



Promoting Intellectual
Property Rights in the
ASEAN Region

An Introduction to Geographical Indications and the Transformative Effect of Successful GI products

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CONTENTS OF THE PRESENTATION

- The concept of Geographical Indications (GIs)
 - The specificity of origin-based products
 - The importance of protecting origin-based products
 - How can GIs legally protect this specificity ?
- The international dimension of GIs
- Case study : Espelette chili pepper (France)

THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- Origin-based products exist for a long time, all over the world



Lebanon cedars



Wine from the Santorini islands (Greece)



Silks (China, India)

THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- The beginning of juridical protection for famous names

Where ?

- In Southern Europe (France, Italy, Spain)

When ?

- Early 20th century

How ?

- Protection by **intellectual property**
- An exclusive right of use

“*Designation of Origin*” first,
then “*Geographical Indication*”



From Europe to the world !



GIs are IPR and development projects !

THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- Some French examples:



Champagne (France)



Roquefort (France)



Cognac (France)

THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- Some French examples:



Wine from Languedoc



Comté



Banon



Appels from Limousin



Sweet onion from Cévennes



Salt from Guérande

THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- Where does the specificity of origin-based products come from ?
 - Distinctive characteristics due to specific conditions of production (**typicity**)
 - The product is famous (**reputation**)
 - The local conditions of production are NOT transferable elsewhere > this product becomes **unique**
 - The **identity** of the products is strongly linked to area of production: landscape, cultural and local habits, etc.
 - The **history** of production is considered as a heritage and the product is a symbol of the region



THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- Where does the specificity of origin-based products come from ?

Specific natural conditions :

Landscape, weather, soil, plant varieties...

Localized human factors :

Community of production : habits, culture, religion
Specific know-how

interactions

Origin-based
product

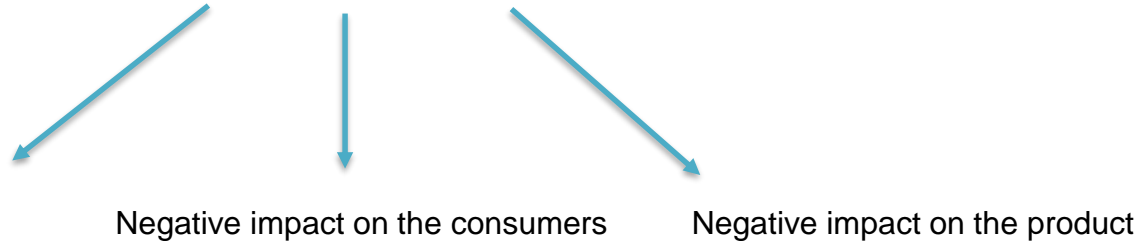


THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- The importance of protecting origin-based products

Origin-based products are famous and have a high added-value on the markets

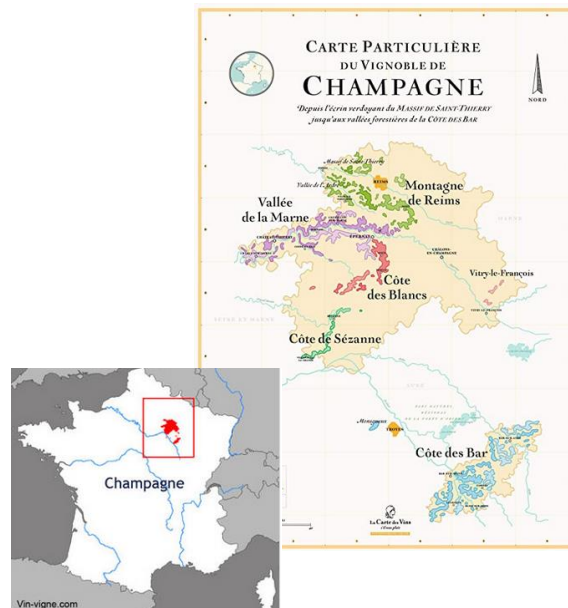
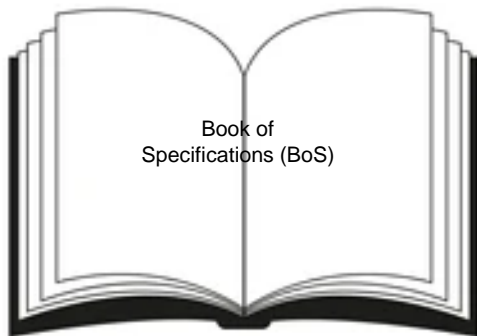
The reputation and high prices generate a risk of **usurpation of the famous names**



- Importance of protecting the names of origin-based products by registering the GIs

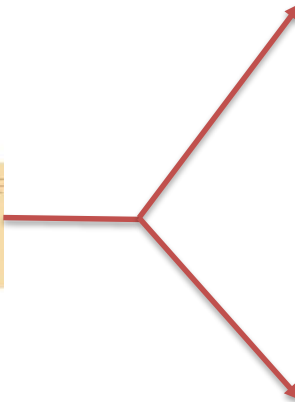
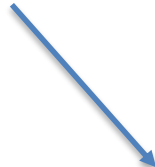
THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- How can GIs legally protect this specificity ?



