

Exploring Geographical Indication Registration under the TRIPs Agreement and the Role of Sustainable Development Principles in Geographical Indication Protection

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Abstract

The TRIPs Agreement does not specify how geographical indications are to be registered and protected in other countries, either. Clearly defined criteria are required to assess whether the TRIPs Agreement protects geographic indications in line with sustainable development. Achieving a balance between the economy, society, and the environment is required to protect geographical indications. These guidelines can help improve the international scope and criteria for protecting geographical indications under the TRIPs Agreement. There should be criteria or an interpretation in the TRIPs Agreement to protect geographical indications in their country of origin, and exceptions for homonymous terms where the term implies a different geographic origin should be made.

Keywords: Geographical Indications, TRIPs Agreement, Sustainable Development, Registration, Homonym

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วิเคราะห์การจดทะเบียนสิ่งบ่งชี้ทางภูมิศาสตร์ ภายใต้ข้อตกลง TRIPs และบทบาทของหลักการพัฒนา ที่ยั่งยืนในการคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์

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บทคัดย่อ

ความตกลง TRIPs ไม่ได้ระบุไว้อย่างชัดเจนถึงหลักเกณฑ์การขึ้นทะเบียนและคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ในประเทศอื่นๆ ในการพิจารณาว่าความตกลง TRIPs คุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ตามหลักการพัฒนาที่ยั่งยืนหรือไม่ จำเป็นต้องมีหลักเกณฑ์ที่ชัดเจน โดยหลักการนั้น การคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์กำหนดให้ใช้กฎหมายระหว่างประเทศที่สอดคล้องกับการพัฒนาที่ยั่งยืน เพื่อแสดงถึงการสร้างสมดุลระหว่างเศรษฐกิจ สังคม และสิ่งแวดล้อม ภายใต้ความตกลง TRIPs และหลักการพัฒนาที่ยั่งยืน บทความนี้จะเปรียบเทียบขอบเขตและเกณฑ์ในการคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ พร้อมเสนอแนวทางที่เป็นประโยชน์สำหรับการปรับปรุงขอบเขตและเกณฑ์ระหว่างประเทศในการคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ โดยการเพิ่มหลักเกณฑ์หรือการตีความเพื่อคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ในประเทศต้นกำเนิด และการให้ข้อยกเว้นสำหรับการละเมิดสิ่งบ่งชี้ทางภูมิศาสตร์ในกรณีค้าที่ฟ้องรูปหรือฟ้องเสียงโดยที่ค่าเหล่านี้มีความหมายเหมือนกัน แต่ค่านั้นแสดงถึงแหล่งกำเนิดทางภูมิศาสตร์ที่แตกต่างกัน

คำสำคัญ: สิ่งบ่งชี้ทางภูมิศาสตร์ ความตกลง TRIPs หลักการพัฒนาที่ยั่งยืน การขึ้นทะเบียน
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Introduction

Protection of geographical indications must consider not only protection at the national level, but also protection at the international level. This is because, while the knowledge generated from natural resources in the area of each community that is developed into a product is protected by law in the country of origin, producing communities may also face harassment as foreign countries exploit the community's reputation for unfair trade benefits. Because of this, it is important to use central rules, which are international standards set by mutual agreement, to help promote and support products made in the country for export without hurting the reputation of the product.

The researchers discovered that the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement), is an agreement that provides a more flexible scope and criteria for geographical indication protection than the Paris Convention for the Protection of Industrial Property, Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, and Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. The TRIPs agreement establishes two levels of protection: general protection and special protection for specific goods, such as wine and spirits, to penalize those whose geographic identifiers may cause public confusion, even specifying the true origin by adding the words "kind" or "style" or "type" or stating "imitation" and providing an exception for infringement of geographical indications. A gap in international law has been created by the TRIPs agreement's failure to include specific rules for registering or protecting geographical indications, even though the agreement is designed to protect geographical indications in accordance with principles of sustainable development.

