



Promoting Intellectual
Property Rights in the
ASEAN Region

WORKSHOP ON GEOGRAPHICAL INDICATIONS

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GEOGRAPHICAL INDICATIONS PROTECTION AND PROMOTION IN THE EUROPEAN UNION

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

Introduction



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 Italy: Parmigiano Reggiano (Parmesan)



In Colombia: Café de Colombia



In India: Darjeeling tea



In Thailand: Lamphun Brocade Silk



In Malaysia: Sarawak pepper



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)



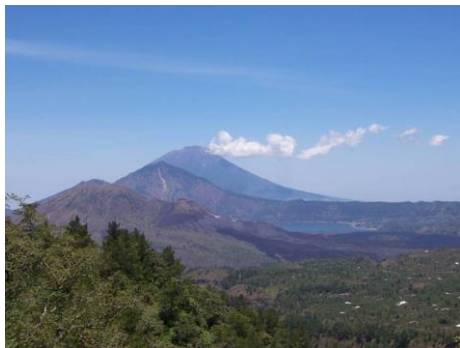
COMMON CHARACTERISTICS

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

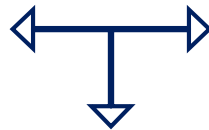
DIFFERENCE : THE LINK TO THE ORIGIN

- | | |
|---|--|
| ■ 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 : 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

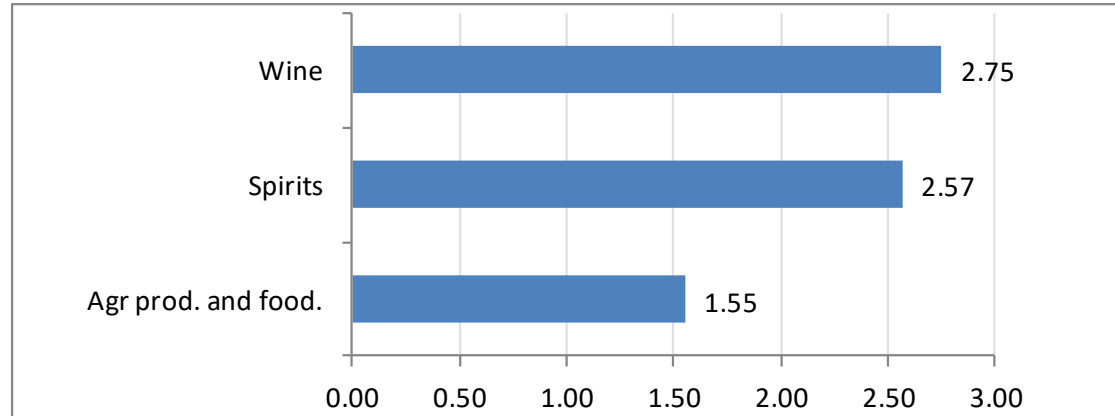
- 1. Protect **added value** of the product
- 2. Fight **against misuse** of the name
- 3. Rural/Regional **development**
- 4. Protection of **traditional knowledge** and landscape

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)



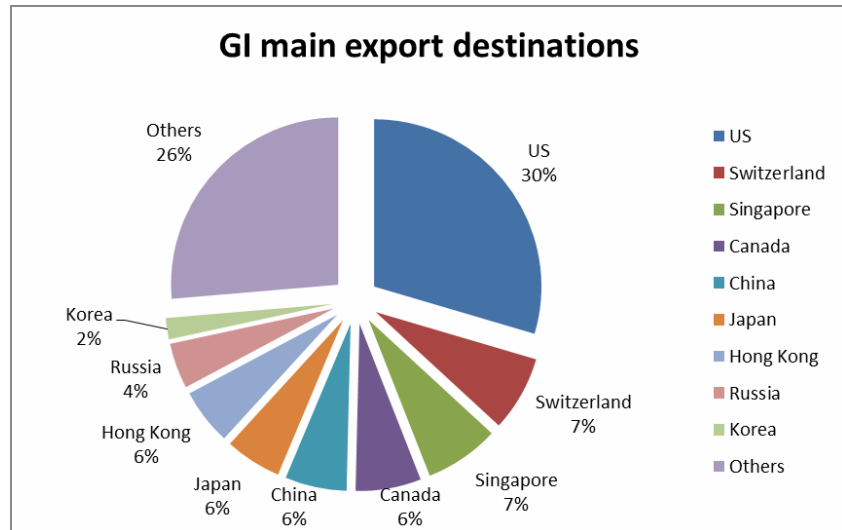
/!\ does not reflect profitability of the GI schemes as it does not take into account the additional cost of compliance with GI specifications

