



Promoting Intellectual  
Property Rights in the  
ASEAN Region

# SEMINAR ON GEOGRAPHICAL INDICATIONS

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# **GI PROTECTION AND PROMOTION IN THE EUROPEAN UNION**

## INDEX

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- ❑ GI objectives and benefits
- ❑ Different routes to protect GIs protected in foreign markets
  - direct registration
  - free trade agreements
  - Lisbon Treaty
- ❑ Examples of successful GI cases in the ASEAN region and in the EU

## Globally: A trend towards origin products

- Globalization of industrial production
    - homogenized, standardized products
- 
- Consumers show an increased interest in local, traditional, ecofriendly and reputed origin products: ready to pay a Premium
  - From “commodities” to “products with a name” = heritage, traceability and quality

## Origin products exist for long time

- Reputed origin products existed for a long time : since Antiquity, foodstuff, agricultural goods, handicraft –wines, marble, bronze, silk, incense were highly reputed thanks to their place of origin
- Name of the place of origin protected as an appellation of origin or geographical indication
- Legally recognised first in the EU and since TRIPs in all 164 WTO members.



# In France : CHAMPAGNE



# In France: ROQUEFORT



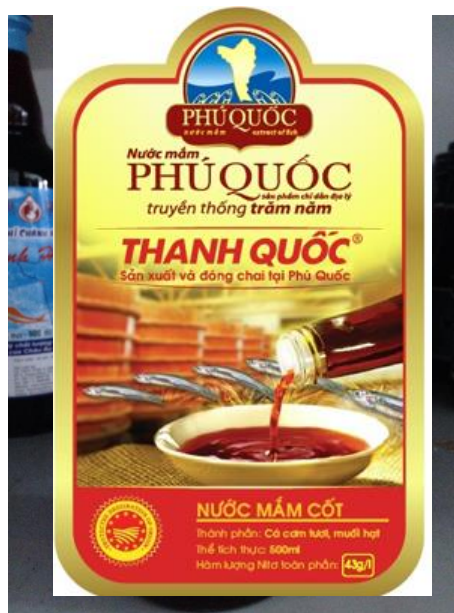
# In Italy: Parmigiano Reggiano (Parmesan)



# In Colombia: Café de Colombia



# Vietnam: Nuoc Mam Phú Quốc



# In India: Darjeeling tea



## In Japan: Kobé beef



# In Thailand: Khao Hom Mali Thung Kula Rong Hai (Rice)



# In Thailand: Lamphun Brocade Silk



# GI Objectives and Benefits

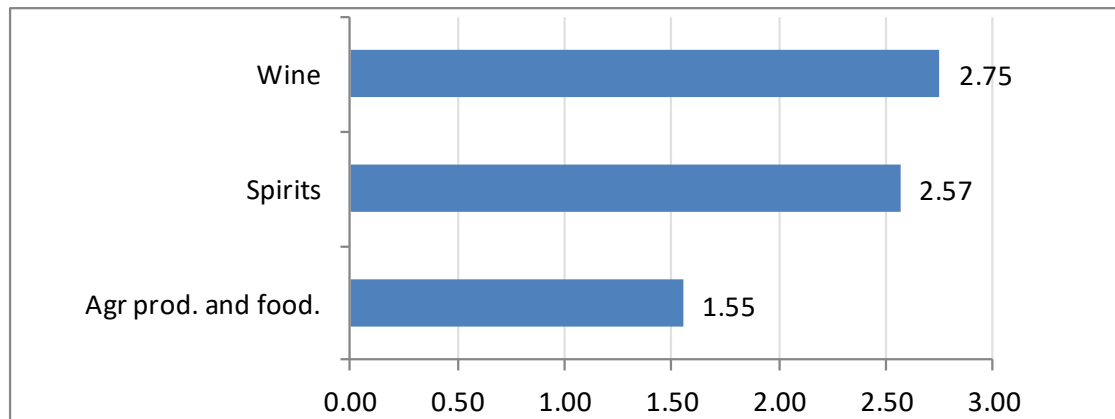
- 1. Protect added value of the product
- 2. Fight against usurpation of the name
- 3. Rural/Territorial development
- 4. Protection of traditional knowledge and landscape

