

## GI AND IMPACT ON AGRICULTURE

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### Abstract

*Geographical Indication of Goods (GI) refers to “the name or sign used on commodities that have a specific geographical origin and contain characteristics or a reputation unique to that origin.” A GI sign must be able to identify a product as originating from a certain area in order to work effectively. Additionally, it is critical that the product’s features, characteristics or reputation originate from the source. Due to the product’s distinctive characteristics, a direct connection exists between it and the location where it was manufactured. Individuals with the right to use a geographical indication can restrict the indication from being used by a third party whose product does not fulfil the required standards. For example, Darjeeling tea producers may restrict the use of the word “Darjeeling Tea” for tea not cultivated in their tea gardens or manufactured in accordance with the conditions stipulated in the geographical indication’s code of practice in the countries where it is protected. To prevent others from utilising the same procedures defined in the standards for a particular indication, a protected geographical indication does not provide its owner the right to restrict their product from being sold under that indication. GIs can typically be protected by acquiring a right to the sign that serves as the indication.*

**Keywords:** Geographical Indication of Goods, Agriculture, Food Items, Reputation, Product Quality, Market Differentiation, Premium Pricing.

### 1. Introduction

In the field of Intellectual Property (IP), Geographical Indications (GI) relate to a sort of protection that associates items with a certain geographical region. In order to link the

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site of origin to the quality, reputation and other conspicuous characteristics of the commodity, geographic identification tagging is applied. The Geographical Indications (GI) tag for a product can only be used by genuine consumers and residents of the territory of origin. GI tags can be obtained for a variety of products, including agricultural products, handicrafts, textiles, manufactured goods and consumables. GI tags can take the shape of either geographical names or figurative representations of places, or they might be a hybrid of these two types. The geographical origin of a product should be conveyed by the tag assigned to it. The promotion of biodiversity conservation among rural communities is made possible in large part by the use of Geographic Information Systems (GIS).<sup>1</sup>

India continues to be a net agricultural exporter, with a significant proportion of its exports consisting of primary commodities such as rice, shrimps, beef, sugar, tea and spices. A large proportion of the country's imports are processed goods, primarily palm and sunflower oils. The primary source of concern is that the value of agri-imports has increased by four percentage points, reaching an all-time high of \$25 billion in FY18, and is on track to surpass the value of agri-exports, resulting in India becoming a net agri-importer for the first time. The country's objective to accelerate the rate of agricultural growth and quadruple farmers' income by 2022-23 necessitates the use of exports as a critical component of the strategy. It is fully documented in the Agriculture Export Policy 2018, and it is also obvious in the changes made to tariffs and non-tariff measures in response to the policy change.<sup>2</sup>

## 2. Geographical Indication (GI)

Generally speaking, Geographical Indications of goods denote a geographical indicator that refers to an entire country or a specific location within that country and is used to identify that country or place of origin as the country or place of origin of a specific product in the context of industrial property. On the whole, a geographically specific name communicates an assurance of quality and originality that is mostly attributable to the fact

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<sup>1</sup> P.J. Sreedhara, *The Role of Geographical Indication in Sustainable Rural Development: Analysed through Real Life Example* (2019) (Project, Alliance School of Law, Alliance University), available at: <http://nopr.niscair.res.in/bitstream/123456789/45825/1/JIPR%20%2023%284-5%29%20159-166.pdf> (last visited on April 03, 2022).

<sup>2</sup> S. Bathla and A. Jha, "Explained: How Geographical Indication Can Boost Agriculture Exports", available at: <https://www.financialexpress.com/> (last visited on April 02, 2022).

that it originated in that particular geographical place, region, or country, among other factors. Specifically, the requirements of article 1(2) and 10 of Paris Convention provide that geographical indications are protected as a component of intellectual property rights. They are also covered by articles 22 to 24 of TRIPS, which was negotiated as part of Uruguay Round of GATT negotiations and finished with the signing of the Uruguay Round Agreements in 1995.

India being a member of the World Trade Organization (WTO), legislated the Geographical Indications of Goods (Registration and Protection) Act, 1999 which went into effect from Sept 15, 2003.<sup>3</sup> The Act is overseen by the Controller General of Patents, Designs, and Trademarks, who also serve as the Registrar of Geographical Indications. In terms of benefits to developing countries, one of the most advantageous aspects of the Indian Act is the comprehensive definition given to the term “generally accepted” (GI). Goods that are eligible for Geographical Indications (GI) includes agriculture, handicrafts and Manufactured commodities.

