



Promoting Intellectual
Property Rights in the
ASEAN Region

SEMINAR ON GEOGRAPHICAL INDICATIONS

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Bali, Indonesia | 23 September 2019



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GEOGRAPHICAL INDICATIONS PROTECTION AND PROMOTION IN THE EUROPEAN UNION

INDEX

- ☐ Definitions and benefits
- ☐ GI registration in EU and international markets
- ☐ Examples of successful GI cases in the EU and the ASEAN region

Introduction

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 recognized first in the EU and since TRIPs in all WTO members.



GI at international level

- **1905:** First law: Appellations of Origin (France) + 1935: Controls
- **1958:** Extension of concept of **Appellation of Origin (AO)**:
 - **Lisbon Agreement, WIPO** (28 members)
- Since the **1990's**: new concept of **Geographical Indication**, with weaker link with the origin than for AO:
 - **EU** since 1992 (28 members): GI + AO
 - **TRIPs Agreement** in force in all WTO members, 1994 (164 members): GI
 - **Geneva Act of the Lisbon Agreement** (2015): AO + GI (15 members)

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, quality.



In France: CHAMPAGNE



In France: ROQUEFORT



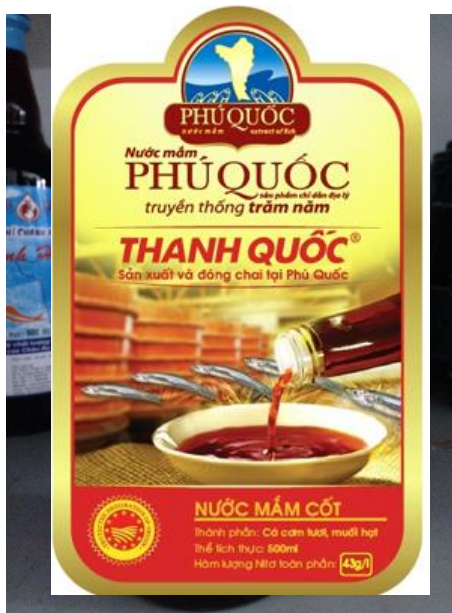
In Italy: Parmigiano Reggiano (Parmesan)



In Colombia: Café de Colombia



In Vietnam: Nuoc Mam Phú Quốc



In India: Darjeeling tea



In Japan: Kobé beef

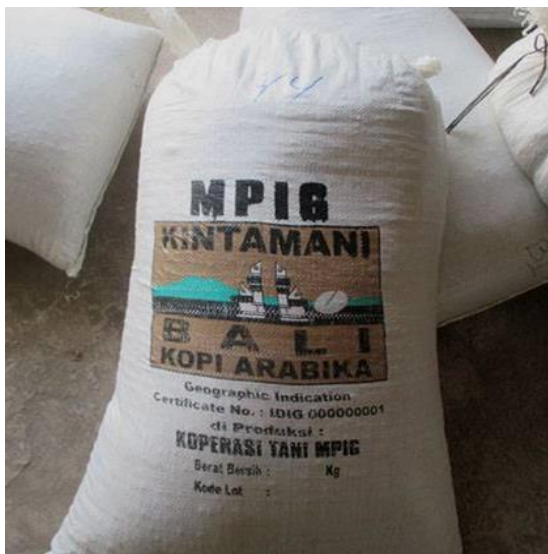


In Thailand: Khao Hom Mali Thung Kula Rong Hai (Rice)



In Thailand: Lamphun Brocade Silk





Geographical Indications: Definitions

WTO/TRIPS Agreement (1994): Geographical Indications

- “ 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 “

(art. 22)

EU Regulation 1151/2012



PROTECTED DESIGNATION OF ORIGIN (PDO)



PROTECTED GEOGRAPHICAL INDICATION (PGI)



COMMON CHARACTERISTICS

- the **name of a region/specific place/country** used to **describe** an agricultural product or a foodstuff **originating** in that area