# Objective 1

- Impact on prices

## Price premium in the EU

- GI = value premium
- The price of a GI product is **2.23** times the price of a comparable non-GI product (in average)



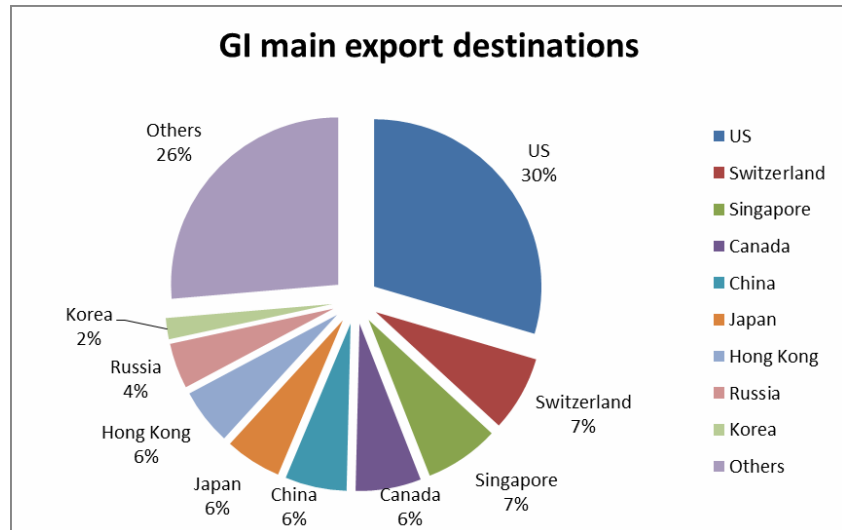
/!\ does not reflect profitability of the GI schemes as it does not take into account the additional cost of compliance with GI specifications

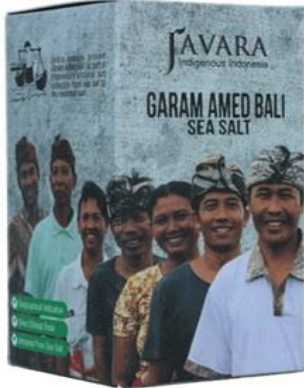
Source: AND-International survey for DG AGRI (2012)

# Sales Destination

60% of sales: domestic market  
20% on the EU market  
20% in third countries

- 663 EU GIs sold only in country of production
- 1525 EU GIs exported
  - 1224 wines,
  - 231 agri products
  - 70 spirits)





- Very old traditional seaside production
- The salt price was very cheap, only IDR 3,000-5,000/kg and the land lost due to tourism development.
- Following GI registration
- 2018: in Bulk :IDR 27,000-35,000/kg  
packaged: IDR 60,000-70,000/kg



## Objective 2

- Fight against usurpations of the name

# Use/Imitation of GI

EU	Lisbon/Geneva	TRIPs additional	TRIPs basic
No direct or indirect commercial use	No use not complying with AO/GI requirements	No use	no use only if misleads public as to origin: <b>need to be proven</b>
No misuse, imitation, evocation	No imitation		X
even if true origin is indicated, if in translation, if use of delocalisers: style, type, method, as produced in, imitation or similar			X

# Evocation



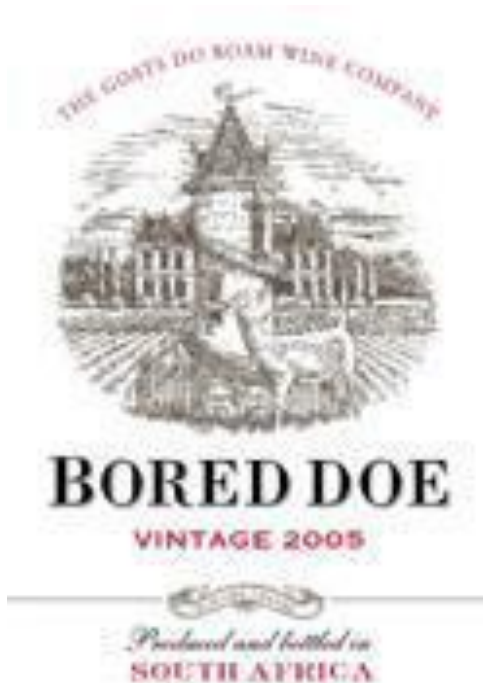
- Gorgonzola: PDO (Italy)
- But use of Cambozola for other cheese
- EU + Lisbon  
= evocation of Gorgonzola  
= prohibited (case C87-97 EU Court of Justice)