Seed or planting material is essential to the creation of all agricultural products. Seed is the least expensive component of the total cost of crop production, but it has the greatest influence. Farmers quickly realised the importance of healthy seeds of new and improved crop types after reaping the benefits of the green revolution through the use of seeds from green revolution kinds. Farmers were even more willing to pay a greater premium for such superior seeds than they were previously. Seed businesses and technology developers recognised this as an opportunity to turn popular plant types and key plant genes into profit-making goods, and they jumped at the chance. Global strategies, pesticides and seed firms have united in order to centralise capital and technology in order to control the marketplace. There has been an attempt to protect biodiversity, farm-level variation (including crediting farmers for their traditional crop varieties), access to benefit sharing (including access to farmers’ varieties), consumer assurance (including geographical indications), traditional knowledge and access to benefit sharing. The global commodity

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<sup>3</sup> IP India, “Geographical Indications (GI)”, *available at*: <https://ipindia.gov.in/about-us-gi.htm> (last visited on April 02, 2022).

trade is now controlled by a number of such new concerns, which are now being understood and applied in India as well. Another component of GI in agriculture is related to plant-based products or by-products, which are discussed in detail below. Plant-based goods can be used as raw materials for manufacturing, as well as for processing and preparation. Following the implementation of the GI on September 15, 2003, Darjeeling Tea became the first GI-tagged product in India in 2004 when it was introduced. Following that watershed moment, a slew of GI-labeled agricultural goods have been introduced in India.<sup>4</sup>

## 2.1. Historical Backdrop

Owing to the success of the green revolution in agriculture, farmers quickly realised the advantages of high-quality seeds obtained from newly developed and improved crop types. Having the opportunity to pay a premium for these exceedingly rare seeds made the farmers very happy. As a result, seed companies and technology developers recognised a chance to profit from vital plant types and genes. In addition, the pesticide and seed businesses have joined as part of a global push to centralise finance and technology in order to obtain control over the marketplace. Around the world, debates are taking place about the importance of biodiversity conservation, protecting farmers' access to traditional crop varieties, crediting farmers for their cultivars, facilitating benefit sharing between farmers and consumers, and increasing consumer assurance through the use of geographical indications and appellations of origin (GIA/AOC). Several new concerns are beginning to exert a growing amount of influence on commodity markets around the world, many of which have gotten little attention in India until recently. During the early years of independent India, there was a misunderstanding of imperial agriculture, which resulted in the transfer being overly simplistic.

The relevance of using these procedures and putting them into effect in the context of land consolidation, irrigation/water resource sharing processes and fertiliser and pesticide-related Acts and Rules was brought to the attention of the participants during the discussion. Their purpose was to ensure that farmers received high-quality inputs, which

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<sup>4</sup> N. Nanda, "The Protection of Geographical Indication in India: Issues and Challenges", TERI Briefing paper, New Delhi 12 (2013).

they did by conducting certain tests. A number of efforts, including cooperatives and mandi/market reforms, have been adopted to reduce food injustice and guarantee that all people have access to nutritious food in the country. Their combined efforts were important in the success of the green revolution, which led in a huge growth of agriculture and allied industries.

According to the Indian Parliament's 1999 passage of the "Geographical Indications (GI) of Goods (Regulation and Protection) Act", registration of geographical indications connected with goods as well as greater protection for these indications are required. GI refers to a product that is differentiated from others by its geographic origin, which can be defined as a product that originates from a country, region, or locality within that territory and whose quality reputation or other characteristic is attributable in large part to its geographic origin. To the extent that it is permissible under the Act, a commodity's great reputation or other characteristic can be traced back to its geographic source.

Thus, the geographical domain can encompass the full territory of a country as well as a specific region or neighborhood inside it. In many cases, the geographical origin of products has a substantial impact on the quality of those products. For example, if a product is a manufactured good, all of the raw ingredients must be manufactured in that location before being processed and prepared therein.

### 3. GI and Law

The Indian Parliament passed the "Geographical Indications (GI) of Goods (Regulation and Protection) Act" in 1999,<sup>5</sup> providing registration and greater protection for goods/products. This law became effective on September 15, 2003. According to section 1(e), a "Geographical Indication" is a label that identifies agricultural products, natural resources and manufactured goods as having their origin or manufacture in a country or a region or locality within that country, and in cases where such goods have a quality reputation or other characteristic that is largely attributable to their geographic origin. The Act is concerned with the quality reputation or other distinguishing feature of such items,

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<sup>5</sup> Geographical Indications Registry, Chennai, 2018, *available at*: <http://www.ipindia.nic.in/registered-gls.htm> (last visited on April 04, 2022).

which is largely determined by their geographical origin. As a result, the geographic domain can encompass the entirety of a country's territory or a particular region or neighbourhood inside it. The majority of the time, the quality of a product can be traced back to its origin. If a product is made from raw materials, it must be manufactured or prepared in that particular area. The Registry of the GI is responsible for interpreting the GI in the Registry. A Geographical Indication can be protected in one of three ways:

- i. Sui generis systems include the use of proprietary systems,
- ii. Collective or certification marks, and
- iii. Corporate procedures, such as administrative product approval techniques.