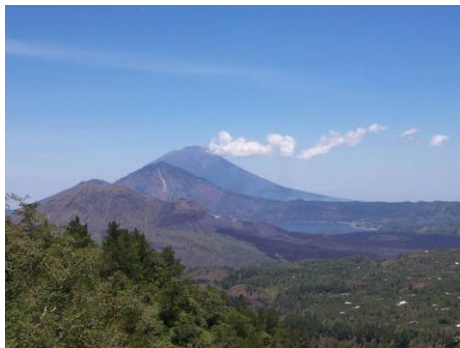
DIFFERENCE : THE LINK TO THE ORIGIN

- | | |
|---|--|
| ■ quality or characteristics essentially or exclusively due to a particular geographical environment with its inherent natural and human factors | ■ specific quality, reputation or other characteristics attributable to the geographical origin |
| ■ production, processing and preparation in the defined geographical area | ■ production and/or processing and/or preparation in the defined geographical area |

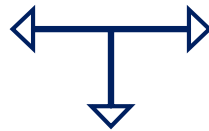
GI = right protecting the link between the product and its geographical origin

- Natural environment: **natural factors**
 - ✓ Biological resources: cultivated and processed
 - ✓ Climate, water of river, wood used for smoking...
- Ancient collective know-how: **human factors**
 - ✓ In using elements of the environment for producing the product
 - ✓ But also taken alone without natural factors
- Such **link is reflected in the GI specification:**
 - ✓ description of the product, method of production, geographical area
 - ✓ examined by public authority
 - ✓ usually high level of protection

GI : a link between place, people and a product



Production Place
(climate, soils, altitude...)



Product
(Quality, characteristics, reputation...)



Producers
(know-how, organisations,
history ...)

GI Objectives and Benefits

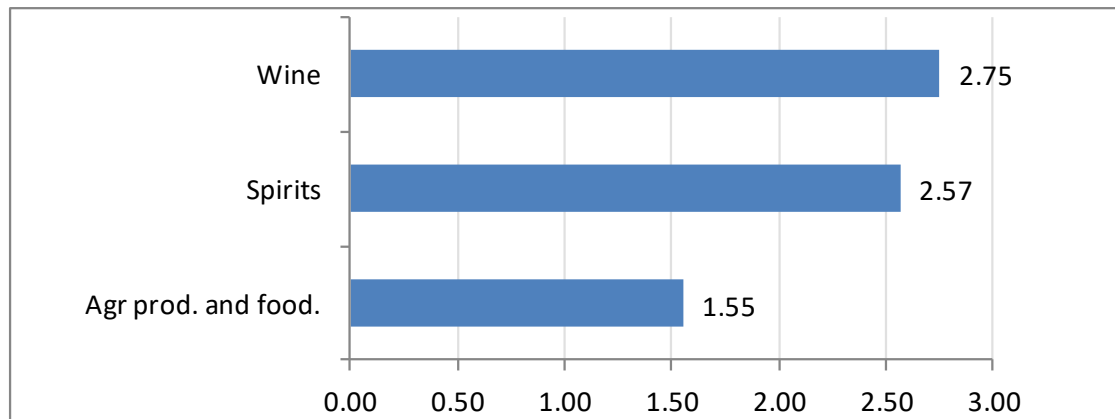
- 1. Protect added value of the product
- 2. Fight against usurpation of the name
- 3. Rural/Territorial development
- 4. Protection of traditional knowledge and landscape

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)



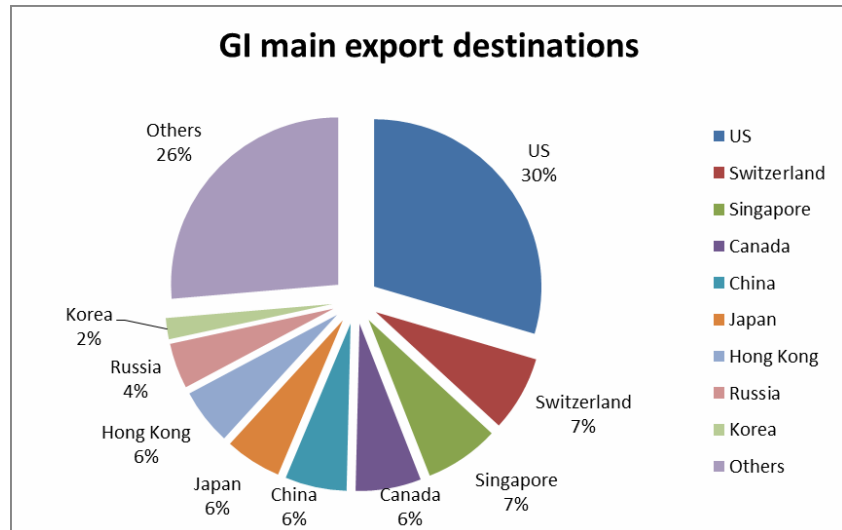
/!\ does not reflect profitability of the GI schemes as it does not take into account the additional cost of compliance with GI specifications