- TM applied for fish
- 2 PGI
- Scottish farmed salmon and Scottish Wild salmon
- Rejected by EUIPO



- TM applied for edible oils
- PDO Chianti Classico
- Olive Oil
- Rejected by EUIPO  
(R 1474/2011-2, 16/1/2012 )



- PDO Bordeaux (France)
- Name use for wine from South Africa: would be prohibited in EU

## Use/imitation of GI



- FETA is a PDO (Greece)
- But use for cheese made in Thailand and sold in Thailand
- EU + Lisbon + TRIPs additional: would be prohibited
- TRIPs basic: prohibited if consumer is misled

# Imitation



- PGI Pruneau d'Agen (France)
- Used for fruit from California

## Use of GI for Dissimilar Goods

EU	Lisbon/Geneva	TRIPs additional	TRIPs basic
No use which exploits reputation	No use which indicate connection with AO/GI, damage interests, take unfair advantage of reputation; even if true origin is indicated, if in translation, if use of delocalisers: style, type, method, as produced in, imitation or similar	X	X

## Dissimilar goods



- Champagne = PDO (France) for sparkling wine
- Use for a perfume
- France : prohibited (change of name to Yvresse)
- TRIPs: authorised

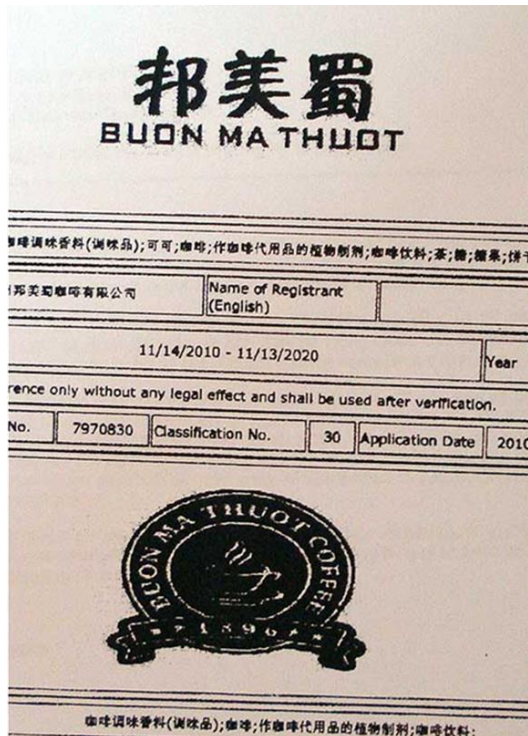
# Relation with prior and posterior trademarks on same name as GI

EU	Lisbon	TRIPs additional	TRIPs basic
Prior TM: Co-existence with PDO/PGI + if prior TM registered in good faith	Prior TM: Co-existence possible if prior TM registered in good faith	Prior TM: Grandfather clause Co-existence possible in domestic legisl.	
No Posterior Trademark			No posterior TM only if misleads the public

## Posterior trademark

### Buôn Ma Thuột coffee, Việt Nam

- GI in Vietnam:  
Registered in 2005



- TM registered in China in 4/2011:
- Cancelled in 5/2014 following action of Association and Vietnam government

## Objective 3

- Impact on rural development

## GI = A Significant Part Of French/EU Agriculture

- France : GI sector = 14,5 % of the food and drinks sector
- France : 1 farmer out of 4 is involved in GI production

# Development of Tourism: GI festival in France for Chili from Espelette



## Touristic

- ❑ Village of Espelette, the shop window of the PDO
- ❑ In 2016 : **500 000** persons came in Espelette
- ❑ Each year, **30 000** persons for traditional festival of Piment d'Espelette

## Economic

- ❑ 65% of producers live with a Piment d'Espelette
- ❑ 77 % of producers transform and sell their production
- ❑ 10% of producers have a shop
- ❑ 250 employment are guaranteed by the Piment d'Espelette in area

