the title holder of the GI? If not, what entity is for purposes of civil enforcement?
3. Does your legislation require a representative or agent to process a GI application?
4. Is documentation required to be submitted to establish a link between the good/service with the geographic origin? If so, what types of evidence would suffice?
5. Is there a requirement that someone in your country visit the geographical origin of the good/service in order to determine whether that link is accurate? For domestic GI applications? For foreign GI applications?
6. Are production standards, beyond geographic origin, required to be submitted? If so, in what form?
7. Are domestic GIs required to demonstrate reputation as a condition for obtaining protection? Foreign GIs? Is reputation described in your relevant legislation as an element linked to the geographical origin of the good or service? If so, where must that reputation exist for the foreign GIs – in the country of origin or the territory in which protection is sought?
8. What evidence is required to establish a link between the reputation and the geographic designation, if applicable?
9. Is there any administrative fee to apply for GI protection? If there is a fee, what is the fee for domestic applications? For foreign GI applications? For foreign applications filed via international agreements?
10. Does your GI system provide for the protections of translations or transliterations? Is this protection automatic, or is there a requirement for identifying the specific translations or transliterations for which protection is sought? Who determines what is a translation or a transliteration of a GI?

11. Are the translations or transliterations for which protection is sought published as such for the benefit of the public and third parties?

EXAMINATION

1. Is GI protection automatically conferred under your law when protection exists in the country of origin for a foreign GI?
2. Can a geographical indication be protected under your law even if the term is not protected as a geographical indication in the country of origin?
3. What are the grounds for refusing protection/recognition of a geographical indication?
 - If a product owes its reputation to its geographical origin, is that enough for it to receive protection/recognition as a GI, without necessarily having to possess a different quality?
 - If an essential link between the quality, reputation, and/or other characteristic of the goods and geographical origin must be established in order for the GI to be protected/recognized, what is the standard for recognizing/accepting said link?
 - If only one stage of its preparation, processing, or production takes place in the defined region, is that enough for the protection/recognition of the GI?
4. Is a determination that the proposed term is generic for the goods/services in your country a ground for refusing protection or recognition of the term as a geographical indication?
5. What are the criteria for determining if a proposed term is considered to be generic?
 - Does the relevant examination authority consider sources such as whether the proposed term is found in dictionaries, relevant websites, databases, or in international standards?
 - Does the relevant examination authority give consideration as to whether the product that is identified by the proposed term is already produced and sold in your country by different producers; imported into your country from outside the proposed protected region or manufactured and traded outside the protected region? That is, is the examination authority required to consider whether the term is common in trade?
6. What role does consumer perception in your country have with determining whether a term is considered generic? In other words, who is the audience for evaluating whether a term is thought to be a generic or common term that describes a category of goods or services that can come from anywhere and how is the consumer's perception solicited, e.g., survey, national newspapers, etc.?
7. Regarding proposed compound terms consisting of multiple components, will an individual term that is perceived to be generic in your country remain available for public use? If yes, how is the public notified of such decision?

8. Are prior trademark rights a ground of refusal for a later applied for or requested GI? What if a prior trademark contains a generic element that conflicts with an applied for GI? Is the GI refused based on genericness or based on the prior trademark right, or both?
9. Are competition principles considered as part of the examination process?
10. Does your legislation allow for the coexistence between trademarks and GIs?
11. Regarding homonymous GI's, does your legislation recognize homonymous GIs? If yes, for which types of goods or services?

OPPOSITION

1. Are applications for GI protection published for opposition or public notice? Does this apply to both domestic and foreign GIs as well as foreign GI protected via international agreements?
2. Can a request for GI protection be opposed by a third party? What are the grounds for opposition? If a request for GI protection can be opposed by a third party, how is the public notified of a decision on such an opposition?

INVALIDATION

1. Can a registered GI be invalidated, whether it is domestic, foreign, or foreign GI recognized via an international agreement?
2. What are the available grounds for invalidation?

MAINTENANCE AND AUTHORIZATION FOR USE

1. In most countries, there is a prohibition on use of a certification mark by its owner for the certified goods. Does this prohibition preclude use of the certification marks to protect GIs "owned" by their beneficiaries? For example, can a certification mark owned by an association with legal personality be used by members of that association?
2. Is there a requirement to use or enforce the registered (or unregistered) GI to maintain rights in the GI and avoid a claim of abandonment or acquiescence?
3. Is there a mechanism for third parties to seek cancellation of protection on the basis that the GI is not in use in the territory concerned?
4. Are there requirements to renew a GI registration for the GI protection to remain in force?
5. Is there a procedure to become an authorized user, and is periodic renewal required for an authorized use to continue?
6. Is there capacity to amend a GI once it is protected? If so, what is the process?
7. If your legislation protects homonymous GIs, what are the means that your legislation provides/foresees to avoid confusion in the case of homonymous GIs?

ENFORCEMENT

1. Once a GI is protected in your country, who bears responsibility for preventing unauthorized use?
 - What are the contact details of the relevant competent authorities for administrative enforcement?
 - Are there any timeframes for action?
 - Are there any mechanisms for redress or appeal for either concerned party over an administrative enforcement action?
2. Do you offer administrative enforcement by way of an administrative standard of identity labeling system? For example, do your food regulatory agencies issue administrative standards for labeling food products bearing a particular GI?
3. Is a civil infringement action available to right holders or authorized users to address GI infringement?
4. What responsibilities does the rights holder have to ensure that the GI is not infringed or used without authorization?
5. Does your country have a register for authorized users?
6. Who has legal standing to bring enforcement action on the registration?
7. Can the GI registration be recorded or otherwise notified at the border to prevent entry of unauthorized goods?
8. What sanctions are available for the use of a protected geographical indication without the authorization of the owner/any registered user for the same type of good or service, and for a different type of good or service?
9. Regarding the compound terms consisting of multiple components (for example, “Parmigiano reggiano”), can you bring an action against a third party’s unauthorized use of only one component (such as “Parmigiano”)?