THE CONCEPT OF GEOGRAPHICAL INDICATIONS

- How can GIs legally protect this specificity ?



THE CONCEPT OF GEOGRAPHICAL INDICATIONS

French Law of August 1, 1905

“Appellation of origin” :

- Only for wines and spirits
- Fraud control oriented
- link between a name and a geographical origin



EU Reg. N° 2081/1992

PDO / PGI

- Protected Designation of Origin
- Protected Geographical Indication

EU Reg. N° 1151/2012

2014 : Extension of the concept of GIs to non-agricultural products

On-going revision of the UE policy of quality products



TRIPS (WTO), 1994

Agreement on
Trade Related Aspects of Intellectual
Property Rights

+ Bilateral Agreements on GIs

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THE INTERNATIONAL DIMENSION OF GIs

- TRIPS Agreement (1994) : GI definition

*“Geographical Indications (GIs) are **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.**”*

Source: Article 22 of the WTO TRIPS Agreement



WORLD TRADE
ORGANIZATION

TRIPS

Trade **Related** **Intellectual** Property **Rights**

THE INTERNATIONAL DIMENSION OF GIs

- TRIPS Agreement (1994) : Internationalization of an IPR

Before 1980 : GIs protection was essentially a European issue

After TRIPS : a global trend towards the protection of origin-based products

- Consumers' increasing interest in « local », « traditional », « ecofriendly » food products.
Described as a « *Quality Turn* » (Goodman, 2003)

GIs protect **all types of goods** : agricultural products, food, wines, spirits, handicrafts,...

TRIPS provides **as long as** the specific characteristics of the products are maintained

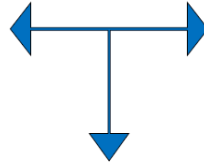
THE INTERNATIONAL DIMENSION OF GIs

- TRIPS Agreement (1994) : Unchanged philosophy for GI concept

GI : a link between place, people and a product



PRODUCTION AREA
Influence of natural conditions



PRODUCERS' KNOW-HOW
GI products are heritage products



PRODUCT WITH A TYPICITY and/or REPUTATION

THE INTERNATIONAL DIMENSION OF GIs

- TRIPS Agreement (1994) : Variability in the means of protection

All Members States (164 countries) should protect GIs through the [method of their choice](#) (TRIPS, art. 1.1.)

➤ Significant [divergences in the modes of protection](#)

The 4 legal categories to protect GIs :

- *Sui generis* systems that recognize GIs as a distinct category of right
- [Collective and certification marks](#) : protect GIs by the Trademark regime
- [Regulations focusing on business practices](#) : unfair competition, consumer protection...
- [Administrative systems](#) when the marketing of the products is subject to an authorization procedure (e.g. specific labelling for wines)

THE INTERNATIONAL DIMENSION OF GIs

- TRIPS Agreement (1994) : Variability in the means of protection

Two main institutional approaches :

<i>Sui generis system</i>	<i>Trademark regime</i>
Promoted by the European Union	Common-law approach, strongly connected to the US philosophy
<i>Among the countries that actively protect GIs...</i>	
63 % countries	32 % countries

Various means of protection can **coexist in the same country**.

Ex : in Australia, Canada and the USA, protection of GIs for all products is ensured through collective and certification marks. However, wines and spirits are protected under a sui generis system.

Ex : Viet Nam > coexistence of GI and collective marks to protect origin-based products

THE INTERNATIONAL DIMENSION OF GIs

- Some examples of national GI logos from Asian countries



➤ Not only in Asia !



