IMPLEMENTING THE MALAYSIA’S GEOGRAPHICAL INDICATIONS ACT OF 2022: ISSUES AND CHALLENGES

Virtual Workshop on Geographical Indications

22 June 2023
Intellectual Property Corporation of Malaysia (MyIPO)
CONTENT

- Geographical indications
- Background of GIA 2022
- Features of GIA 2022
- Progress, Issues, Challenges, Solution
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GEOGRAPHICAL INDICATIONS
“Geographical indication” means an indication which may contain one or more words which identifies any goods as originating in a country or territory, or a region or locality in that country or territory, where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin (Ref: Section 2)

Based on Art. 22.1 of Trade-Related Aspects of Intellectual Property Rights (TRIPs)

“... indications which identify a good as originating in the 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 geographical origin”
GEOGRAPHICAL INDICATIONS

Protection is given upon fulfilling three components:

- AN INDICATION
- GEOGRAPHICAL LOCATION
- GOODS - the quality / reputation / character of the goods is attributable to its geographical origin
BACKGROUND OF GEOGRAPHICAL INDICATIONS ACT 2022
HISTORICAL BACKGROUND OF GEOGRAPHICAL INDICATIONS LAW IN MALAYSIA

**GEOGRAPHICAL INDICATIONS ACT 2000**
- Passed by the Parliament in 2000
- Contained 7 Parts, 32 sections and 1 Schedule
- Authoritative Text was in Bahasa Malaysia
- Came into force on 15 August 2000

**GEOGRAPHICAL INDICATIONS ACT 2022**
- Act 602 was repealed and replaced by Act 836
- Contains 15 Parts, 101 Sections and 1 Schedule
- Tabled and passed by the Parliament in December 2021
- Came into force on 18 March 2022
- Subsidiary legislations: Geographical Indications Regulations 2022, Guidelines of Geographical Indications 2022
- Authoritative Text is in Bahasa Malaysia
RATIONAL AND MAIN OBJECTIVES OF THE REPEAL OF GIA 2000

1. Strengthen the geographical indications protection system according to international and local development and needs
2. Expand the scope of protection of GI in Malaysia
3. Introduce new and comprehensive internal procedures in the Geographical Indications Office
4. Introduce provisions of offences and criminal jurisdiction to enforce the rights obtained under the act and expand the scope of civil action
5. Expand the level of protection given to registered geographical indications in Malaysia
6. Refine the procedures of filing application for registration of geographical indications including examination, opposition proceeding, registration and cancellation procedures
NEW FEATURES OF GI ACT 2022
THE GEOGRAPHICAL INDICATIONS ACT 2022

- NEW
- COMPREHENSIVE
- EASY
THE GEOGRAPHICAL INDICATIONS ACT 2022

DATE OF COMING INTO FORCE OF GIA 2022:
18 MARCH 2022

Related subsidiary legislations:
- The Geographical Indications Regulations 2022
- The Guidelines of Geographical Indications 2022
# Categories of Goods Listed Under the First Schedule of the GGI 2022

<table>
<thead>
<tr>
<th>Class 1: Wine and Spirit:</th>
<th>Class 2: Confectionery</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wine</td>
<td>Chocolate</td>
</tr>
<tr>
<td>Spirit</td>
<td>Salt</td>
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<tr>
<td></td>
<td>Spices and condiments</td>
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<tr>
<td></td>
<td>Preserved herbs</td>
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<td></td>
<td>Edible oils</td>
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<td></td>
<td>Sugar</td>
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<td></td>
<td>Sweetener</td>
</tr>
</tbody>
</table>

Class 2: Prepared foodstuff and beverages:
- Coffee
- Tea
- Cocoa
- Beer
- Rice
- Bread
- Pastries
### CATEGORIES OF GOODS LISTED UNDER THE FIRST SCHEDULE OF THE GGI 2022

#### Class 3:
Agricultural, aquacultural, horticultural products:
- Vegetable
- Vegetable product
- Fruit
- Fruit product
- Meat
- Meat product
- Horticultural comestible product which is prepared for consumption
- Raw and unprocessed grains
- Raw and unprocessed seeds
- Flowers and part of flowers

#### Class 4:
Handicraft

#### Class 5:
Textiles (other than handicraft)
APPLICATION SYSTEM

Who can apply
- Producers
- Competent Authority
- Association

Procedure
- Application Form GIA1
- Location Map
- Product Specification
- Evidence of GI applied are being protected in the country of origin (foreign applicant)
- Form GIA2 if filed through an agent
- GIA7 for advertisement of application

Application Fee
- Initial Fee RM 250
- Advertisement Fee RM 450

Duration of Protection
- Forever but renewable every 10 years
NEW FEATURES
**VARIANT OF GI**

- Introduced registration of variant of Geographical Indication
- Translation, transliteration or other variant of the indication are accepted as GI
- Application of variant requires different application form

**HOMONYMOUS GI**

- Accept registration of homonymous GI for goods other than wine
- Registration is allowed provided there are practical conditions differentiating the homonymous GI from the earlier registered GI
NEW SUBJECT MATTERS

1. Variant of GI may be registered
   - ✔ The introduction will enable more GIs to be registered
   - ✔ Refer: Section 2

2. Voluntary cancellation of geographical indication
   - ✔ The introduction will allow the registered proprietor of GI to file an application to cancel his application with the Registrar
   - ✔ Refer: Section 22
NEW SUBJECT MATTERS

3. Introduction of grounds of cancellation of GI by Court (Test and requirements provided)
   - The grounds of invalidation of GIs registration are specified under section 23.
   - Refer: Section 23

