



## Promoting Intellectual Property Rights in the ASEAN Region

# INTRODUCTION ABOUT COLLECTIVE MANAGEMENT ORGANIZATIONS

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# Geographical Indications

- Reminder: GIs are the Recognition of a cultural Heritage: Special relation between “People, Place and Product”.
- Official definition (World Trade Organization, TRIPS Agreement, 1994 – Article 22) :

“Geographical indications are [...] any indications which identify a good as originating in a particular country, region or locality, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin”.

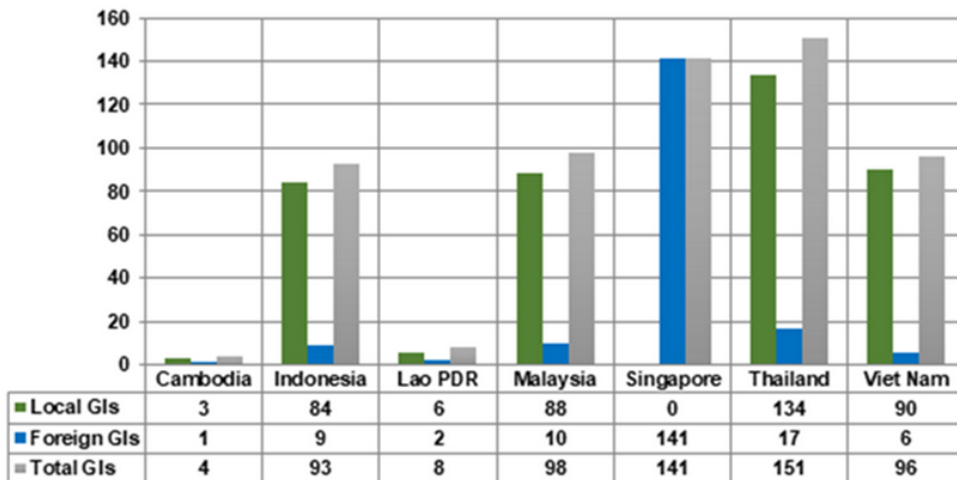
# Dynamic protection of GIs in Asia since TRIPS Agreement

## GI sui generis system introduced widely in IP legal framework:

- Numerous GIs on agricultural products, foodstuff, handicraft goods

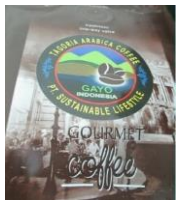
GIs protected in the ASEAN region  
(By December 2020)

Source: ASEAN IP offices



- ASEAN: 591  
(405 Local GIs, 8 in EU)
- India: 370
- Japan: 79
- China: more than 10 000  
(10 + 100 in EU)

- Bilateral agreements on GIs in Asia:
  - EU-China, EU-Vietnam, EU-Japan, EU-South Korea, EU-Singapore, ASEAN-Japan, ASEAN-Australia-NZ,...



# IMPORTANCE OF HAVING AN EFFICIENT COLLECTIVE MANAGEMENT ORGANISATION

## Why a collective organisation to manage the GI ?

- The GI product is the heritage of a **community of producers/processors**
- This commitment of this community is **jointly creating and maintaining the reputation** of the product, based on their specific know-how and practices.
- **All members** of this community should participate into the GI initiative.
  - ✓ stakeholders involved at various stages of production (e.g., raw material producers, local communities, processors, distributors).
- A local product can only become a recognized GI if it is supported by a **mobilized and organized** community of producers, whatever is its legal form.
- **To avoid the tragedy of GIs: the sleeping GIs!**

# The GI Collective Management Organization:

- Manages the Geographical Indication (the use of protected name) on behalf of the community:
  - ✓ the Value Chain stakeholders
  - ✓ the State
  