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)





- Bukit Tinggi (Bentong municipality, Pahang) is a main growing area of Ginger in Malaysia ; planted since 1963
- 600-700 m above sea level, 16-28 °C, 2000-3000 mm rainfall
- Big rhizomes, with dull whitish color and less fibrous
- Registered as a GI on 2013
- Price RM 18/kg in 2007; up to RM 30/kg in 2017
- Gets a premium price RM 17 compared to “old ginger” RM 12.00 – 15.00 per kg)
- reputation for sharp, spicy flavour.



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

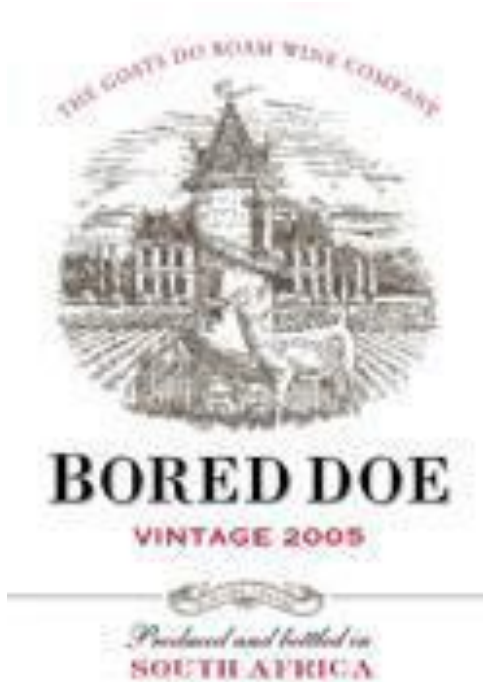
Evocation



- 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



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

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

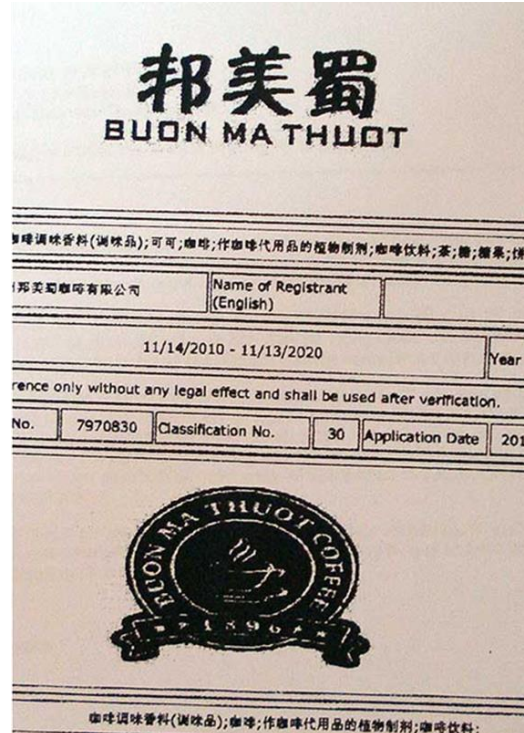
Relation with prior and posterior trademarks on same name as GI

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

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 Coffee festivals



GAYO ALAS MOUNTAIN INTERNATIONAL FEST 2018
The Power of Nature
 Durian Tinggi Gayo, 14 Sep. - 24 Nov. 2018

Festival Panen Kopi
 BENER MERIAH,
 19 - 21 NOVEMBER 2018

KOPI BUDAYA DAN PEREMPUAN GAYO

19 NOV 2018	Sekilas Kopi & Photography Perlombaan Munapi Perlombaan Mudepe/Sortir Kopi Kopi dan Masa Lalu
20 NOV 2018	Kopi dan Kanvas Bazaar
21 NOV 2018	Kopi Tradisional Kenduri & Panen Kopi Fashion Show

www.disbudpar.acehprov.go.id
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 email: kendurikopi@gmail.com @KenduriKopi @kendurikopi