### **3.1. Examples of GI**

#### *3.1.1. Kalanamak Rice*

The famous, significant and historic rice of eastern Uttar Pradesh is called Kalanamak. The new Kalanamak KN3 variety has been released and made available to the public. Kalanamak was also protected by Gorakhpur's Participatory Rural Development Foundation (PRDF) under PPV and FRA. A Siddharth Nagar based NGO demanded a GI on Kalanamak. There was a three-month window announced on the internet during which anyone could protest to or offer advice against the application. To their credit, PRDF, a Gorakhpur-based non-profit organisation, collaborated with them to highlight the plan's flaws. The Kalanamak variety's morpho-agronomic traits were utterly incorrect. A second issue was that the selected territory for GI included only five villages in the Naugarh municipality of Siddharth Nagar district. The settlements were not connected. This would have been a disaster for Kalanamak rice, a disaster for the surrounding area, and a spark for public strife. However, PRDF Gorakhpur's prompt response averted disaster. Kalanamak rice was granted GI designation on September 8, 2013 and was included in the 2013-2014 GI News issue. Kalanamak, a district in Uttar Pradesh's Agroclimatic Zone 6, currently holds GI status. It comprises of 11 districts: Bahraich, Balrampur, Bhati, Gorakhpur, Deoria, Kushinagar, Mahrajganj, Sant Kabir Nagar, Siddharth Nagar and Sravasti. These districts are located north of the Nepal border and south of the Ghaghra river.

### 3.1.2. Tirupathi Laddu

There are proposals to trademark the “Tirupati Laddu” by the Tirumala Tirupati Devasthanam (TTD), the organisation that oversees activities at India’s wealthiest and most revered Hindu temple. The famous Tirupati Laddu, which Tirumala temple distributes to millions of people as ‘prasadam’ or a sacred offering, has previously been granted protected status by India’s Office of the Registrar of Patents, Trademarks, and Geographical Indications. TTD sought for GI in order to safeguard its intellectual property. The Confederation of Indian Industry’s Andhra Pradesh Technology Development and Promotion Center supported with the GI registration (APTDC). According to APTDC and its network partners, small-time crooks to well-known sweet shops have been selling “laddus” with names that sound like “Tirupati Laddu”. The Madras High Court barred a Chennai sweet shop from selling “laddus” under the trade name “Tirupati Laddu” in December of last year. The TTD maintains that because “Tirupati Laddu” is served to Lord Venketeshwara prior to being made available to worshippers, it possesses inherent sanctity. The laddu, cooked with wheat, sugar, ghee, oil, cardamom and dried fruits, is a popular snack among temple pilgrims. Each year, temple authorities prepare over 50 million ‘laddus’. Prasadam sales are likely to generate Rs.190 crore for the TTD, which approved Rs. 2,401 crore annual budget for 2014-15 last week.<sup>6</sup>

## 4. GI and Food Items

In India, a wide variety of food items have been labelled as GIs. Hyderabad Haleem and Ratlami Sev are GI-labeled delicacies that are available in addition to Tirupathi Laddu and Bikaneri Bhujia.<sup>7</sup> If one travels to India, one will be able to sample a wide variety of

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<sup>6</sup> “Now, Geographical Indication Rights for ‘Tirupati Laddu’” *Business Standard* (Feb. 28, 2014), available at: [https://www.business-standard.com/article/news-ians/now-geographical-indication-rights-for-tirupati-laddu-114022800969\\_1.html](https://www.business-standard.com/article/news-ians/now-geographical-indication-rights-for-tirupati-laddu-114022800969_1.html) (last visited on April 04, 2022).

<sup>7</sup> Government of India, “GI Registry”, available at: [http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/GI\\_%20Application\\_Register\\_10-09-2019.pdf](http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/GI_%20Application_Register_10-09-2019.pdf) (last visited on April 03, 2022).

dishes throughout the country. There has recently been some debate about the origins of the mouth-watering sweet “rasgulla”<sup>8</sup> between Indian states of Odisha and West Bengal.