- Important role:
  - ✓ During registration
  - ✓ And after registration as well

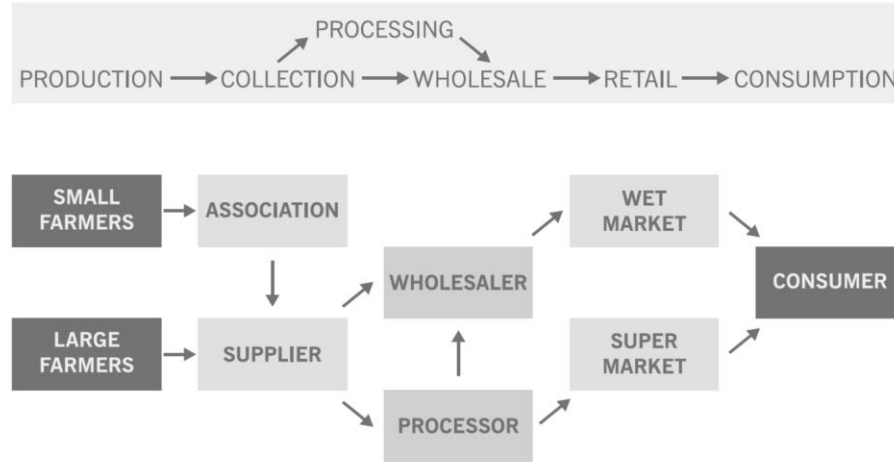
# HOW TO ORGANIZE THE COLLECTIVE ACTION OF PRODUCERS / PROCESSORS



## A representative organization

- Representativeness of all beneficiaries of the GI is crucial for the success of GIs : avoid any unfair exclusion
- How to ensure this representativeness?
- Who should be member of the association? Which rights of vote?
  - ✓ Traders, consumers, local authority representatives?
  - ✓ Ordinary members, honorarium members?
- Non discriminatory membership to the Association:
  - ✓ Only criteria should be: the compliance with GI specifications

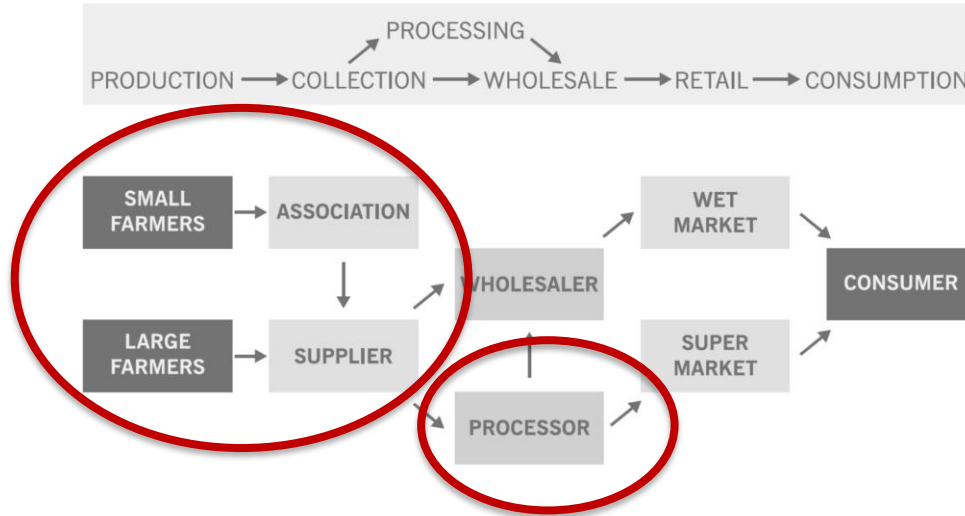
# Example of value chain map



How will the various value chain levels be represented ?

Should the GI organization be organised in “sectors” ?

## Example of value chain map



How will the various value chain levels be represented ?

Should the GI organization be organised in “sectors” ?

# How are decisions taken ?

- Different ways to organize the decision making:
  - ✓ College/ Chamber depending on the kind of stakeholder with equal power
  - ✓ Vote
    - One man, one vote
    - Rights of vote proportional to the volumes produced / certified
- Hybrid system

## Mandatory membership to use the GI?

- France: only since 2006
- Not mandatory in Switzerland
- EU: operators should not face obstacles to participation that is discriminatory or otherwise not objectively founded (Art.46)
  - Is the mandatory membership of the Organization discriminatory?
- Depends on the fees, but also on the culture, if concept of association is little known.

# Volunteer work

- Members of the board, of the committee are producers/processors, traders.. who are volunteers.
- Executive staff: employed and paid by the Association on the budget of the Association.