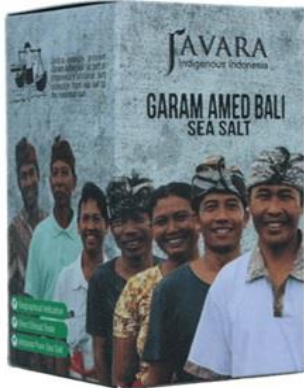
Source: AND-International survey for DG AGRI (2012)

Sales Destination

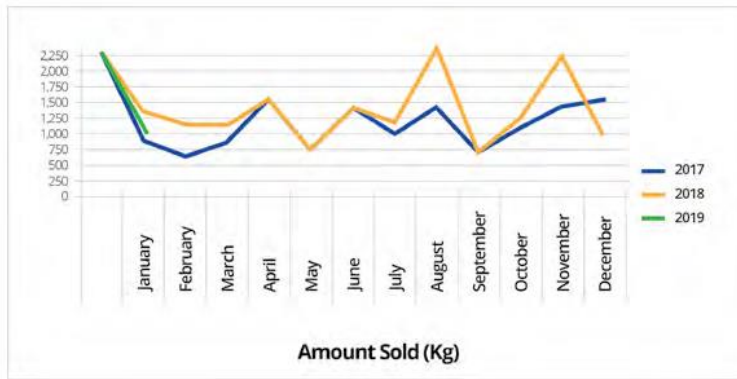
60% of sales: domestic market
20% on the EU market
20% in third countries

- 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

- GI Protection: 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: need to be proven |
| 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



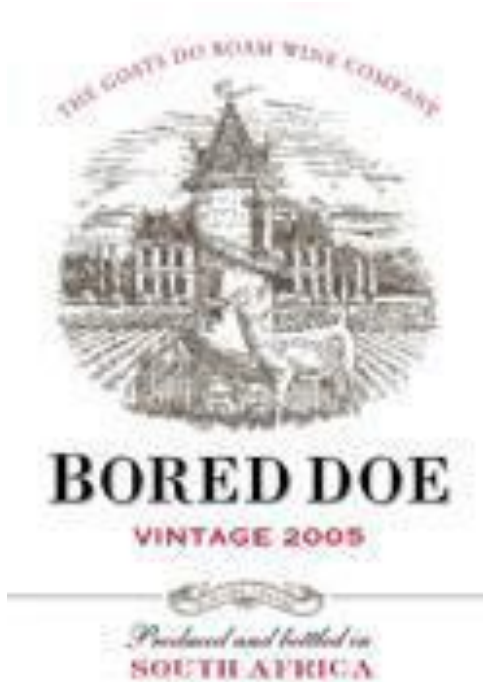
- Gorgonzola: PDO (Italy)
- But use of Cambozola for other cheese
- EU + Lisbon
= evocation of Gorgonzola
= prohibited (case C87-97 EU Court of Justice)