InterIG – Sète - 04 october 2018



## Objective 4

- Impact on the preservation of biodiversity and traditional knowledge

- Case of **Bac Kan seedless persimmon**



- This benefit depends on the contents of GI specification

# GI protection in foreign markets

## 3 different ways for registration in foreign markets

- **Individual registration in each country of export**
  - By the GI producers association
- **Bilateral/multilateral trade agreement**
  - Negotiated by the EU
- **Lisbon system**
  - By the GI producers association or by the competent authority of the state

# 1. Individually registered GIs (examples)

## Individual registration

EU Geographical indications registered in Vietnam

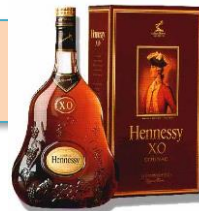
Vietnamese GI registered in EU



Scotch  
Whisky  
(Scotland)



Cognac  
(France)



Nước mắt  
Phú Quốc

( EV FTA :

*169 listed European GIs*

*39 listed Vietnamese GIs )*

## Cross registration within Asean countries

- Lamphun Brocade Thai Silk
  - In Indonesia
  - In India
- Doi Tung Coffee
  - EU
  - Cambodia
- Isan Thai Lan silk
  - In Vietnam
- Etc...

# Prosciutto di Parma (Parma Ham) Italy

- DOUBLE REGISTRATION/PROTECTION:
- GI product logo : Trademarks (owned and enforced by GI Association)

Prosciutto di Parma certification TM +  
collective trademark of the Consorzio



- GI (with enforcement by administrative bodies + GI Association)



## 2. Foreign GIs registration in EU through FTA

- ✓ Direct GI recognition and high level of protection at comparable level with EU GI legislation
- ✓ Coexistence with prior registered trademarks
- ✓ New GIs can be added in the future

## Advantages of Protection with FTA

«Prosciutto di Parma» ham, in Canada :

- CETA (Comprehensive Economic and Trade Agreement) with Canada, 2017
- Enables co-existence between prosciutto di Parma PDO and pre-existing Canadian TM used for ham processed in Canada
- Before, not possible for PDO producers in Italy to export to Canada



## FTA for protection of Asian GIs in the EU

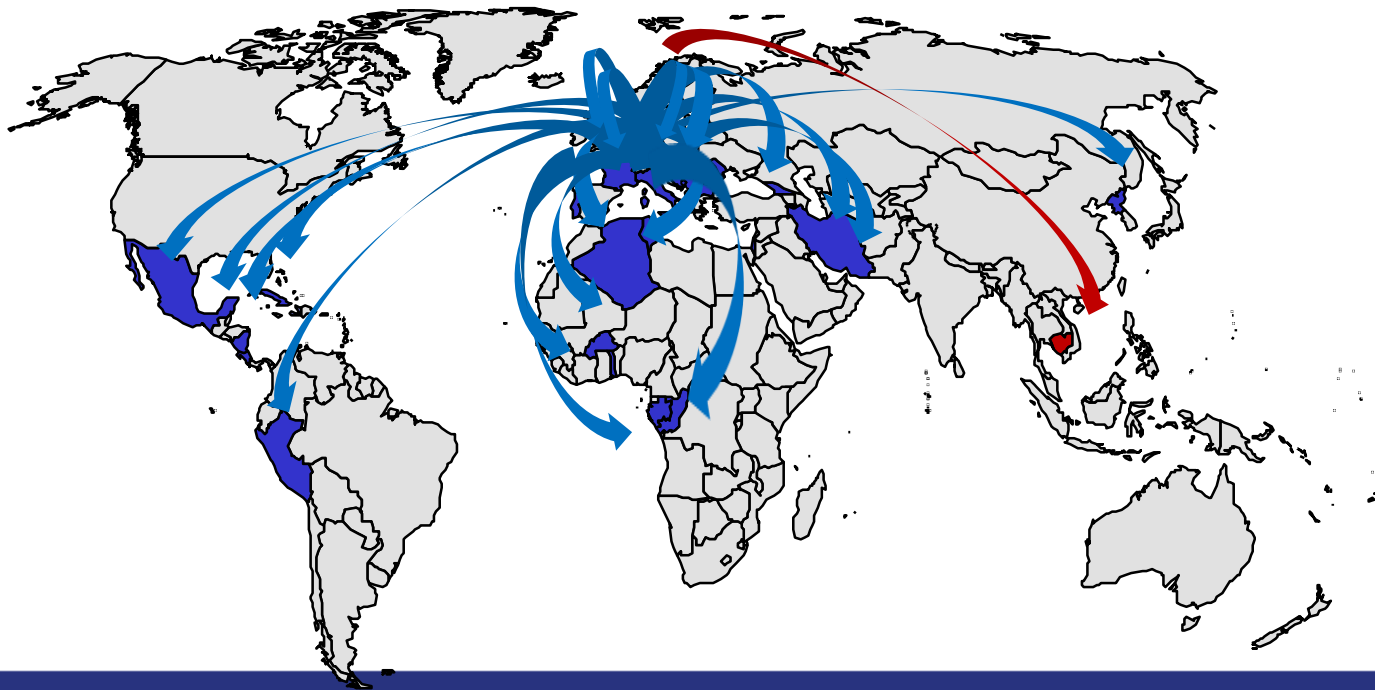
- 2007: EU and ASEAN launched negotiations
  - Lack of progress: pursue FTA negotiations in a bilateral format with countries of ASEAN.
- Bilateral:
  - 2010: with Singapore (**concluded 2018**), Malaysia
  - 2012: with **Vietnam (concluded 30/6/2019: 39 VN GIs, 169 EU GIs)**
  - 2013: with Thailand
  - 2015: with Philippines
  - 2016: with Indonesia, 6<sup>th</sup> round of negotiations