There are, however, a number of reservations about the GI labelling of food products that have been raised. Simply by adding a regional prefix to a food label, one can call into question whether or not it qualifies for a GI certification. A food item’s geographic prefix, on the other hand, does not automatically qualify it as a GI. In southern India, the most popular sweet is known as “Mysore pak”, yet it is not made just in Mysore; rather, it is prepared all across the region. Although the major focus of this discussion is on the sweet recipe, the inclusion of a geographical prefix does not indicate support of any other qualities or attributes associated with the relevant geographic region.<sup>9</sup>

At the smallest distance, the distance between a recipe and a food label is just a few millimeters. A culinary item may be created anywhere in the globe if the recipe is known. A GI tagged item, on the other hand, must have come from a particular geographic area. It should also have unique features or a positive reputation in the neighborhood. When buying a food product with a Geographical Indication (GI) label, the buyer should have no problem figuring out where it comes from and differentiating it from other similar food products.<sup>10</sup>

## 5. GIs and Market Differentiation

It is difficult for agricultural producers in emerging and least developed nations to get access to profitable markets in rich countries by distinguishing their goods from those of other agricultural producers. Geographically diversified niche markets allow agricultural product manufacturers to diversify their goods from broad commodity categories such as rice, coffee and tea.<sup>11</sup> GIs collect environmental elements and indigenous knowledge, hence removing origin items from commodity markets.<sup>12</sup> Origin-based marketing has a long history, its contemporary significance is growing in part due to the necessity for local

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<sup>8</sup> P. Agarwal, “GIs for Foodstuffs: IP or Recipe?”, *available at*: <https://spicyip.com/2018/04/gis-for-food-stuffs-ip-or-recipe.html> (last visited on April 03, 2022).

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> F. Galtier, G. Belletti, *et.al.*, “Are Geographical Indications a way to ‘decommodify’ the coffee market?”, *Paper presented at 12<sup>th</sup> Congress of the European Association of Agricultural Economists* 26-29 (2008).

<sup>12</sup> S. Reviron and M. Paus, “Special report: Impact Analysis Methods. WP2 Social and Economic Issues”, *SINER-GI Project 3 (European Commission Sixth Framework Program, 2006)*.



manufacturers to differentiate their product from generic competitors.<sup>13</sup> Consumers in newly urbanising emerging countries regard the products of an area or ethnic group as reliable and well-known. As more merchants and consumers gain awareness of the superior quality of these regional items, their business reputation improves. Indian Basmati rice, Darjeeling tea, Kintamani Bali coffee and Muntok White Pepper originate in Indonesia; Blue Mountain coffee originates in Jamaica; Rwandan coffee, Rooibos tea and Karoo lamb originate in South Africa; Buon Ma Thuot coffee and Me'o Vac Mint Honey originate in Vietnam; Man mountain rice originates in Côte d'Ivoire; Mamou pepper and Boké palm oil originate in Guinea.<sup>14</sup>

## 6. GIs and Premium Pricing

Numerous academics and researchers have mentioned origin labelling as a reason for charging premium charges. Reviron *et.al.*<sup>15</sup> asserts that a combination of economic, cultural and social characteristics results in the capture of a premium price. Marette and Williams<sup>16</sup> assert that customers place a premium on products with distinct origins.

In France, chicken meat from Bresse bird fetches a fourfold premium; Italian "Toscano" oil fetches a 20% premium over the commodity price; and milk used to make French Comte cheese fetches a 10% premium. According to Gerz and Dupont's research,<sup>17</sup> "farmers in France earn an average of 14% more for milk used to make Comte cheese, and dairy farms in the Comte region have been more profitable since 1990, and are today 32% more profitable than comparable farms outside the Comte region." Annual increases in retail Comte prices have averaged 2.5 percent, while wholesale Comte prices have averaged 1.5 percent. Producers and other stakeholders in the Comte supply chain only earn a little

<sup>13</sup> K.V. Ittersum, T.G.M. Mathew, *et.al.*, "Consumers' Appreciation of Regional Certification Labels: A Pan European study", 58(1) *Journal of Agricultural Economics*, 1-23 (2007).

<sup>14</sup> M. Blakeney, "The Role of Geographical Indications in Agricultural Sustainability and Economic Development", 6(1) *Annals of Agricultural and Crop Sciences* 2 (2021).

<sup>15</sup> *Id.* in S. Réviron, E. Thévenod-Mottet, *et.al.*, "Geographical Indications: Creation and Distribution of Economic Value in Developing Countries", *Working Paper No. 2009/14 NCCR Trade Regulation - Swiss National Centre for Competence in Research* (2009).

<sup>16</sup> *Supra* note 14 in S. Marette, "The Collective-Quality Promotion in the Agribusiness Sector: An Overview", *Working Paper 05-WP406 Centre for Agricultural and Rural Development, Iowa State University* (2005).