- 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 mislead

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

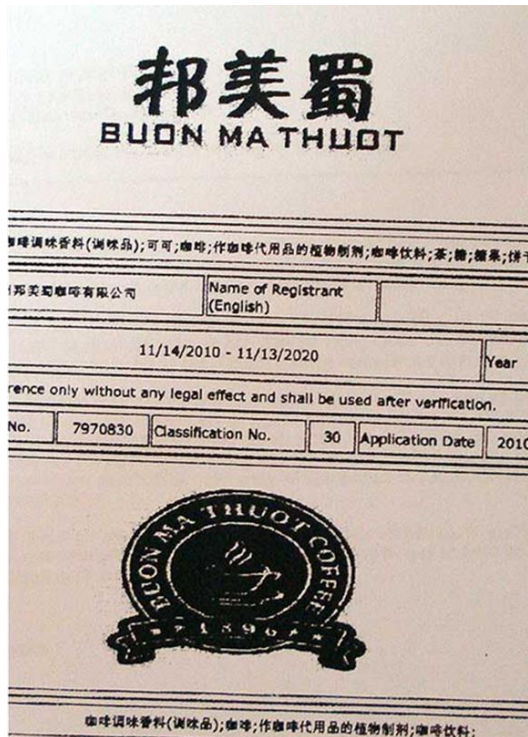
Relation with prior and posterior trademarks on same name as GI

| 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

Development of Tourism: GI festivals in Vietnam



|  <p>DU HỘI TRÀ MỘC CHÂU 2017</p> | | |
|---|-----------------|---|
| <p>ỦY BAN NHÂN DÂN TỈNH SƠN LA TRẦN THƯỜNG KIỆM MẠC <small>Bà. Desphine Marie - Việt Nam</small></p> <p>Ngành chủ quản của 15 chức CHAD tại Việt Nam</p> <p>TÔI DUY HỘI TRÀ MỘC CHÂU 2017</p> <p>Thủ tướng: Tô 1900 ngày 07 tháng 4 năm 2017 Phó Thủ tướng: Tô 1900 ngày 07 tháng 4 năm 2017 Thủ tịch Nông Trường, Huyện Mộc Châu Rất hân hạnh được đón tiếp!</p> <p>TU LƯU THỰC K. CH. TH. PH. CH. TH. CH.</p> <p>Phạm Văn Thủy</p> | | |
| <p>CHƯƠNG TRÌNH HỘI TRÀ MỘC CHÂU 2017</p> | | |
| CÁC HOẠT ĐỘNG CHÍNH | THỜI GIAN | ĐỊA ĐIỂM |
| Trưng bày, quảng bá các sản phẩm chế biến từ lá chè "Sắc màu Cao nguyên" | Cả ngày | Công ty CP Vinatras Mộc Châu |
| Tham quan, du lịch các đồi chè | Cả ngày | Công ty CP Vinatras Mộc Châu |
| Khởi mוע Hội trà, chương trình nghệ thuật "Hương sắc Thái nguyên" | Cả ngày | Công ty CP Vinatras Mộc Châu |
| Thủ hiến chế | Ngày 07/10/2017 | |
| Tham quan dây chuyền sản xuất chè của Công ty CP Vinatras Mộc Châu | 8:00 - 9:30 | Là chủ 50, đơn vị 60 |
| Tham quan dây chuyền sản xuất chè của Công ty TNHH LIGARDEN Việt Nam | 9:30 - 11:00 | Nhà máy Công ty CP Vinatras Mộc Châu |
| Thi Trưng bày không gian trà, các sản phẩm trà, nghệ thuật pha trà | 11:00 - 15:45 | Tiểu khu Múa Đường, thị trấn Sông Trường Mộc Châu |
| Chương trình "Tặng quà người làm chè" và Chung kết cuộc thi "Tài năng người làm chè" | 16:00 - 20:00 | Công ty CP Vinatras Mộc Châu |
| Trưng bày, quảng bá các sản phẩm chế biến từ lá chè "Sắc màu Cao nguyên" | Cả ngày | Công ty CP Vinatras Mộc Châu |
| Tham quan, du lịch các đồi chè | Cả ngày | Công ty CP Vinatras Mộc Châu |



Objective 4

- Impact on the preservation of biodiversity and traditional knowledge

- Case of Ardèche Chestnut in France: 5 traditional varieties
- and traditional processing practices associated to them



- This benefit depends on the contents of GI specification

- Case of Khao Kai Noi in Laos (registered 11/2018):
4 traditional varieties
- And traditional practices of cultivation associated to them



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 Indonesia

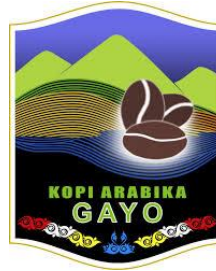
Scotch
Whisky
(Scotland)