## 3. Lisbon System

- **Lisbon Agreement of 1958 – 28 countries**
- To facilitate the international protection of appellations of origin (AOs) through a single registration procedure
  - administered by WIPO: International Register of appellations of origin
- **Geneva Act of 2015**
  - To make the Lisbon System more attractive
  - Accession of Cambodia on March 9, 2018

## Geographical Coverage:

Single application = protection in 28 (+1) Countries



# Examples of successful GIs in the ASEAN region and in the EU

# Case study : Comté Cheese in France



Produced in Franche-Comté  
Adapted to local conditions (mountain area)  
Since the Middle Ages  
Registered: PDO since 1958



# Comté Cheese vs Emmental

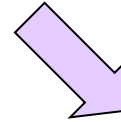
Comté vs Emmental: close origins but opposed developing strategies

## Origins

- Geographical area
- Technical constraints to preserve the milk

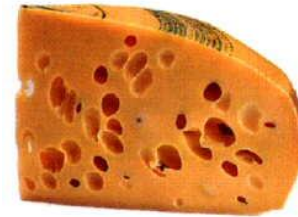
## COMTE

P.D.O. strategy  
Heritage protection and  
local development



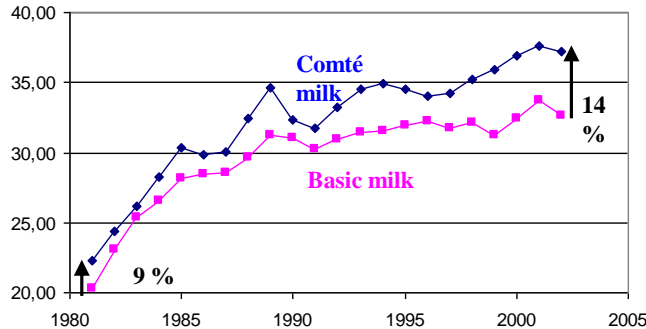
## EMMENTAL

Industrial strategy  
Generic product and  
production delocalization

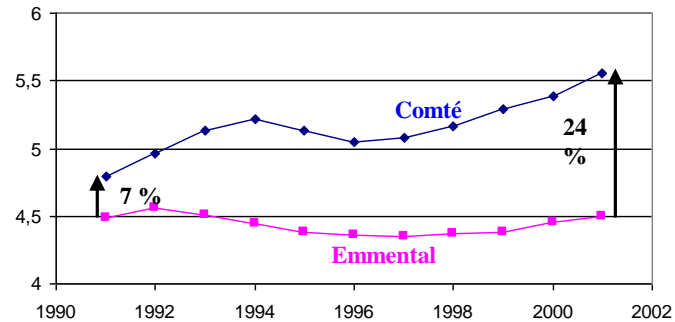


# Comté Cheese in France

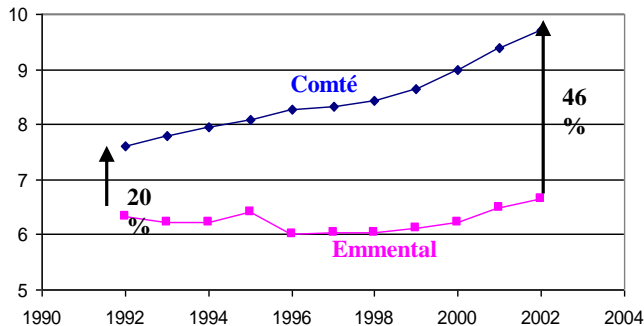
*Milk price (€/hl)*



*Gross price - maturing (€/kg)*



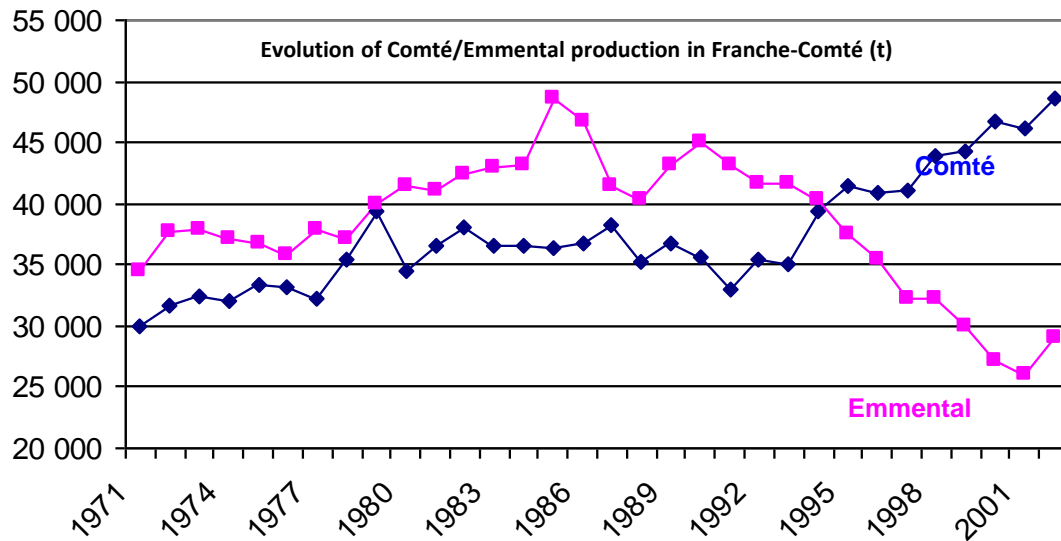
*Consumer price (€/kg)*



- Positive economic impact at every stage of the value chain
- Increase of price gap along the value chain

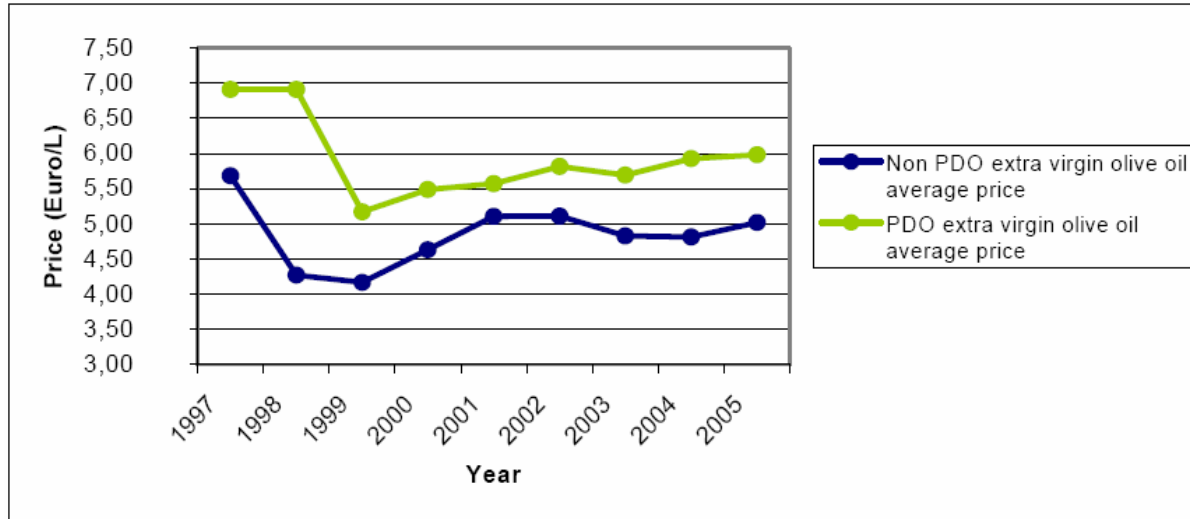
# Comté Cheese in France

- Positive impact on production volumes :
  - Comté cheese production : + 3%/year during previous 10 year
  - Drop of local Emmental production