<sup>17</sup> A. Gerz and F. Dupont, "Comte Cheese in France: Impact of a Geographical Indication on Rural Development" in P. van de Kop, D. Sautier, *et.al.* (eds.), *Origin-Based Products: Lessons for Pro-Poor Market Development* 75-86 (KIT Publisher, Amsterdam, 2006).

portion of the increased value, while retailers keep all of the 0.5 percent increase in Emmmental retail price.<sup>18</sup> O'Connor and Company<sup>19</sup> credit Lentilles vertes du Puy with increasing lentil output from 13,600 quintals in 1990 to 34,000 quintals in 1996 and 49,776 quintals in 2002, with the number of growers nearly tripling from 395 in 1990 to 750 in 1996 and 1,079 in 2002. Teuber<sup>20</sup> discovered that people are willing to pay a premium for Hessian apple wine if they believe GIs benefit the local economy.

It is less typical to study premium prices for items originating outside of Europe than it is within the European Union. Kireeva *et.al.*<sup>21</sup> analyse several cases of certification marks in use in the People's Republic of China. When the certification mark was issued in 2009, the price per kilogram of Zhangqiu Scallion increased from 0.2-0.6 to 1.2-5 yuan. Following the approval of "Jianlian" lotus seed as a GI in 2006, the price of a kilogram nearly doubled from 26-28 yuan to 32-34 yuan. Despite the fact that New Zealand lamb is protected as a Geographical Indication, Clemens and Babcock report that it only commands a premium price for a small proportion of exported supply. Menapace *et.al.* discovered that Canadians are willing to pay a premium for olive oil with a label indicating its provenance.

According to a study of the GIs "Basmati" and "Jasmine" rice in India and Thailand respectively, the potential for these items to command premium prices is also regarded an incentive for attracting foreign investment.<sup>22</sup> While studies indicate that GI products can command a premium price, it is difficult for developing countries and least developing countries (LDCs) to pass on these benefits to producers. For example, producers of Zanzibari cloves get \$5 per tonne, but European market merchants earn \$40 per tonne. According to Hughes, producers in Africa have often had a negative experience when the

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<sup>18</sup> *Supra* note 14 in Maapar, "Impact d'une indication géographique sur l'agriculture et le développement rural: le fromage de Comte-France", *Ministère de l'agriculture, de l'alimentation, des pêches et des affaires Rurales Paris* (2004).

<sup>19</sup> O'Connor and Co., "Geographical Indications and the Challenges for ACP Countries", *Agritrade*, CTA 2 (2005).

<sup>20</sup> R. Teuber, "Producers' and Consumers' Expectations towards Geographical Indications - Empirical Evidence for Hessian Apple Wine", *European Association of Agricultural Economists: 113<sup>th</sup> Seminar Chania, Crete, Greece* 7 (September 3-6, 2009).

<sup>21</sup> I. Kireeva, W. Xiaobing, *et.al.*, *Comprehensive Feasibility Study for Possible Negotiations on a Geographical Indications Agreement between China and the EU*, EU-China IP2 22 (Brussels, 2009).

<sup>22</sup> P.R. Jena, C. Ngokkuen, *et.al.*, "Geographical Indication Protection and Rural Livelihoods: Insights from India and Thailand", 29(1) *Asia Pacific Economic Literature* 174-185 (2015).

benefits of premium prices associated with Geographical Indications (GIs) are concentrated in the hands of central marketing bodies. According to Gopalakrishnan *et.al.*,<sup>23</sup> Indian traders have a greater proclivity to obtain the largest share of GI premiums than producers and this has been documented in a similar method.

## 7. Certification of Product Quality

GIs have been shown to influence consumers' perceptions of product quality.<sup>24</sup> Two characteristics of a product that GIs communicate are the integrity of the product's origin and sustainable production practices.<sup>25</sup> This is especially true when the GI is based on a registration and certification system that enables producers to show their product's quality and associated reputation over time. Producers are allegedly compelled to maintain product quality as a result of an origin label. Everyone involved in the supply chain has an interest in the reputation of a product as a result of the origin label.

The demand for food products with credibility characteristics (e.g., origin, organic, locally grown, and environmentally friendly) has been steadily increasing<sup>26</sup> as people have grown more concerned about the quality, safety, and production characteristics of food. Consumers in developed countries have placed a greater premium on credence-based food preferences. Consumers are willing to pay a premium price for organic food products due to their concern about the presence of chemicals and pesticides in commercially produced food. Consumers are becoming increasingly concerned with the integrity of agrifood products, including social and environmental standards in their production and processing.<sup>27</sup> This is especially true in the aftermath of a series of food crises. These crises erode consumer confidence in products, as food is grown, processed, and packaged in multiple

<sup>23</sup> N.S. Gopalakrishnan, P.S. Nair, *et.al.*, "Exploring the Relationship between Geographical Indications and Traditional Knowledge: An Analysis of the Legal Tools for the Protection of Geographical Indications in Asia", *ICTSD* (Geneva, 2007).