Gayo, 2018



Lombok, 2019

Objective 4

- Impact on the preservation of biodiversity and traditional knowledge



- Sarawak Biris Rice
- Traditional tall, rainfed, fragrant variety (beras wangi Simunjan), in Kota Samarahan Division of Sarawak (registered 02/2009):
- served at special festivals

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/pluri-lateral trade agreement**
 - Negotiated between partner States
- **Lisbon system**
 - By the GI producers association or by the competent authority of the state

1. Individually registered GIs (examples)

ASEAN GIs registered in the EU market

2012

Vietnam



Nuoc Mam
Phu Quoc

2013

Thailand



Khao Hom
Mali Thung
Kula Rong
Hai

2015

Thailand



Kafe
Doi
Chaang



Kafe
Doi Tung

2016

Thailand



Khao
sangyod
Muang
Phatthalung

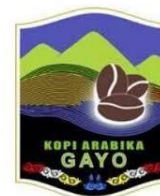
Cambodia



Kampot
pepper

2017

Indonesia



Kopi
Arabica
Gayo

2019

Cambodia



Skor Thnot
Kampong
Speu PGI

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)

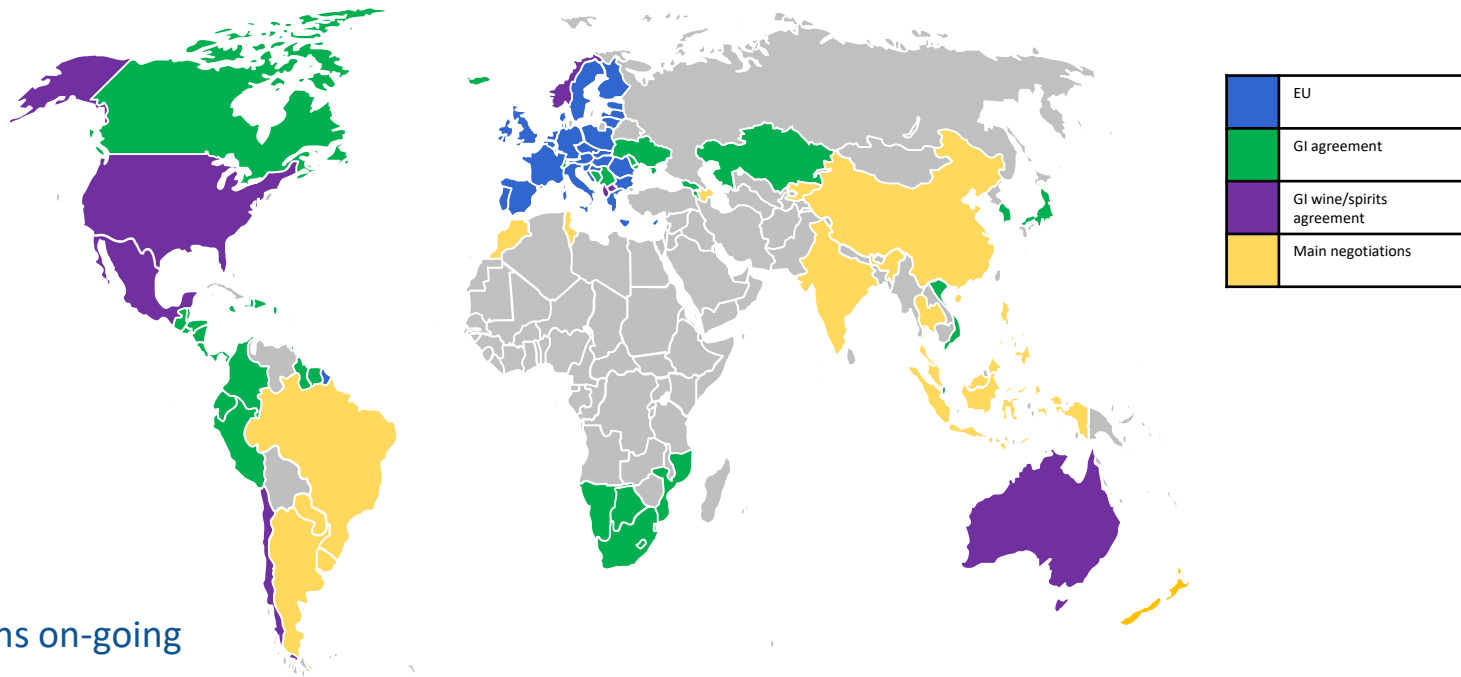
Prosciutto di Parma certification TM +
collective trademark of the Consorzio