Source: F.Dupont MAAF

# Olive Oil of Baena Spain



Source : Case study « Baena » PDO extra virgin olive oil. F. Caceres Clavero, C. Riccioli, E. Martinez Navarro, R. Garcia Collado. Junta de Andalucía/JRC-ITPS

# In Cambodia: Kampot Pepper



12/2009



4/2010



2016



Green pepper



Red pepper



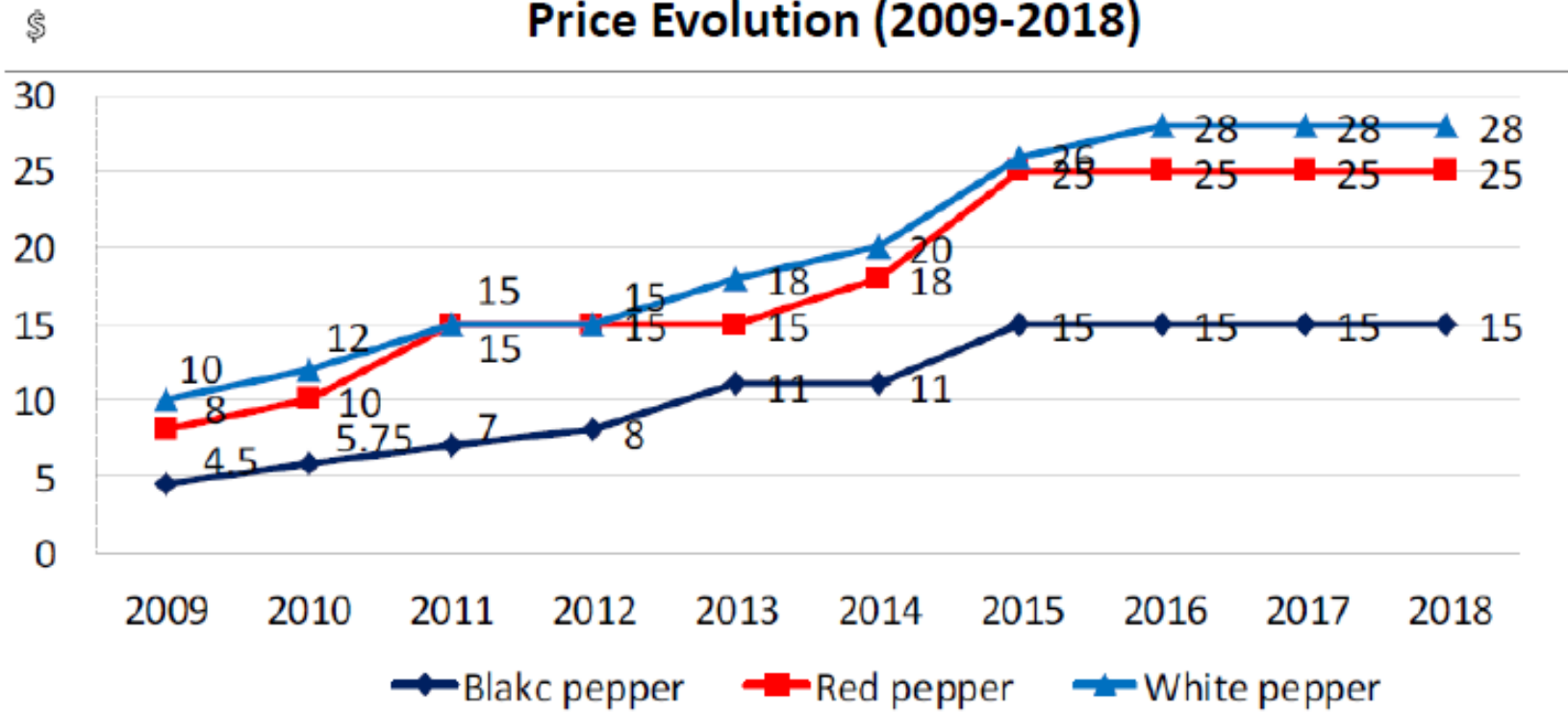
Black pepper



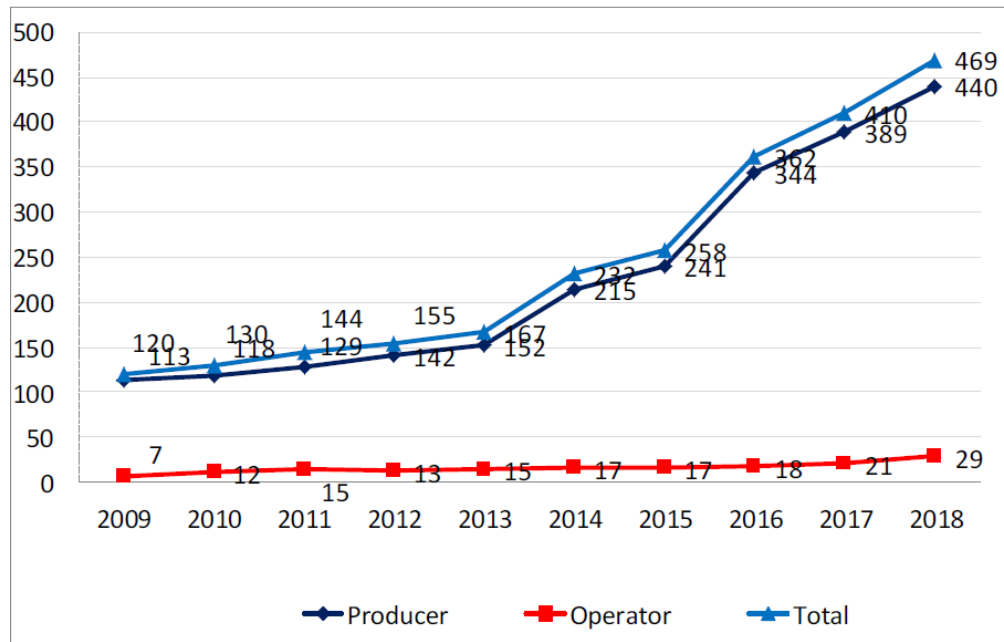
White pepper



## Price Evolution (2009-2018)



# Number of members of Association



**សមាគមលើកកម្ពស់រដ្ឋបាលកំពត "ស.ល.ប.ក"**  
**Kampot Pepper Promotion Association (KPPA)**

# Promotion and Communication



## Promotional tools

- Leaflets
- Banners
- Videos
- ...etc.

## Promotion activities

- Website  
([www.kampotpepper.biz](http://www.kampotpepper.biz))
- radio, TV, magazines
- Fairs in Cambodia and abroad



## Price Comparison year 2004 (before GI) to 2012

- Farm  
8 baht/kg to 23 baht/kg
- Retail Price  
35 baht/kg to 50 baht/kg

Source: Department of Intellectual Property, Ministry of  
Commerce of Thailand, 2012



Registered and potential production area: 3500 ha in 6 municipalities. Actual area under 1 000 ha

Objective: get a proper recognition of rising regional reputation.

- Less misuses of the name,
- Increased traceability
- Promotion activities: Cao Phong orange Festival
- GI strengthened reputation, and reinforces the trend towards higher prices.





Leading Cashew producing and processing region:  
134,000 ha (2017) with excellent growing conditions



GI: High potential to differentiate local-grown cashews with dense, swollen kernels and careful process.

Trading companies started selling GI salt roasted cashew at 1,45 the Price of non GI cashew by same companies.

## V. Conclusions

## Conclusions

- GI: interesting tool to promote origin products in a time of globalisation: long successful experience in Europe
- Many countries are very dynamic in Asia: numerous GIs with real success stories: Nước mắm Phú Quốc, Kintamani Bali Coffee, Kampot Pepper..
- Protection in the EU is available for foreign GIs, via different routes : for access to the EU market, but also sale argument to develop the national and regional market!



Thank you for your attention

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