<sup>24</sup> T. Becker, "European Food Quality Policy: The Importance of Geographical Indications, Organic Certification and Food Quality Insurance Schemes in European Countries", 10 *The Estey Centre Journal of International Law and Trade Policy* 111-130 (2008).

<sup>25</sup> J.L. Dahlhausen, C. Rungie, *et.al.*, "Value of Labeling Credence Attributes Common Structures and Individual Preferences", 49(6) *Agricultural Economics* 741- 751 (2018).

<sup>26</sup> D. Dentoni, G.T. Tonsor, *et.al.*, "The Direct and Indirect Effects of 'Locally Grown' on Consumers' Attitudes towards Agri-Food Products", 38(3) *Agricultural and Resource Economics Review* 384 (2009).

<sup>27</sup> H. Renting, T.K. Marsden, *et.al.*, "Understanding Alternative Food Networks: Exploring the Role of Short Food Supply Chains in Rural Development", 35(3) *Environment and Planning A*. 393-411 (2003).

locations. According to research, consumers will pay a premium for producers who are upfront and honest about the ingredients and origins of their products. Increased product quality or safety may necessitate the use of origin labelling, as was the case with meat labels in Europe following the BSE outbreak and dairy product labels in China following the Melamin disaster.<sup>28</sup>

Due to the prevalence of organic processes in their manufacturing processes, developing and least developed countries are well positioned to meet the demand for credible products. As a result, Darjeeling and Kenyan tea marketing emphasises the absence of pesticides in their cultivation and the use of hand-picked leaves rather than machine-picked leaves.<sup>29</sup> Consumers may value GI-marked products more than homogeneous commodity products due to their exoticism and extra work involved in their manufacture. GIs applied to normally manufactured objects instill confidence in their traceability, another increasingly recognised quality. These items are frequently free of pesticides and herbicides.

Rural product certification programmes have developed since the mid-1990s. Some examples of these certifications include fair-trade items from developing nations, organic farming and food prepared in accordance with hygienic and traceability requirements.<sup>30</sup> At a time when agricultural and forestry commodity prices are declining, certification provides quality market niches for smallholder producers in developing countries.

Consumers are protected from deception regarding the origin of products, manufacturing practices and specific quality of products through the application of Geographical Indications (GIs).<sup>31</sup> There is some empirical evidence that consumers and producers in Europe, where GIs have been most substantially developed, have high expectations for the quality of imported goods.<sup>32</sup>

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<sup>28</sup> M. Lees (ed.), *Food Authenticity and Traceability 600* (Woodhead Publishing, Cambridge, 2003).

<sup>29</sup> M. Blakeney and G. Mengistie, "Case Study: Kenya Tea", in M. Blakeney, T. Coulet, *et.al.* (eds.) *Extending the Protection of Geographical Indications. Case Studies in the Protection of Agricultural Products in Africa*, 213-234 (Routledge, London, 2012).

<sup>30</sup> G. Giraud and C. Amblard, "What does traceability mean for beef meat consumer?", 23(1) *Science Aliments* 40-46 (2003).

<sup>31</sup> A. Tregear, F. Arfini, *et.al.*, "Regional Foods and Rural Development: The Role of Product Qualification", 23(1) *Journal of Rural Studies* 12-22 (2007).

<sup>32</sup> *Supra* note 20 at 8.

## 8. Aggregation of Market Power

Farmers must join together to distinguish their goods and share their market power, in order to avoid sliding into the commodity trap. When it comes to agriculture, this is particularly true for farmers in developing and LDCs. According to Yeung and Kerr,<sup>33</sup> GIs can be an effective strategy for small enterprises to consolidate their market position. GIs may assist producers in capturing a greater share of the profits associated with the production of origin-based goods by establishing grounds for competitive advantage based on territorial specifics and reducing competition from undifferentiated products.<sup>34</sup> Barjolle and Sylvander suggest that higher production and marketing expenses, especially promotional expenditures, may be recouped *via* increasing sales volumes and premium product pricing, notwithstanding the increased production and marketing costs. Many of Tuscany's Protected Geographical Indications (PGIs) and Protected Designation of Origin (DOP), including olive oil, Chianti, pecorino, and prosciutto all have their origins in the concentration of market dominance among a variety of small enterprises, as explained by Belletti and colleagues (2001).<sup>35</sup>

While it is true that the EU's trademark system has a long history and was established through local industry initiatives, this is not the case in developing countries and LDCs, where GI initiatives are driven by state-owned enterprises, non-governmental organisations, or agricultural universities, rather than by local producer groups. The absence of a collective action history is cited as a significant impediment to developing a GI strategy by developing countries and LDCs.<sup>36</sup>

## 9. Sustainable Use of Natural Resources and Biodiversity Conservation

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<sup>33</sup> *Supra* note 14 at 3 in M.T. Yeung and W.A Kerr, "Are Geographical Indications: A Wise Strategy for Developing Country Farmers? Greenfields, Clawbacks and Monopoly Rents", 14(5) *The Journal of World Intellectual Property* 353-367 (2011).