# THE ROLES OF THE COLLECTIVE MANAGEMENT ORGANISATION

## The 3 Roles of the GI organization are:

1. to **Federate** the stakeholders of the Value chain (forum, strategic decision making)
2. to **Manage** the Specific Quality of the Geographical Indication
  - GI Standards/Specifications
  - GI Control plan
3. to **Promote** the GI and its specific quality



# What the GI organization does NOT do?

**Produce the product!**

**Buy and sell the product!**

**Own the product!**

**(it is not a producers' cooperative)**

# What the GI organization does NOT do?

## Why ?

Because the GI Organization cares for the rules of the GI Standards:

It is a **“referee”**,  
it is not a player.

# 1) First role: to Federate the stakeholders

- Provide a Forum
- Take strategic decisions
- Facilitate coordination in the value chain
- Represent the GI to external actors
- Provide information and training to its members

# 1) First role: to Federate the stakeholders

What is needed?

- Membership (and usually need membership forms, GI commitment form, potentially membership fees)
- Formal decision-making structures (General Assembly, boards) – these may reflect the composition of the Value chain
- Statutes
- Record keeping and information
- Information channels

## 2) Second role: to Manage the Specific quality

Central role of the GI organization.

How?    implementing the GI Specifications  
and implementing internal controls

# Why do Specific quality Management ?

- To KEEP the promise to the consumers
  - To ensure that quality (and quality efforts) are consistent by all the stakeholders
  - To avoid «free riders»
  - To satisfy state / government regulations
- **need for a GI Control plan**

### 3) Third role: to Promote the GI

- Define a strong brand (common GI Logo)
- Define the history (the STORY) and how to present it
- Contribute to marketing
- Support enforcement, fight against infringements

# OVERVIEW : DIFFERENT MODELS OF COLLECTIVE MANAGEMENT ORGANISATIONS



# National rules governing all GI organizations at country level ?

- Some common rules at national level:
  - ✓ ex of Europe, France, Spain
- Yet still lot of diversity within those countries
- No common rules at all, in many countries

- «Organisation for GIs Defense and Management»
- Mandatory and automatic membership of all producers/processors
- Representiveness of all kind of operators, democratic functioning
- Statutes of GI association are registered with competent authority + examined by the national authority in charge of registering GIs

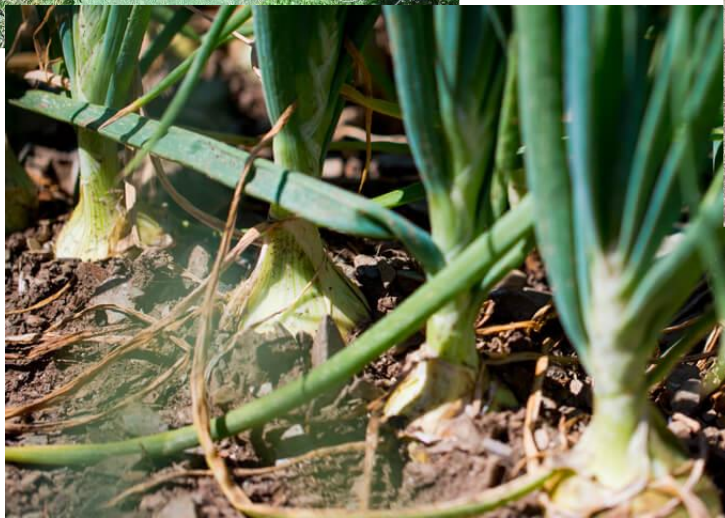
- General Assembly:
  - ✓ all members: producers, processors, cooperatives, business
- Board: elected from the members
  - ✓ President of the association
- Committee: elected from the Board



# Cévennes onions, France







# Sweet Onions from Cévennes, France



# Initial idea

## Motivation of a group of producers

1987: Creation of the Association for valorisation of Sweet Onions:

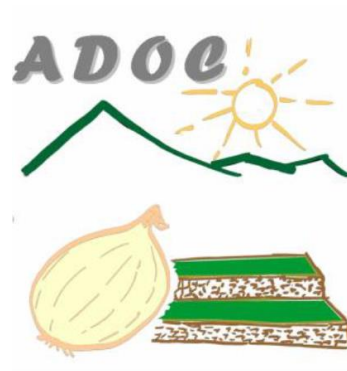
- ✓ to keep and promote local variety;
- ✓ to produce together and differently



