Consultation Meeting on Developing a Geographical Indications Protection System in Brunei Darussalam

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Brunei Darussalam | 04 March 2019

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Topics for Discussion

1. Overview of the Protection of Geographical Indications
2. Benefits and Advantages of a *Sui Generis* System
3. Geographical Indications in Southeast Asia
4. Roundtable Discussion
OVERVIEW OF THE PROTECTION OF GEOGRAPHICAL INDICATIONS
## Different Concepts of IP Protection

<table>
<thead>
<tr>
<th>Trademark</th>
<th>Collective Mark</th>
<th>Certification Mark</th>
<th>Geographical Indications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distinguishes the goods and/or services of <em>one person/entity</em> from that of another.</td>
<td>Distinguishes the <strong>origin, material, mode of manufacture or other common characteristics</strong> of goods/services of different enterprises.</td>
<td>Certifying body is competent to <strong>certify the product</strong> as to: quality, safety, environmental friendliness, or other characteristics.</td>
<td>Signs used on products with a specific geographical origin and possess <strong>qualities or a reputation that are due to that origin</strong>.</td>
</tr>
</tbody>
</table>
Different Intellectual Property Rights

**Trademarks**

- Any exclusively descriptive word may not be protected as a trademark.
- However, geographical names are registrable insofar as they have acquired distinctiveness through their use and they identify a particular product or service, without indicating any geographical origin.

**Geographical Indications**

- While Trademarks distinguish the goods or services of one enterprise from those of another, geographical indications identify a product or service as originating from a particular geographical area, independently from the company which produces or offers it.
## Different Intellectual Property Rights

<table>
<thead>
<tr>
<th>Trademarks</th>
<th>Geographical Indications</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Protection is afforded against use in the course of trade by third parties without the owner’s consent, of identical or similar signs for identical or similar goods, where such use would result in a likelihood of confusion.</td>
<td>• Protects use of the GI that would mislead consumers as to the true geographical origin of the product.</td>
</tr>
<tr>
<td></td>
<td>• GIs for wines and spirits - use by an ineligible or unauthorized person, even where it does not result in consumers being misled.</td>
</tr>
<tr>
<td></td>
<td>• Protection against use in a translation, or against imitation or evocation.</td>
</tr>
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Different GI Protection Systems

Sui Generis

- Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.
- Once protected, the exclusive right to use the geographical indication belongs to all producers in a given geographical area, who comply with the specific conditions of production.

Collective/Certification Marks

- Collective: Mark is owned by a collective organization, and can be used by the collective only to promote members’ interests. Members must comply with rules of the organization.
- Certification: Certifying body owns the mark, defines standards, and ensures compliance by users. Use is not confined to membership, but mark cannot be used by certifying body itself.
Why Protect Geographical Indications?

• Serves as a valuable tool to differentiate competing goods on the market: Brand recognition is an essential aspect of marketing. Geographical indications can thus be a key element in developing brands for quality-bound-to-origin products.

• GI products generally command a premium price: the “place of origin” suggests to consumers that the product will have a particular quality or characteristic that they may value. Often, consumers are prepared to pay more for such products.

• Avert the risk of misuse by free riders (right of exclusion).

• To prevent the registration of a conflicting trade mark.

• To limit the risk of the indication becoming a generic term.

• May contribute as a factor of rural development, local employment creation, and regional promotion.
BENEFITS AND ADVANTAGES OF A SUI GENERIS SYSTEM FOR THE PROTECTION OF GEOGRAPHICAL INDICATIONS
III. BENEFITS OF A SUI GENERIS SYSTEM

Emphasis on Geographical Origin and Reputation

• Highlights the link between the geographical origin and the quality and/or reputation of the product, which is the essence of GIs and the basis for the premium price point.

Enhanced Protection Against Misuse

• Protected even when the indication is used together with a mention of the true geographical origin or with delocalizing expressions.
• Also protected against imitation and evocation.

Potential to promote competitive behavior

• GIs have the potential to promote competitive behaviors among producers keen to differentiate their goods through improved quality.
III. BENEFITS OF A SUI GENERIS SYSTEM

Supports Development of Export Potential

• Competitive advantage in labor-intensive sectors such as agriculture & handicrafts.
• Producers of commodities can turn into exporters of high-quality agribusiness and handicraft products.

Promotes Income Distribution

• Right to use belongs not to a single company, but to all producers respecting the product’s specifications in a given geographical area.
• Has tremendous potential in terms of income distribution.