- **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

- ✓ 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



«Prosciutto di Parma» ham, in Canada :

- “Parma Ham” TM registered in Canada in 1971 by “Maple Leaf” company. Producers from Parma (Italy) could not sell with their name in Canada !
- CETA Agreement 2017: → coexistence admitted

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



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

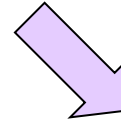
Comté vs Emmental: close origins but opposed developing strategies

Origins

- Geographical area
- Technical constraints to preserve the milk

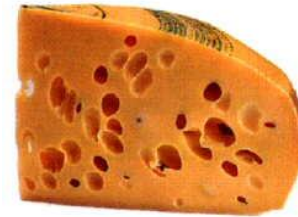
COMTE

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



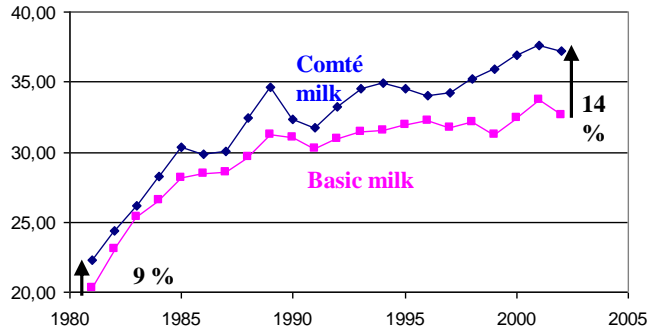
EMMENTAL

Industrial strategy
Generic product and
production delocalization

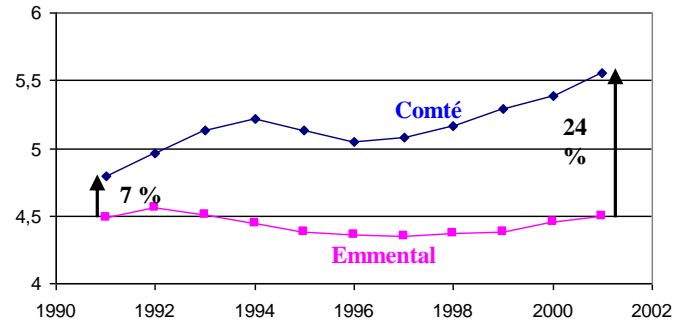


Comté Cheese in France

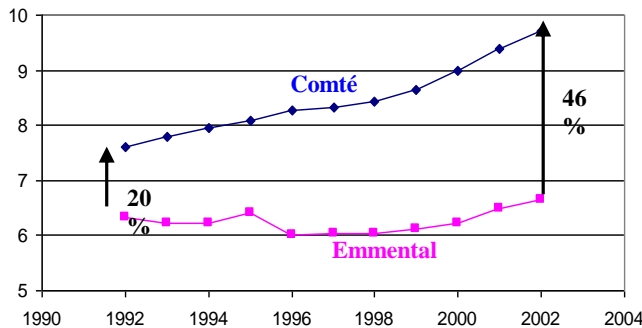
Milk price (€/hl)



Gross price - maturing (€/kg)