Parmeggiano
(Italy)



Indonesian GI registered in EU



Kopi
Arabika
Gayo

Cross registration within Asean countries

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

Prosciutto di Parma (Parma Ham) Italy

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

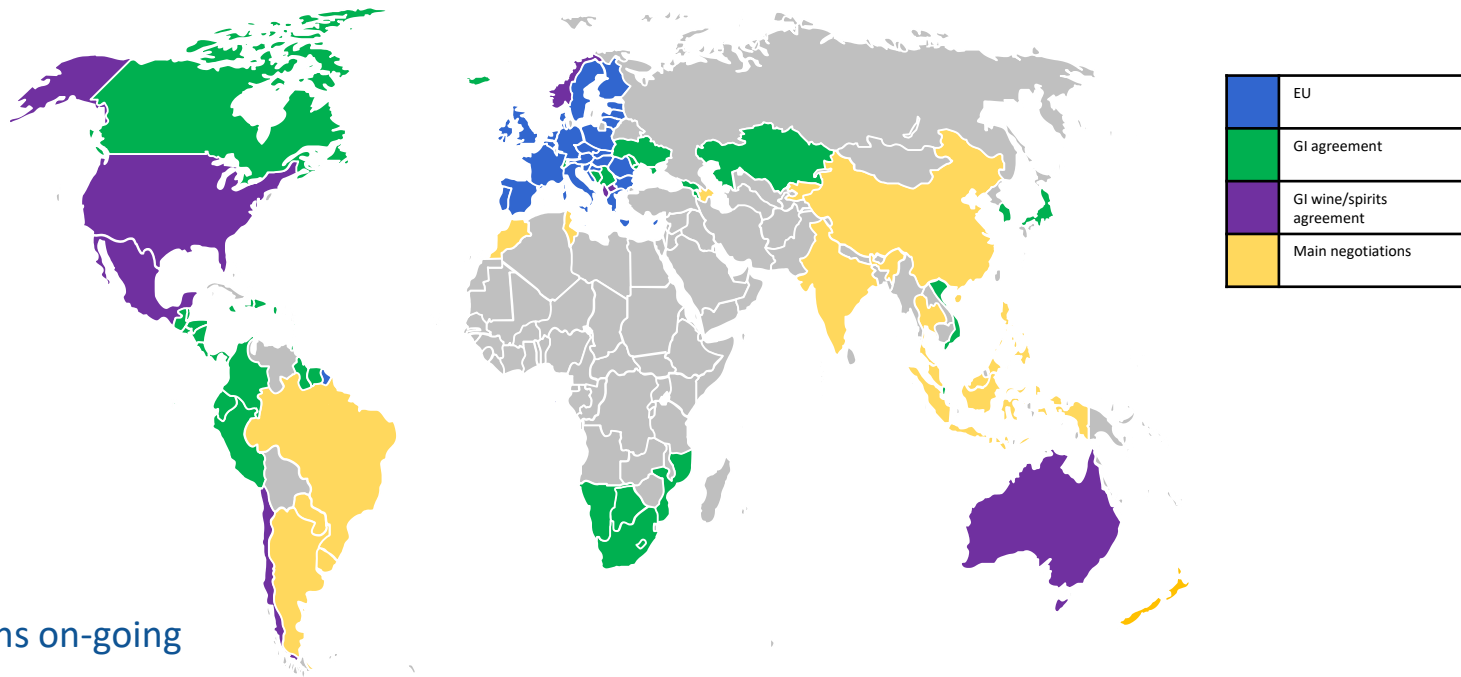
Prosciutto di Parma certification TM +
collective trademark of the Consorzio