THE INTERNATIONAL DIMENSION OF GIs

- In Indonesia : Coffee Arabica Kintamani Bali



THE INTERNATIONAL DIMENSION OF GIs

- In Viet Nam : Nước mắm Phú Quốc



THE INTERNATIONAL DIMENSION OF GIs

- In Colombia : Café de Colombia



THE INTERNATIONAL DIMENSION OF GIs

- In Japan : Kobe beef



THE INTERNATIONAL DIMENSION OF GIs

- In Cameroon : White Honey from Oku



THE INTERNATIONAL DIMENSION OF GIs

- In Thailand : Lamphun Brocade Thai Silk



THE INTERNATIONAL DIMENSION OF GIs

- Geographical Indications in the world
 - ✓ **World : 8 598 (including 7 185 GIs *sui generis*)**
 - ✓ Europe : 3 923
 - ✓ Asia : 3 440 (including 2 385 GIs in China)
 - ✓ America : North = 409 / South = 499
 - ✓ Africa : 191
 - ✓ Oceania : 136

In European Union (2020) :

European GIs = 74.8 billion euros

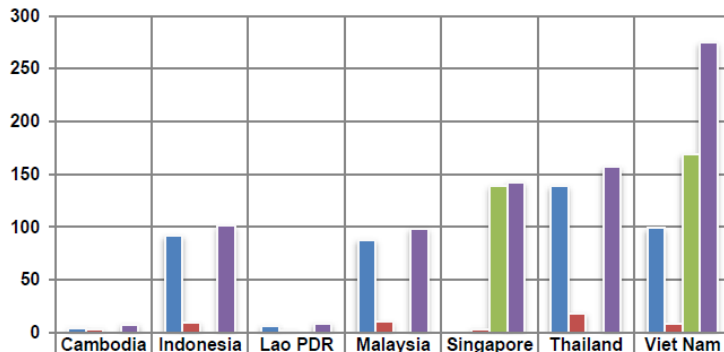
42% of the volumes produced under GI are exported.

Sales of GI products = 15% of total EU food exports

THE INTERNATIONAL DIMENSION OF GIs

- Wide development of GIs in the ASEAN region

GIs protected in the ASEAN region
(By June 2021)



Local GIs	4	92	6	88	0	139	99
Foreign GIs via direct application	3	9	2	10	3	18	8
Foreign GIs via bilateral agreements	0	0	0	0	139	0	169
Total GIs	7	101	8	98	142	157	275

- ASEAN is one of the **most active region** in the world for GI protection !
- Increasing number of GIs registration
 - ASEAN GIs registered at national levels : 428
 - Foreign GIs protected in ASEAN : 361
 - ASEAN GIs protected outside ASEAN : 54
- **Interest of ASEAN producers** to obtain protection of their GIs
- Growing **attention of ASEAN consumers** to origin-based products

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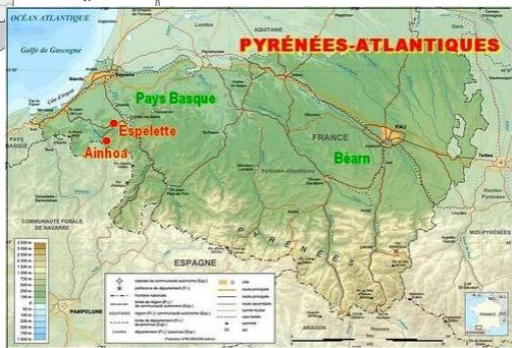
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CASE STUDY : ESPELETTE CHILI PEPPER

- Espelette chili pepper : a typical origin-based product, symbol of its area of production



CASE STUDY : ESPELETTE CHILI PEPPER



CASE STUDY : ESPELETTE CHILI PEPPER



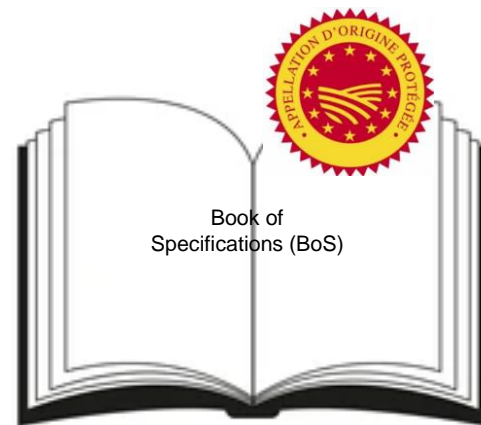
CASE STUDY : ESPELETTE CHILI PEPPER

- The GI area of production and Book of Specifications



10 villages

1. Ainhoa
2. Cambo-les-Bains
3. Espelette
4. Halsou
5. Ixassou
6. Halsou
7. Larressore
8. Saint-Pée-sur-Nivelle
9. Souraïde
10. Ustaritz.