<sup>34</sup> *Ibid.*

<sup>35</sup> G. Belletti, T. Burgassi, *et.al.*, "The Effects of Certification Costs on the Success of a PDO/PGI", in L. Theuvsen, A. Spiller, M. Peupert (eds.) *Quality Management in Food Chains* 107-121 (Wageningen, Wageningen Academic Publishers, 2007).

<sup>36</sup> E. Bienabe, M. Leclercq, *et.al.*, "Le Rooibos d'Afrique Du Sud: Comment La Biodiversité S'invite Dans La Construction D'une Indication Géographique", 50 *Autrepart- Presses de Sciences Po* 117-134 (2009).

As GIs are so closely linked to local natural resources and therefore have a positive impact on the environment, environmental sustainability is increasingly being recognised as an important externality.<sup>37</sup> Policymakers have also cited environmental stewardship as a reason for GI protection.<sup>38</sup> Biodiversity goals are often included in the rules of practice that are adopted in relation to GI labelling. Reflect the South African Rooibos industry, which has product criteria that expressly consider the environmental sensitivity of its manufacturing location.

European olive oil production, which is heavily influenced by genetically modified organisms (GMO), is an example of agriculture with numerous positive environmental effects, including reduced soil erosion, improved fire risk control, water efficiency, lower pollution and higher levels of biodiversity and genetic diversity in olive-tree varieties. Furthermore, since the certified Comte cheese GI standards restrict the intensification of farming, farmers use less inputs and the environment is better protected, according to Kop *et.al.*<sup>39</sup> This helps to conserve the open environment of the Jura area of France, which is known for its meadows and woods. Unlike other cheese-producing areas, the Comte region has only lost 7 percent of its pastureland due to successful conventional cow farming.<sup>40</sup>

Tequila's Agave sugar originates from wild or forest Agave species in Mexico's Mexcal area, where it is grown and maintained to keep the Agave species diversified. Furthermore, by controlling the scale of output and the techniques employed to create it, GIs may be utilized to encourage sustainable farming practices. In the construction of GIs, the public sector represents agriculture communities. The Karnataka Department of Horticulture (DoH) in India has awarded the Kodagina Kittale (*Citrus reticulata*) ecotype of the mandarin orange a GI.<sup>41</sup> As a result of disease and farmers' preference for more valuable cash crops like coffee and pepper, this variety had practically vanished. There is a "Coorg Orange" that

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<sup>37</sup> E. Thevenod-Mottet, "Geographical Indications and Biodiversity", in S. Lockie and D. Carpenter (eds.), *Agriculture, Biodiversity and Markets: Livelihoods and Agroecology in Comparative Perspective*, 201-213 (Routledge, London).

<sup>38</sup> European Commission, *Conclusions from the Consultation on Agricultural Product Quality*, (Directorate-General for Agriculture and Rural Development, Brussels, 2009) 22.

<sup>39</sup> *Supra* note 17 at 84.

<sup>40</sup> *Ibid.*

<sup>41</sup> C. Garcia, D. Marie-Vivien, *et.al.*, "Geographical Indications and Biodiversity in the Western Ghats, India", 27(3) *Mountain Research and Development* 208 (2007).

was registered in 2004 thanks to DoH filings. Protecting and reviving a traditional crop type and providing disease-free plant material were among the goals of the DoH, which also sought to bring economic development to the region and safeguard the ecosystem in which the orange is grown. The DoH's plan was to teach the local farmers about the GI before forming a society to which the GI would be transferred.

An origin product's success should be taken into consideration when it comes to sustainability goals, as increased demand for the product may lead to increased pressure on local resources. There must be consensus on sustainable production guidelines through a participatory process in order to avoid stressing fragile environments and to make sure that the GI does not lead to "genetic erosion."<sup>42</sup>

## 10. GI and Agricultural Export

India remains a net agricultural exporter, accounting for a sizable portion of basic commodity exports such as rice, shrimp, bovine flesh, sugar, tea and spices. The majority of its imports are processed goods, most notably palm and sunflower oils. The fundamental issue is that the value of agri-imports has climbed by four percentage points, reaching a record high of \$25 billion in FY18, and is on track to surpass the value of agri-exports, converting India into a net agri-importer. Exports must play a critical role if the country is to accelerate agricultural growth and treble farmers' income by 2022-23.<sup>43</sup> A growing emphasis on agricultural exports is reflected in the Agriculture Export Policy 2018, as well as in changes to tariffs and non-tariff measures.