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



2. Foreign GIs registration in EU through FTA



16 negotiations on-going

34 agreements concluded or in force

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

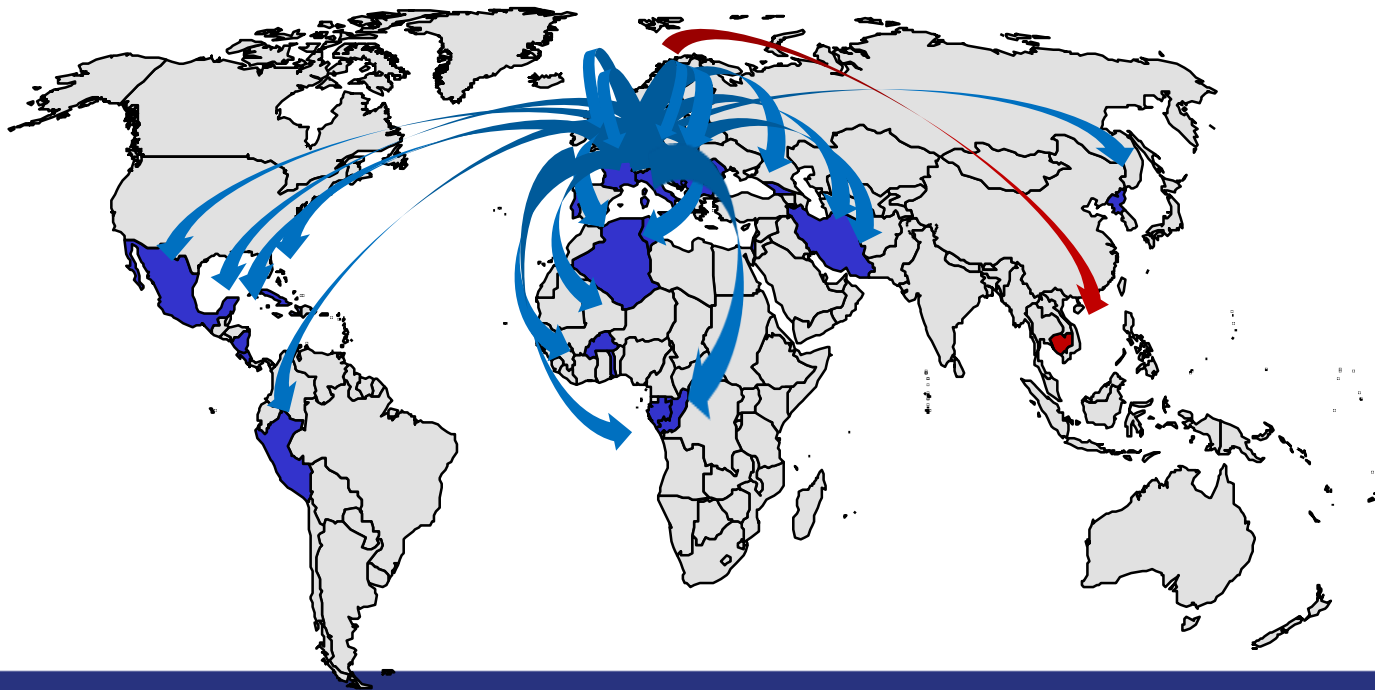
- 2007: EU and ASEAN launched negotiations
 - Lack of progress: pursue FTA negotiations in a bilateral format with countries of ASEAN.
- Bilateral since
 - 2010: with Singapore (**concluded 2018**), Malaysia
 - 2012: with Vietnam (**concluded 30/6/2019**: 39 Vietnam GIs; 169 EU GIs)
 - 2013: with Thailand
 - 2015: with Philippines
 - 2016: with **Indonesia**, 8th round of negotiations (June 2019)

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

Case study: Comté Cheese in France



Individual Trademark

European GI label (DOP)

GI Name (registered)
+ GI logo (Co.TM)



Comté Cheese vs Emmental

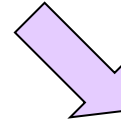
Comté vs Emmental: close origins but opposed developing strategies