CASE STUDY : ESPELETTE CHILI PEPPER

- The GI managing group



Local farmers, processors and traders

- Drafting of rules
- Internal control

Obligation of an **external control** (independent body)

Traceability : we only sell what we produce !
High risk of counterfeiting > volumes control

CASE STUDY : ESPELETTE CHILI PEPPER

- A progressive construction of the GI



1983

First attempt
to register
the GI



1993

Creation of the
GI managing
group



2000

Registration
of the GI in
France



2012

Registration
of the GI in
European
Union



2018

New logo



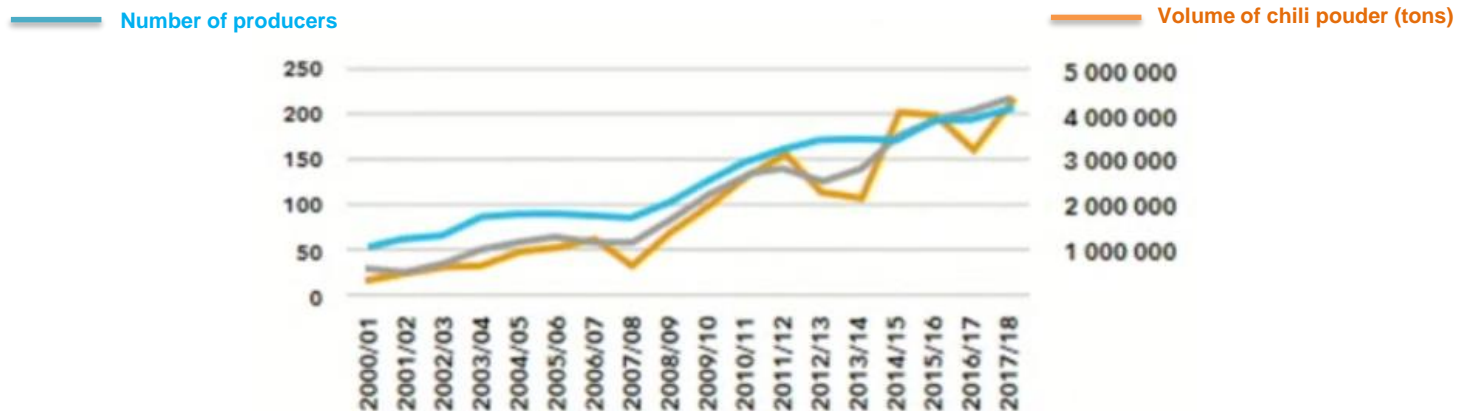
2020

The Espelette chili
pepper celebrates
20 years !

CASE STUDY : ESPELETTE CHILI PEPPER

- Effect of the GI on the value-chain

~ 30 producers in 1997 >> more than 200 today



CASE STUDY : ESPELETTE CHILI PEPPER

- Economic development and tourism



Tourism

- Village of Espelette: dry chili pepper on the houses, harmonious colors > very attractive
- In 2016: 500,000 people visited Espelette

Economic

- 65% of farmers in the area grow peppers
- 77% process and sell it themselves
- 250 local jobs generated by chili pepper



CASE STUDY : ESPELETTE CHILI PEPPER

- Promotion



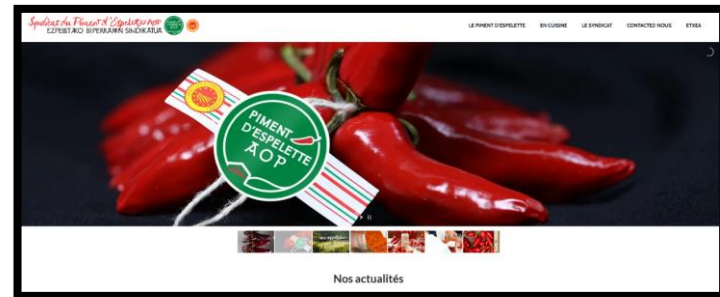
Chili pepper Festival

Every year in October
20 000 visitors



Website of the Tourism Office

Espelette Village



Website of the GI managing group

Collective promotion
Reinforcement of the reputation of quality

CONCLUSION

- **Origin-based products** exist everywhere for very long time
- The **juridical protection** of the names and reputations of these products is quite new : Europe beginning of the 20th century and then rapidly developed at international level
- **ASEAN** is very active in the support/protection of GIs
- Origin-based products are **specific products**, with a special identity. They are the result of history of a place and complex **interaction between natural and human localized factors**
- Protect and promote these exceptional products by a **Geographical Indication** can have a **transformative** effect by fostering **development** in the area while valorizing **local resources**



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Thank you !

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