India should make a concerted effort to trademark agricultural products through processes such as Geographical Indication (GI), particularly for organically grown commodities that generate better returns on global markets. Establishing strong agricultural brands can assist farmers in gaining a competitive edge in global markets that are 'buyer-driven'. Certain internationally recognised brands (California almonds, Chilean wines and

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<sup>42</sup> V. Boisvert, *From the Conservation of Genetic Diversity to the Promotion of Quality Foodstuff: Can the French Model of Appellation d'Origine Contrôlée Be Exported?* Collective Action and Property Rights Working Paper, International Food Policy Research Institute 49 (Washington DC, 2006).

<sup>43</sup> "Agri exports play important role in doubling farmers' income; need to boost farm shipments: Govt", available at: <https://www.financialexpress.com/economy/agri-exports-play-important-role-in-doubling-farmers-income-need-to-boost-farm-shipments-govt/2325861/> (last visited on April 04, 2022).



Swiss chocolates) enjoy a high level of recognition in their particular product categories. Branded items typically command a premium price added to brand loyalty and are viewed as a step towards building a strong client base. Branding adds value to items by differentiating them and also because consumers believe that branded products are of higher quality than unbranded things.

India has over 300 recognised geographical indications, but just a few have been employed for economic value addition. Darjeeling tea and Basmati rice are two of India's most well-known GIs, yet both appear to have little commercial significance when compared to Chilean wine or Danish cheese, for example. While the Directorate General of Foreign Trade Policy has initiated a campaign to promote the branding and commercialisation of GI products for export between 2015 and 2020, it is critical to take it to the next level.

India can elevate the Alphonso Mango, Darjeeling Tea and Basmati Rice to the level of California almonds or Swiss chocolates in terms of global acceptance. Indian embassies abroad can act as a catalyst for marketing and guiding such items through culinary festivals, exhibits at busy airports, and by encouraging renowned chefs and aficionados to promote them. The Agriculture Department of the Dutch Embassy in New Delhi aids Dutch food producers in gaining access to Indian markets and promoting their expertise in that country.<sup>44</sup> Indeed, the tactics taken by other countries to promote brands can serve as a good example for our own. Clustering has been embraced as the foundation for agricultural commodity branding and the development of their monetary value by a number of countries. Numerous countries immediately followed France's lead, including Japan for Kobe steak, Colombia for Juan Valdez coffee and New Zealand for Manuka honey. Malaysia's Best is a well-known example of a commodity branding initiative that was successful. This umbrella trademark, which covers a variety of horticultural products, adheres to Malaysian standards and best agricultural practices. Only a year later, exports of

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<sup>44</sup> "Netherlands Trade Mission to India", *available at*: <https://www.rvo.nl/sites/default/files/2019/09/Missieboekje-handelsmissie-India-13-18-oktober-2019.pdf> (last visited on April 04, 2022).



Guava, Mango and Mangosteen increased dramatically, from \$21.73 million to \$51.29 million.<sup>45</sup>

Adherence to the government's 'green box' of support, rather than the 'amber box', is another justification in favour of aggressive agri-product branding. Indian exporters currently enjoy tariff exemptions and the Merchandise Export from India Scheme, which may be in violation of WTO rules. Significant budgetary commitments for aggressive branding and packaging are required to stimulate manufacturers and exporters.

## 11. Conclusion

In the field of intellectual property protection, GIs are critical tool for identifying and preserving intellectual property rights associated with agriculture and food items that originate in certain geographic locations. Many Indian institutions and agencies have now taken major steps to ensure that India's cultural legacy is legally protected. Also important is the implementation of appropriate promotional techniques in order to maximise the commercial potential of GI-tagged items. It is critical to recognise the different cultural traits of rural populations affected by GI in order to acquire a deeper understanding of these people and their circumstances. In order to ensure that food items that are historically produced in certain regions are not subjected to GI labelling, they should not be manufactured in another region because they will not be identical when produced in another location. Experts believe that GI ratings should not be assigned to food items that are easily replicated over the world.<sup>46</sup>

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<sup>45</sup> M.J. Prabhu, "Palani Guava Growers Export to West Asian Countries", *available at*: <https://www.thehindu.com/sci-tech/science/palani-guava-growers-export-to-west-asiancountries/article5117065.ece> (last visited on April 04, 2022).

<sup>46</sup> *Supra* note 8.