Origins

- Geographical area
- Technical constraints to preserve the milk

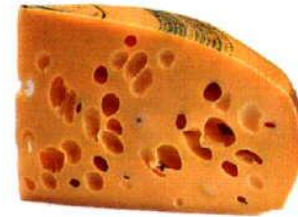
COMTE

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



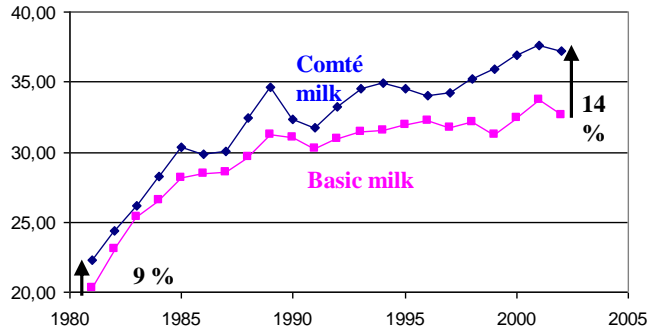
EMMENTAL

Industrial strategy
Generic product and
production delocalization

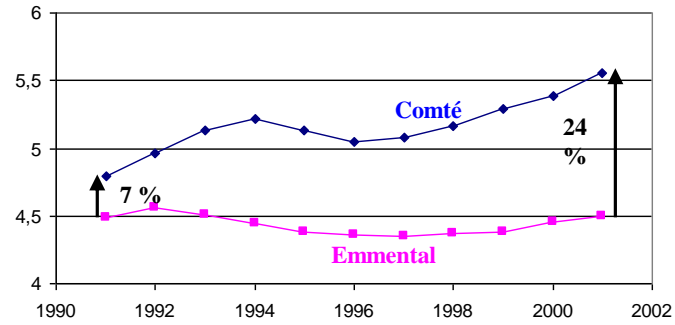


Comté Cheese in France

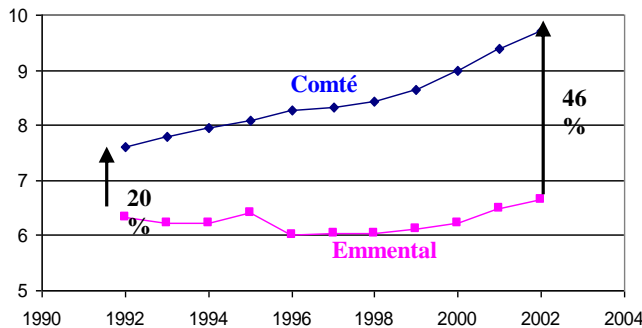
Milk price (€/hl)



Gross price - maturing (€/kg)



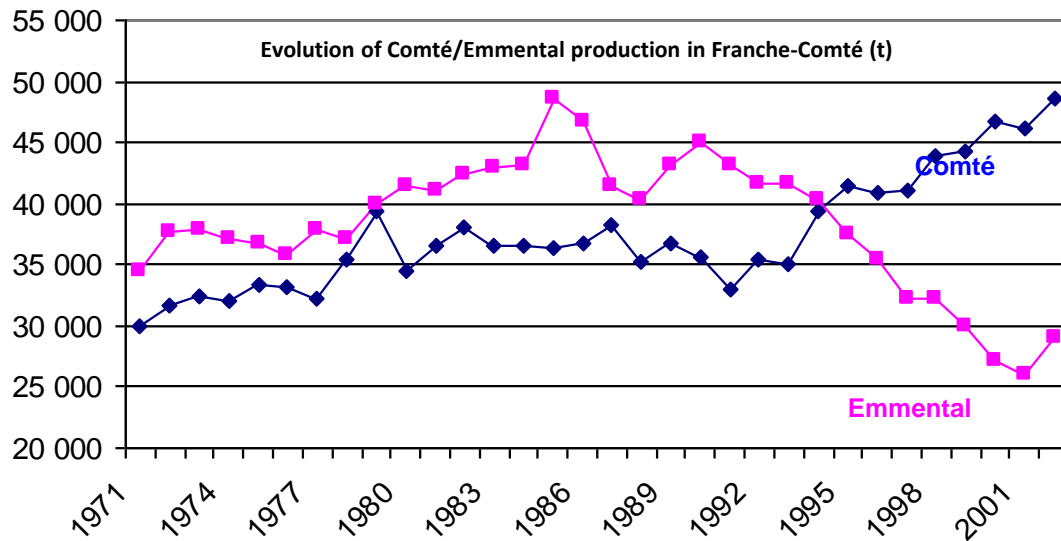
Consumer price (€/kg)