1991: Creation of Cooperative for marketing: “Origin Cevennes” (30 members)



1996 : Creation of GI Collective Management Association





# One marketing organization= Cooperative “Origine Cévennes”

- Sweet Onion, and also other local products: apples, chestnuts...
- Producers only: 98
- Local store + Local shop + Trucks + website
- Proper trademark



# One GI Collective Management Organization: « ADOC »



- **Sweet Onion only**
- Different value chain members:
  - **Producers: started with 30, now 106**
  - **Processors (packaging + marketing): 2**
  - **Producers-packers: 19**

**General Assembly:** 1 per year: 1 member = 1 vote

**Administration Board:** 3 per year; 10 members

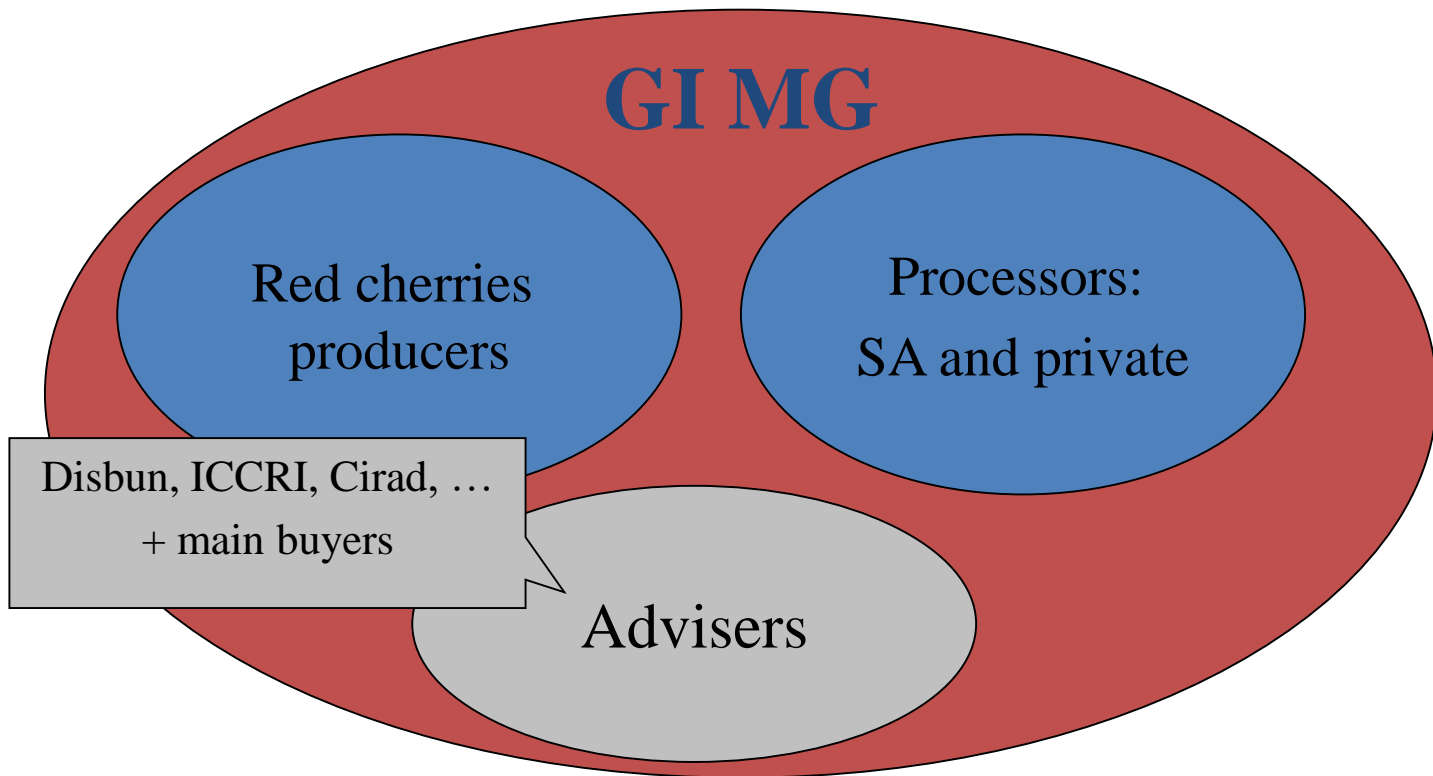
**Executive board:** 1 president, 1 vice president, 1 secretary, 1 treasurer.