Fosters Developing Economies of Scale

• A collective approach among producers and various actors in the value chain is needed to create and develop a GI.
• Generates economies of scale that are beneficial for producers, especially for small organizations.
BENEFITS OF GI PROTECTION

PRODUCERS
- Higher demand
- Increased production
- Competitive pricing

SOCIETY
- Employment
- Rural development
- Tourism
- Biodiversity

CONSUMERS
- Assurance of product quality
- Source is guaranteed
GEOGRAPHICAL INDICATIONS IN SOUTHEAST ASIA
GIs IN SEA: FACTS AND FIGURES

GI Registration systems
ASEAN Member States have GI registration system in place: Malaysia, Thailand, Vietnam, Indonesia, Cambodia, Lao PDR

ASEAN region
GIs registered in the ASEAN region including both local and foreign (as of Dec 2018) >335

EU market
GIs registered in the European Union (as of Dec 2018) 07
GI IN SEA: FACTS AND FIGURES

> 335 GIs registered in ASEAN

- **(01) Lao PDR**
  - Khao Kay Noi (November, 2018)

- **(03) Cambodia**
  - Kampot Pepper, Kampong Speu plam sugar and Koh Trung Pomelo

- **(66) Vietnam**
  - Nuoc Nam Phu Quoc, Fried Calamari Ha Long, Cao Phong Orange, etc.

- **(67) Indonesia**
  - Kopi Arabika Gayo, Lada Putih Muntok, Madu Sumbawa, Kintamani Arabica Coffe, etc.

- **(83) Malaysia**
  - Sarawak Pepper, Sabah tea, Kopi Tenom, Mangga Harumanis Perlis, etc.

- **(115) Thailand**
  - Doi Chaang Coffee, Doi Tung Coffee, Tung Kula Rong-Hai Hom Thai Mali Rice, Khao Yai Wine, etc.
ASEAN GIs registered in the EU market

2012
Vietnam
Nuoc Mam Phu Quoc (PDO)

2013
Thailand
Khao Hom Mali Thung Kula Rong- Hai

2015
Thailand
Khao Sangyod Muang Phatthalung

2016
Cambodia
Kampot Pepper (PGI)

2017
Indonesia
Kopi Arabika Gayo (PGI)
More than 180 GIs in ASEAN region

<table>
<thead>
<tr>
<th>Country of registration</th>
<th>GI Name</th>
<th>Registration date</th>
<th>Right Holder</th>
<th>Geographical origin</th>
<th>Information Follow</th>
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</thead>
<tbody>
<tr>
<td>Thailand</td>
<td>Pechubam Sweet Tamarind</td>
<td>14/10/2005</td>
<td>Pechubam Province</td>
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<td>Thailand</td>
<td>Chuan Khuatang Chaom Dolomil</td>
<td>28/06/2006</td>
<td>Chaunt Fruit Tree Association</td>
<td>Domestic</td>
<td></td>
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<tr>
<td>Thailand</td>
<td>Khor Fai Thong</td>
<td>02/05/2006</td>
<td>Mae Fah Luang Foundation</td>
<td>Domestic</td>
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<td>Thailand</td>
<td>Mat Somm Teak Sok Fabik</td>
<td>24/10/2007</td>
<td>The Province of Chiang Mai</td>
<td>Domestic</td>
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<tr>
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<td>Trang Roast Park</td>
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<td>Trang Province</td>
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<tr>
<td>Thailand</td>
<td>Phinues Fleteau Wine</td>
<td>02/05/2006</td>
<td>CPK International Co., Ltd.</td>
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<tr>
<td>Thailand</td>
<td>Phutth Kham Nokhe</td>
<td>20/06/2006</td>
<td>Mr Komrit Bhittoun</td>
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<td>Thailand</td>
<td>Angkha Sone Morar</td>
<td>03/05/2003</td>
<td>Mr Kajom Rungwongsalaph</td>
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<td>Thailand</td>
<td>Nanglue Tambaom Administration</td>
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<td>The Nanglue Tambom Administration</td>
<td>Domestic</td>
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<tr>
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<td>Thailand</td>
<td>Sokon Dhipari Haeng</td>
<td>26/02/2006</td>
<td>Sokon Nakorn Province</td>
<td>Domestic</td>
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</tbody>
</table>
GI CASE STUDIES IN SOUTHEAST ASIA: KAMPOT PEPPER (CAMBODIA)
KAMPOT PEPPER: CAMBODIA

AT A GLANCE

• **Price evolution**: price dramatically increased since GI was registered, from less than 5 USD/kg of black pepper in 2008-2009, up to 15 USD/kg in 2016

• **Members of KPPA**: number of producers registered with KPPA has multiplied by three times (2009-2017)

• **Described as “black gold”**: being used by many well-known chefs around the world.
KAMPOT PEPPER: CAMBODIA

Price Evolution (2009-2018)

- Black pepper
- Red pepper
- White pepper

$
2.5. Promotion tools of Kampot pepper

Promotion of Kampot Pepper

- Development of promotional tools: leaflets, banners, videos, etc.
- Promotion activities through: website (www.kampotpepper.biz), radio, television, magazine and other media
- Participation in exhibitions in Cambodia and abroad
GI CASE STUDIES IN SOUTHEAST ASIA: THAILAND
THAILAND GIs