- 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

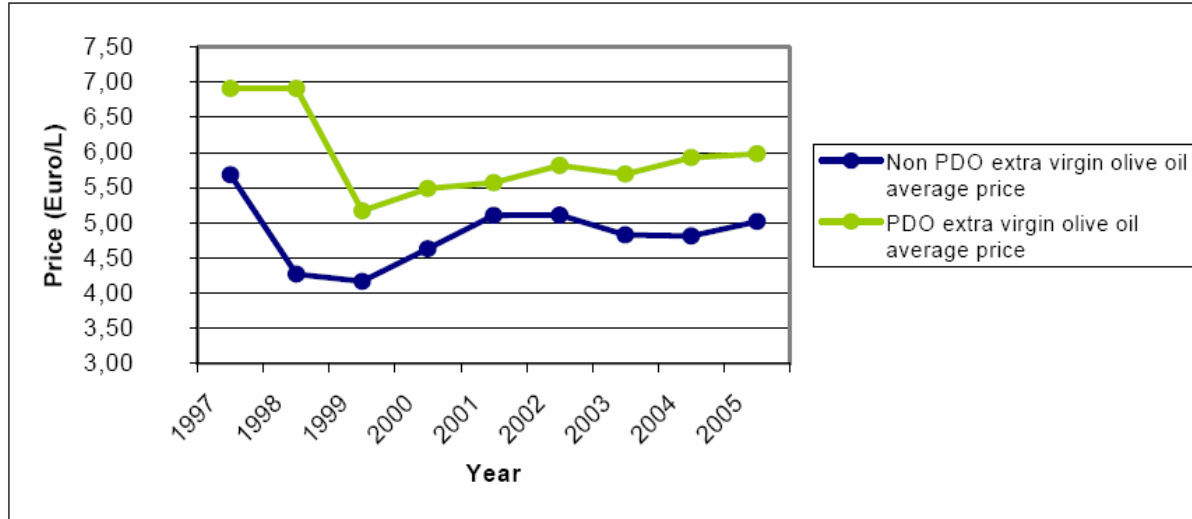


Promotion: multimedia strategy (web, paper, TV ..)



[Link](#)

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

GI “Duck fat liver from South-West” (France)



1) Information of consumer through labelling

Agreement of more than 7 000 labeling since 2003 (1045 labeling in 2015).

Compulsory PGIs mentions on labeling :



Collective marks



IGP

GI Promotion for “Duck fat liver from South-West”

EU Fund for Quality awareness (Regulation 226/2000)

- Inform, explain and valorize GIs concepts
- Support GIs message over time to stimulate demand
- Motivate producers to use GIs marks on their products.

Obligations (public subsidies) :

- Communicate on EU symbols / guarantee official controls
- Do NOT communicate on companies' names.



Budget for Collective Promotion :

- **65% : media and press**
- 25% : trade fairs
- 5 % : public relations, 5%: training for hotel business students



Price Comparison year 2004 (before GI) to 2012

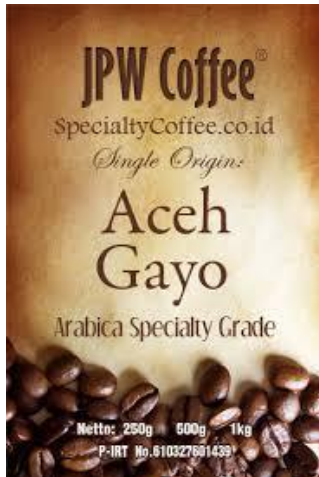
- at Farm
8 baht/kg → 23 baht/kg
- Retail Price
35 baht/kg → 50 baht/kg

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



Registered and potential production area : 3500 ha in 6 municipalities. Areas between 900 – 1300 m

Objective: to get a proper recognition and avoid misuse of local name.



- Less misuses of the name outside Gayo
- Increased quality and packaging
- Cup Testing team
- Price up from IDR 35-50,000 to 100-120,000/kg .

V. Conclusions

Conclusion

- GI: interesting tool to defend and 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: Gayo Arabica Coffee and Kintamani Bali Coffee, Nước mắm Phú Quốc, Kampot Pepper..
- Protection in the EU is available for foreign GIs, via different routes: for access to the EU market... but also a sale argument to develop the national and regional market!



Thank you for your attention

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THANK YOU



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