4. Transfer of registration of GI
   - This provision will enable a registered proprietor to transfer this rights to another person.
   - Refer: Section 26
NEW SUBJECT MATTERS

5. Introduction of grounds to institute proceedings against certain uses of geographical indication
   - The grounds to institute proceedings against certain uses of GI are specified under section 77.
   - Refer: Section 77

6. Introduction of provisions on “Offences”
   - There is no provision on offences or criminal jurisdiction under GIA 2000.
   - This introduction will empower the Assistant Controllers to enforce the rights of registered proprietor under the GIA 2022.
   - Refer: Sections 34 and 35 and Part X
NEW SUBJECT MATTERS

7

- Introduction of registration system of GI Agents

✓ A new registration system for geographical indications agents is introduced to ensure high level of quality service is rendered to their clients

✓ Refer: Part VIII
PROGRESS, ISSUES AND CHALLENGES
1. The office is also trying to increase GI awareness, by promoting GIs through mass media, on the internet, social media, and in the print press, and by promoting GI locations as travel places.

2. There currently 7 GI’s application after the introduction of the new act.

3. Improve and updating of the framework book of specification to all applicants and owners.

4. Talk session and discussion with owners, applicants and also the law enforcement department regarding the new geographical indication act.
1. The lack of awareness about the quality and specificity of GI products is the main challenge for producers. Lack of Awareness The survey shows that over half of the small and medium-sized enterprises (SMEs) have never heard about GI.

2. One of the challenges met by GI producers is to keep constant compliance with the GI specifications. Another is the lack of competence and capacity for associations and producers to develop packaging and labeling.

3. Another challenge is the enforcement of GI products to avoid copycats seeking to piggyback on the GI products’ reputation, leading to unfair competition.

4. One of the challenges met by GI producers is the creation of an association, which is monitored by the government, and the marketing of the products.

5. Lack of experts in writing for Gi Book of Specification

6. Among the detail involved in applying for a GI, the most important is probably the writing of the application and GI specification itself correctly.
SOLUTION

1. The office is also aggressively trying to raise GI awareness by introducing the GI tour program. Which has traveled all over the country to identify potential GI and then tried to register it in MyIPO.

2. In addition, internal and external training is intensified so that more MyIPO officers are involved in GI registration management.

3. External training for GI holders or representative are involved in GI registration management.

4. To work with trade organizations to promote the GI product and make it as a national project.

5. Providing IP Funds (some allocations to help GI owners to register their GI applications)
A Session to complete the 2022 Geographical Indications Regulations & Geographical Indications Guideline. In collaboration with Legal Division of MyIPO, Legal and Enforcement Division of the Ministry and the Attorney General's Office, the Geographical Indications Regulations 2022 & the Geographical Indications Guide successfully finalized on March 2023.
This interview session was held by MyIPO Headquarters in collaboration with the East Coast Branch and durian orchard owner Mr. Lim. This session took place at a durian farm located in Raub Pahang - Durian Musang King Malaysia.

Photo Source: Ryzul Osman
In an effort to empower Terengganu's heritage craft art, especially copper craft art and towards the internationalization of the Terengganu copper industry, Royal Foundation Sultan Mizan (YDSM) has taken the initiative to register the protection of "Geographical Indication" under the name "Tembaga Terengganu". The purpose of this registration is to increase the value of copper products so that they can be sold in the international market. Tembaga Terengganu
Tembaga (cooper) Terengganu Geographical Indication Certificate submission ceremony - Terengganu Palace Kuala Lumpur

Photo Source: Ryzul Osman

Photo Source: Yayasan Diraja Sultan Mizan
On August 30, 2022, in conjunction with the Perak State Craft Festival 2022, a ceremony to hand over three Geographical Indication registration certificates, Labu (Pumpkins) Sayong, Pulau Tiga Pottery and Perak Gold Thread Ties was held.
Product Management and Commercialization Seminar Program for Geographical Indications is held to guide local entrepreneurs in the state of Sarawak, especially owners of products that are protected by Geographical Indications.
This interview session was held by MyIPO Headquarters in collaboration with the East Coast Branch and the Temerloh District Fisheries Office on July 13, 2022. In addition, MyIPO had the opportunity to interview the entrepreneur of the LAZIZ Patin brand who is a young entrepreneur who works on caged patins and catfish-based products in Temerloh. Ikan Patin Temerloh Pahang
The MyIPO delegation was taken to the where the gula apong traditionally made and had the opportunity to interview Mr. Mahli from the workshop located in Kampung Pingan Jaya Kuching Sarawak and representative from SPL Fods Industries in Samariang where the manufacturing and production of apong sugar syrup is done. Here MyIPO officers and researchers from UiTM were briefed by the factory manager on how gulang apong-based syrup is produced, marketing and branding. Gula Apong Sarawak
10-11 March 2023 - Ba' Kelalan Sarawak Adan Rice Festival

Photo Source: Ryzul Osman
10-11 March 2023- Ba' Kelalan Sarawak Adan Rice Festival

Photo Source: Ryzul Osman
MAY 11 2023- Visit to Selangor State Cultural Customs Corporation. Wau (Kite) Kapal

Photo Source: Ryzul Osman
May 30 2023- Visit to the Perak State Forestry Department and Matang Mangrove Eco Centre. Mangrove charcoal Kuala Sepetang.
May 30 2023- Visit to the Perak State Forestry Department and Matang Mangrove Eco Centre. Mangrove charcoal Kuala Sepetang.

Photo Source: Ryzul Osman