

**THE CONNECTION OF LEGAL PROTECTION OF GEOGRAPHICAL
INDICATIONS AND STATE'S ECONOMIC GROWTH****Almosova Shahnoza**

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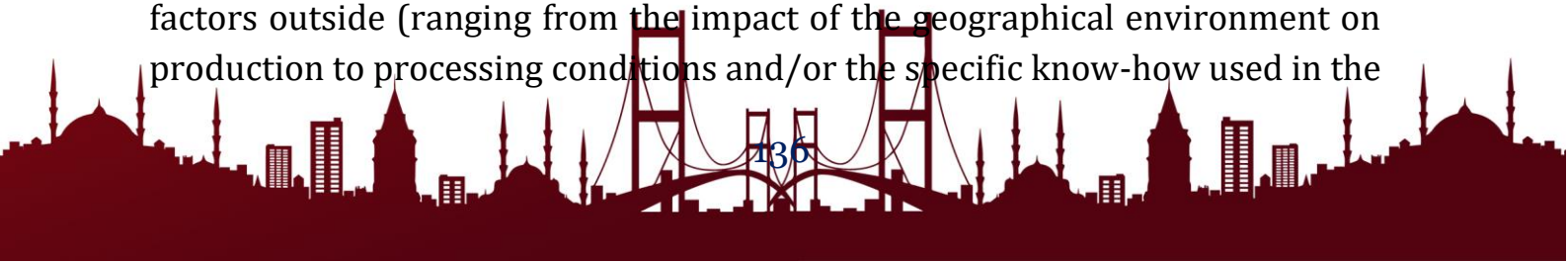
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Strengthening the connection between territories, their inhabitants and the agricultural and food outputs produced by them is an important in terms of sustainable rural development. This connection arises when products created using local resources can gain special value in the global market due to their continued attachment to their place of origin. Over a time period such products assimilate a certain reputation, associated with their distinctive quality characteristics that are inextricably linked to the place of their production. Science suggests they be called a geographical indication (GI) – as an indicator of a certain geographical territory in all, while legal sciences see it as one of the means of identification of products.

These products can be in special demand and be more expensive. Thus today, products that are traditionally produced in rural areas increase their own value being transmitted from one generation to the next, therefore their legal protection through "geographical indication" means increasing the market value of these products and their introduction to the world economy. Purchasers are more interested in the proper quality of agricultural and food products, such as crop production, distinctive properties and reliable farming practices. On top of that, geographical indications are key to socio-cultural development and poverty elimination in remote areas.

Peculiarity of products with a geographical indication, as a distinguished group of products, the quality of which is determined by their place of origin lies in the combination of such components as climate, soil, local species of animals and plants, traditional practices, etc. and cultural values of a given territory like traditions, skills and abilities. This combination refers to inseparable link with the geographical environment, natural resources, traditional equipment of production and the area where the products produced.

Over time, in the process of joint activities of various parties (farmers, processing enterprises, local consumers, government agencies, NGOs, etc.) within a particular region of production and their interaction with other factors outside (ranging from the impact of the geographical environment on production to processing conditions and/or the specific know-how used in the



different stages of production), a certain class of products is formed that are associated with this territory and its inhabitants who produce them. This process involves various participants who coordinate their actions in the field of production and trade.¹

The geographical indication linked to traditional practices identifying a product's source, enjoys a high reputation by ensuring consumers that products are originated in the area that quality, reputation or other characteristic are associated with. And unlike other means of identification a geographical indication cannot be created – it can only be recognized.² It confirms the value of products which already exist.³ Being so, geographical indications are currently an instrument to guarantee intellectual property rights and provide for protection and judicial relief in case of infringement or unfair competition, as set out in TRIPS Agreement.

When it comes to the region concerned by the topic of article, Central Asia, possessing a vast capacity for agricultural and food products such as, mineral waters, various kinds of fruit and vegetables is in the phase of effectively dealing with some complex issues related with finding new markets for realizing them. The region's agriculture industry specifically fruit and vegetable products is of great economic export potential that allows to involve additional job places and partially addressing many social and economic concerns in the end.