99

Thai Geographical Indication

10 Rices
- Surin Hom Mali Rice
- Sangeud Muang Prathathelu Rice
- Thung Kula Rong Hai Thai Hom Mali Rice
- Sakon Dhowapi Haeng Golden Aromatic Rice
- Khaok Jek Chuey Sao Hal
- Kaewong Kalaisi Sticky Rice
- Khao Leang Patass Chumphon
- Khao Kum Lanna
- Khao Ra Leum Po Petchaboon
- Khao Homminu Ubos Rachthanti

18 Foods
- Trang Roast Pork
- Phetchaburi Coffee
- Nakhon Lamong Coffee
- Phetchaburi Tesco
- Lamphun Kaeng Tha
- Pai Red Lumnam Sauce Khai Tha
- Banjatharum Phitsanulok Dried Banana
- Lamphun Golden Dried Longan
- Salon Makao Ma Berry Juice

47 Fruits and Vegetables
- Nakornchaom Pomelo
- Chaiyaphum Pomelo
- Som-O Khao Yai Sanwatsongsak
- Paenpang Tabtambun Pomelo
- Yaraung Pukom Pomelo
- Som-O Thakhoi Mueang Phichit
- Pomelo Hom Khunlom
- Lamhun Rakkhoi Longan
- Bang Mod Tangerine
- Siracha Pineapple
- Pong Sa Pineapple
- Laopluea Pineapple
- Phuket Pineapple
- Pineapple Kaorum
- The Uthes Pineapple
- Banaka Pineapple
- Trat Si Thong Pineapple
- Longkong Tanyoymat
- Phetchabun Sweet Tamarind
- Kaen Hot-Bangkang
- Kaathong Tai-Lion
- Nong Durlan
- Durian Po-Lai
- Durlan Prachin
- Uttaradit Long Lab - Laos Durlan
- Uttaradit Lin Lab - Laos Durlan

9 Silks and Cottons
- Mokk Tarn Polo
- Salan Nakhon Natural Indigo Dye Fabric
- Lamphun Brocade Thai Silk
- Prasae Kalsan Thai Silk
- Chonburi Mudmee Thai Silk
- Ban Dhaboos Anad Thal Silk Yarn
- Ban Fuai Hom cotton wool blend fabric
- Phrae - madrass - Chineesang Buriram
- Nong Son's Fermented mud cloth

13 Handicrafts
- Phatthani Hand Basket
- Angsila mortar stone
- Ban San Umbrella
- Ban Chong Pottery
- Chiangmai Celadon
- Mok Pottery
- Kohepet Pottery
- Yok Mat Dock Silver
- Lampang Chiken Bowl
- Sangklaburi Siwalath
- Chanthaboon Mat
- Nih Muang Barn
- Ban Mon Pottery

2 Wine and Spirit
- Phumka Phet Kan
- Khao Yai Wine

1368 HOT LINE

Facebook/IPkey Thailand
Twitter/IPkey Thailand
youtube/IPkey Thailand
pipethailand.go.th
THAILAND GIs

Thai GIs Protection Aboard

- european union
  - Thung Kula Kheong Tai Hom Mok Rice
  - Doi Fung Coffee
  - Doi Chaang Coffee
  - Singha Mung Prathumung Rice

- china
  - Thung Kula Kheong Tai Hom Mok Rice
  - Phetchabun Sweet Tamarind
  - Palangong Yantkim Rice

- vietnam
  - Khan Indawon Thai Silk Yarn
  - Phetchabun Sweet Tamarind
  - Lamphun Golden Derek Leonga

- cambodia
  - Doi Tong Coffee

- india
  - Lamphun Brevada Thai Silk

- indonesia
  - Lamphun Brevada Thai Silk

Registered
Pending
DOI CHAANG (THAILAND)

Coffee Cherry Price
4.50 baht/kg (before registration)
→ 15 baht/kg (once registered)
→ 28-32 baht/kg (now)

Green Bean Price
12 USD/kg → 65 USD/kg

Contract Farming
Coffee Contract of 5 year + 5 year + 5 year from all over the world
CHIANG RAI PHULAE PINEAPPLE

Price Comparison
(year 2004 before registered as a GI and now)

• Price at Farm
  8 baht/kg → 23 baht/kg

• Retail Price
  35 baht/kg → 50 baht/kg
  Going to be 60 baht/kg soon
ROUNDTABLE DISCUSSION
Roundtable Discussion

1. Products of Brunei Producers that are Potential GIs
2. Needs of Producers for Improving the Quality, Branding, and Commercialization of their Products
3. Support provided by the Government to Producers
4. Options for Setting Up a Geographical Indications System
5. Way Forward on the Development of a GI System in Brunei
THANK YOU

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