International approaches on geographical indications

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1- Why international protection is needed?

GIIs are traded but face unfair competition

2- How can GIIs be protected?

Bilateral Agreements
Multilateral protection
The sales value

- Estimated sales value of EU GIs: €75 billion in 2017 (estimated at wholesale stage in the region of production)
  - Wine 51%
  - Foodstuff 35%
  - Spirits 13%
  = 7% of the total EU food and drink sector

- Estimate of EU GI exports value: €11.5 billion
  = 15.5% of EU food and drink industry exports
60% of sales take place on the domestic market, 20% on the EU market and 20% in third countries. 

Source: AND study for the European Commission
Low level of protection (TRIPS 22)

TRIPS Art. 22 offers basic but unsufficient protection

- Subjective (misleading);

- Does not protect against translation;

- Does not protect against the use of expression like « type », « style », ...
Evocations: unfair competition example

Non genuine Low cost  Non genuine high cost
Possible Solutions

Rebranding

Advantages
No evocation
No confusion
No unfair competition
Can be marketed
Bilateral agreements

In the FTAs, a satisfactory GI chapter is a "must have" for the EU.

EU objective is not to impose a mere transposition of its internal legislation to the concerned third countries - not realistic.

The objective in EU negotiations is to add value compared to TRIPS basic provisions.

The aim is to establish a list of EU/3C agricultural GIs to be protected directly and indefinitely in the respective countries from the entry into force of the agreement.
Bilateral agreements

EU objectives:

- **Direct Protection** via the Agreement
- To obtain **high level of protection (TRIPS +)**
- To allow **co-existence with prior trade marks**
- To **phase out prior uses** of EU names,
- To obtain **administrative protection**
- To ensure a **right of use** (opposed to trade mark license system),
- **No subsequent genericness**
- To create a **co-operation** mechanism/dialogue.
- Due process (No MFN risk – opposition and examination)
Bilateral agreements

Reciprocal/ "high level" protection

Third countries GIs protected in bilateral agreements:

1534 grand total
- 1288 wine
- 129 spirits
- 116 agricultural product and foodstuff
- 1 aromatized wine
EU GI negotiations - State of play

- **W&S**: SA, Canada, Chile, Mexico, USA, Australia, Albania, North Macedonia, Iceland, Lichtenstein, Norway, Switzerland.
- **Concluded agreements** – (GI chapter): SADC, Canada, CARIFORUM, Central America, Colombia & Peru, Ecuador, South Korea, Bosnia Herzegovina, Georgia, Iceland, Kazakhstan, Kosovo, Moldova, Montenegro, Serbia, Switzerland, Ukraine, Japan, Singapore, Vietnam, Armenia, Mercosur, Mexico, China.
- **Ongoing negotiations**: Chile, Australia, India, Indonesia, Malaysia, New Zealand, Philippines, Thailand, Azerbaijan, Kyrgyzstan, Morocco, Tunisia.
EU GIs negotiations
state of play
State of play in the region

More than 30 Agreements concluded (FTAs, Stand alone)

- In ASEAN: Singapore, Vietnam
- China
- South Korea
- Japan

15 On-going negotiations

- Thailand (FTA)
- Malaysia (FTA)
- Indonesia (FTA)
- Philippines (FTA)
- Australia, NZ...
GI s in the EU-Vietnam FTA

Recognition of high level of protection (Direct) of GIs, comparable level to the one under the EU GI legislation;

169 EU Gis and 39 Vietnamese products enjoy direct protection through the FTA

GIs can coexist with prior registered trademarks
Cannot become generic
New Gis can be added in the future
EU – China Stand-alone Agreement on Gis

No FTA perspective but common interests on GI protection

Concluded in November 2019 (internal procedures ongoing for signature)

100 Gis protected each side at entry into force of teh Agreement + list of 175 GIUs on eachside will be protected 4 years after entry into force

High level of protection...
EU accession to multilateral Lisbon system (Geneva Act) – February 2020

- The only realistic multilateral basis for GIs protection in foreseeable future;
- Indefinite protection of GIs in contracting Parties (single application);
- Fully compatible with TRIPS;
- High level of protection;
- covers GIs and not only Denomination of origin

Cambodia is member, Laos close to be... What about other ASEAN?
Thank you