Kopi Arabica  
Kintamani Bali,  
Indonesia

### **Example: Kintamani Bali Coffee, Indonesia**

- Historically, dry process coffee sold by individual producers for decades
- Development of the wet process (washed arabica)
  - ✓ Since 1970s in a public and private factory
  - ✓ Since 2001 at farmers' groups (Subak Abian) level, supported by Province of Bali and private buyers
- Include private buyers who claim that they “built” the wet process coffee supply chain?





- Value chain:
  - many very small red cherries producers and some larger producers
  - Around 30 small processing units and 1 important factory (processing 30% of the coffee production)
- An « hybrid system » :
  - « Big» red cherries producers: 2 votes. Small ones: 1 vote.
  - « Big» processing units: 2 votes. Small ones: 1 vote.

## Example of Kampot Pepper Promotion Association, Cambodia

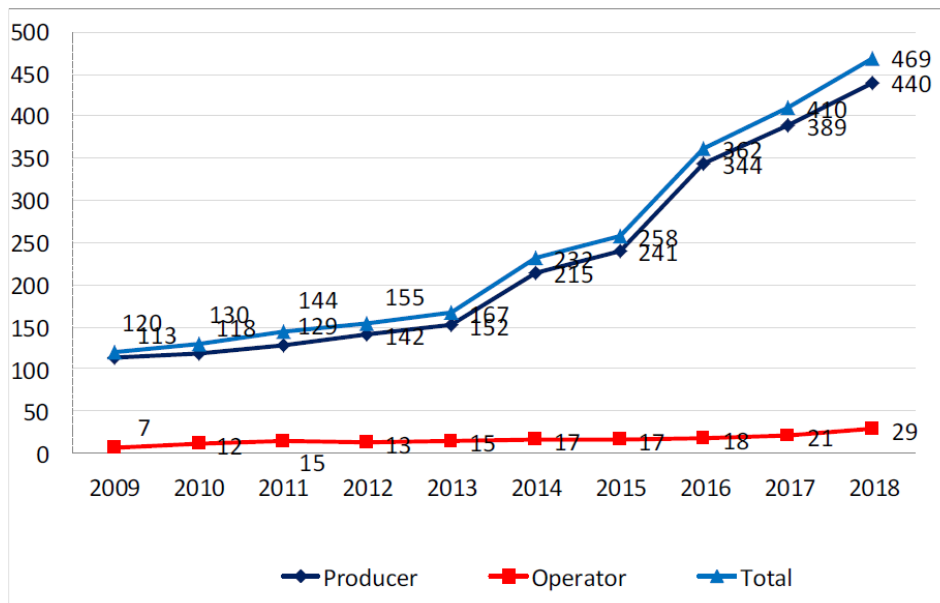
### MEMBERS

- **Pepper Producers :**
  - pepper plantation in the area, at least 100 vines;
  - produce pepper according to the book of requirement.
- **Traders :**
  - recognize and implement the book of requirements and control plan;
  - buy and sell Kampot pepper;
  - Record their purchase and sales of pepper.
- Stakeholders and interested persons -> honour members: have no voting right in the association



# Organisation including traders

## Number of members in the Association Kampot Pepper Promotion Association, 2009- 2018





# **GOVERNMENT INSTITUTIONS REPLACING COLLECTIVE ORGANISATION OF PRODUCERS**

# Government institutions replacing collective organisation of producers

- Majority of GIs in Asia are drafted, registered and managed by local authorities
  - Thailand: practice
  - India: practice
  - Vietnam: by law
- Many GI with external control by public authorities: ok included for registration in the EU

## Example: Darjeeling Tea, India

- Tea Board of India is applicant and managing body: Statutory, Commodity Board, attached to the Ministry of Commerce, responsible for the marketing of commodities.
- Managed by a committee: representatives from central and state government ministries, Members of Parliament and various professionals (farmers, producers, etc.); appointed by the central government.
- ‘Autonomous bodies’, but strong connection with the government.



Thank you for your attention

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# THANK YOU



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