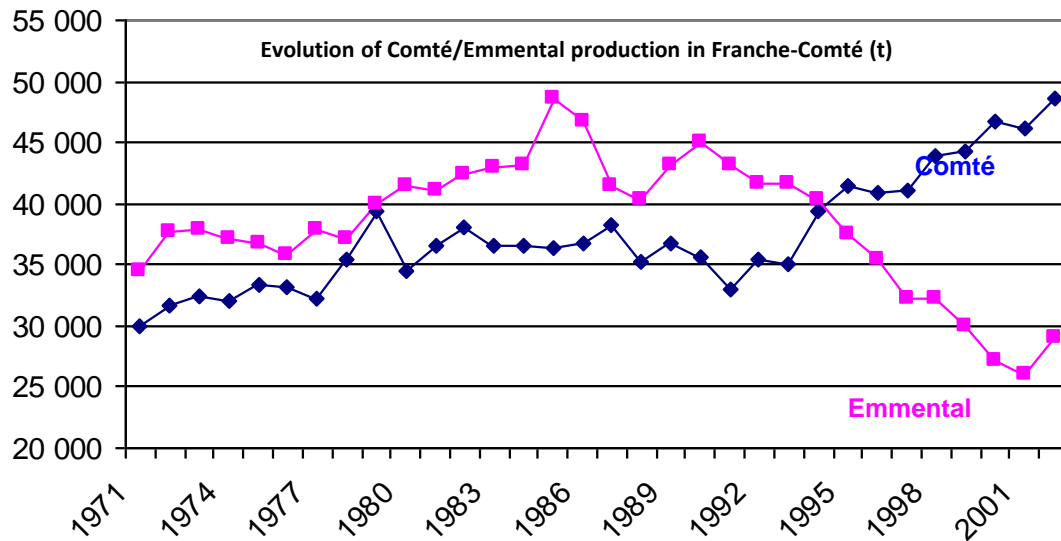
Consumer price (€/kg)



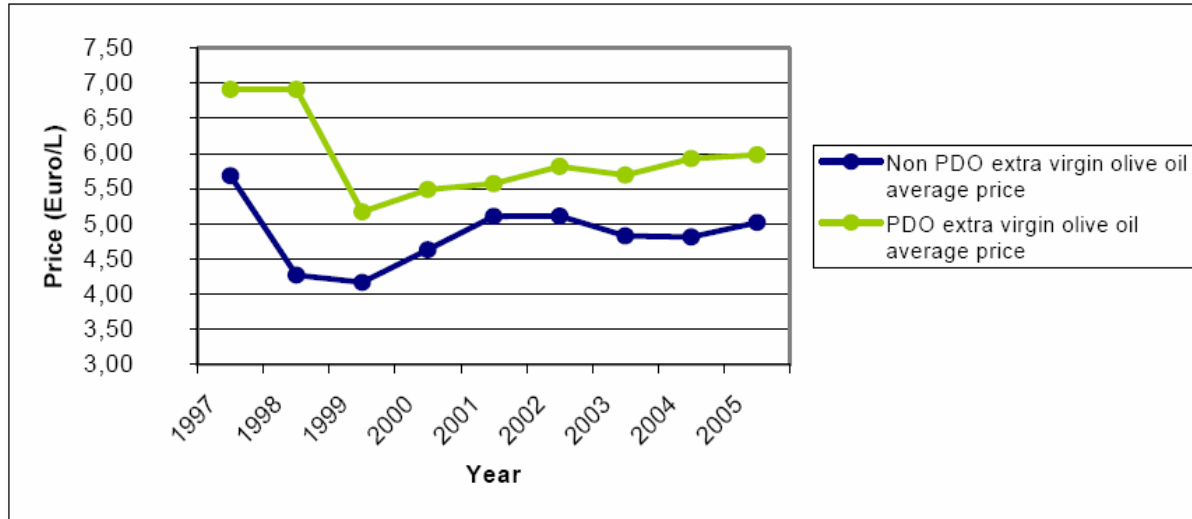
- Positive economic impact at every stage of the value chain
- Increase of price gap along the value chain

Comté Cheese in France

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



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



Price Comparison year 2004 (before GI) to 2012

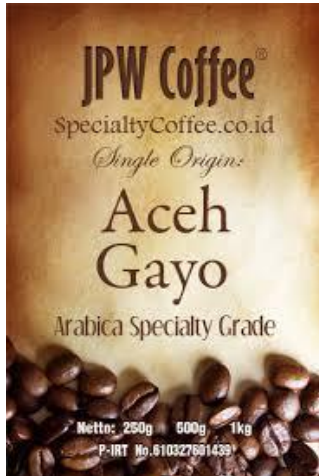
- at Farm
8 baht/kg → 23 baht/kg
- Retail Price
35 baht/kg → 50 baht/kg

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
- ASEAN region is very dynamic : numerous GIs with real success stories: Gayo Arabica 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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