Geographical indication was conceptualized in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and become one of the most contentious intellectual property issues in the WTO and multiple treaties.⁴ TRIPS firstly afforded GIs as a separate branch of intellectual property, which are entitled to worldwide protection by virtue of the agreement.⁵ TRIPS defines GIs as “indications which identify a good as originating in a 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

¹ Vandecandelaere, Emilie & Arfini, Filippo & Belletti, Giovanni & Marescotti, Andrea. (2010). Linking People, Places and Products: A Guide for Promoting Quality Linked to Geographical Origin and Sustainable Geographical Indications. pp 22. <<https://www.fao.org/in-action/quality-and-origin-program/resources/publications/linking-people-places-products/en/>>

² GIs are intellectual property objects notwithstanding that there is no involvement of human intellect, i.e. they are not creations of mind which intellectual property objects are supposed to be.

³ Geographical Indications ...its evolving contours. WIPO Workshop “Train the Trainers” NIMSME, Hyderabad 13-17 August 2007. <https://www.wipo.int/edocs/mdocs/sme/en/wipo_smes_hyd_07/wipo_smes_hyd_07_www_91823.pdf>

⁴ WIPO (2004), *Geographical Indications: historical backgrounds, nature of rights, existing system for protection and obtaining protection in other countries*, WIPO document SCT/8/4, available at: <http://wipo.int/edocs/mdocs/sct/en/sct_8/sct_8_4.pdf>

⁵ Lina Monten, Geographical Indications of Origin: Should They Be Protected and Why? An Analysis of the Issue from the U.S. and EU Perspectives, 22 Santa Clara High Tech. L.J. 315 (2005), p-316 .Available at: <<http://digitalcommons.law.scu.edu/chtlj/vol22/iss2/4>>

geographical origin.”⁶ Furthermore, the World Intellectual Property Organization (WIPO), describes a GI as a “sign used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin.”⁷

Some scholars claim that the TRIPS is not the first document in international law that included norms directly relating to GIs, but protection for this object of intellectual property was part of the Paris Convention for the Protection of Industrial Property (1883) under a bit different denomination “false indications”. The Madrid Agreement for the Repression of False or Deceptive Indications(1891) is another international treaty to have reviewed GIs as well. Over the 20th century, a third international document the Lisbon Agreement on Appellations of Origin (1958) appeared and regulated the relations in this sphere until the TRIPS was signed.⁸

There are many types of identifiers GIs can represent⁹:

- the product name can be the same as the geographical name of a place or region (for example, Bordeaux or Champagne), or it can indicate the place of origin of the product along with a common name (Colombia coffee, Civito Crioglio del Norte Neukino in Argentina, Pico Duarte coffee, etc.);
- names, symbols or words that are not names of geographical places but the names of local places and people, although they (Feta or Basmati);
- additional place-related elements such as images of mountains or monuments, flags, specific items and folklore symbols;
- special traditional shape and appearance of the product, unique packaging or common element on the label and etc.

In terms of Central Asian countries, they are still discovering geographical indications (GIs). The number of registered GIs is quite few and taking into account the fact that GIs have been introduced in the region quite recently(not in all states yet) and the absence of national strategy of promoting them this small number is not surprising. The lack of awareness of farmers on benefits of obtaining legal protection for GIs remain the biggest challenge in GIs’ low rate of marketing.

Obtaining legal protection for GIs is not an end in itself, but an important step towards building a financially successful and sustainable system in the interests

⁶ TRIPS Agreement, art. 22(1). Full text is available at: <https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm>

⁷ WIPO, What is a Geographical Indication?, <http://www.wipo.int/aboutip/en/aboutgeographicalind.html#P16_1100>

⁸ O'Connor, Bernard. 2004. *The law of geographical indications*. London: Cameron May Ltd.

<<http://www.worldcat.org/oclc/57427158>>

⁹ E. Vandecastelaere, & F. Arfini & G. Belletti, & A. Marescotti, *supra* note, p-30.

of local residents and the entire region. Reaching all parts of the value chain within a single organization is key to managing GIs through marketing tools, tracking product movement from producer to consumer, and ensuring compliance with established standards. In addition, this ensures a high level of responsibility and involvement of both agricultural producers and processing enterprises, creating opportunities for technical and managerial innovations in the interests of sustainable development of the system.