The fact that the TRIPs Agreement is an international law that seeks to establish a minimum standard for intellectual property protection, combined with the fact that it has a large number of member states, makes it an international law that the author intends to investigate. Also, the critical points that need to be explored regarding how to define the scope and criteria for geographical indication protection under the TRIPs Agreement in order to ensure that they are consistent with sustainable development principles. Consequently, this article will conduct a comparative analysis of the scope and criteria for protecting geographical indications under the TRIPs Agreement and

the sustainable development principles, as well as provide guidelines for enhancing the scope and criteria for protecting geographical indications at the international level under the TRIPs Agreement.

Literature Review

From the Origins of Geographical Indication Protection to the Adoption of TRIPs for Geographical Indication Protection

According to a study of the first phase of the geographical indication protection law, it originated with the purpose of protecting French goods. In 1905, legislation was passed to address the issue of improper use of indications of source or origin of goods on agricultural commodities. Later, in 1919, there was a law protecting appellation of origin by defining the mark as a collective right and stating that this mark shall not become a generic name nor can it be registered as a trademark. It was not until 1935 that a case was brought to court, raising the issue of interpreting the scope of protections for limiting production areas and promoting sustainable and fair production methods to the local community of producers, resulting in the law being improved by the establishment of a national committee to protect the mark of origin for wine or spirits. The committee is composed of producers of wine or spirits, and it has the authority and responsibility to define production conditions and definitions in order to ensure the quality of such products. Following that, in 1947, the national organization was reorganized as the National Institute of Appellation of Origin (INAO), which is administered by the Ministry of Agriculture and has expanded the former committee's authority and responsibilities to include consideration of other agricultural products until the European Union adopted this protection approach. (Marie-Vivien et al., 2017)

As demonstrated by the development of the preceding law, the protection of the mark of origin possesses a triangular power that assists in balancing the boundaries of production areas and sustainable production methods in order to protect the mark of origin's reputation simultaneously. The three powers are the power of the producer community, the power of the individual who produces the goods, and the power of the state, and having these three powers could make it possible to achieve the principles of sustainable development. This is because individuals will not be able to exploit natural resources to the extent that their producer local communities' interests are harmed,

and the state must enforce laws that take the producer local community's common interests into account. Additionally, the economic benefits derived from the community of producers' collective bargaining agreement will primarily benefit this community, thereby assisting in the distribution of income and reducing social inequality.

Later, countries were influenced by the French style of mark of origin protection as a model for their own. Consider India, where specific laws protect the country's Darjeeling tea products, which are renowned worldwide for their superior quality as a result of the tea cultivation region known as "Darjeeling Tea." The cultivated landscape is located more than 2,000 meters above sea level, and this tea production process is based on indigenous knowledge in that region, resulting in high-value tea products. India previously registered trademarks in the category of certification marks or collective marks in a number of countries, including the United States, Japan, and European Union member states. Darjeeling was also registered later, when India enacted a specific law protecting geographical indications. (Ravindran & Mathew, 2009)

Furthermore, when it comes to the protection of geographical indications, it is necessary to consider not only the picture of protection at the national level but also the picture of protection at the international level, as well. Because each community's knowledge about natural resources is only protected by law in its own country, producing communities may also face harassment from other countries that use the reputation of a community in one country to get unfair trade benefits. As a result, it must rely on central rules, which are international mutual consent standards for use in promoting and assisting domestically produced products to be sold abroad without jeopardizing the product's reputation.

A preliminary review of information under international law reveals that while several laws provide protection for geographical indications, none clearly defines the objectives of that protection in accordance with the principles of sustainable development that must be met. International laws protect geographical indications as a form of intellectual property for the purposes of protecting consumers from confusion or misleading of products and preventing unfair competition, such as the Paris Convention for the Protection of Industrial Property, which is the first international law to provide protection for both appellations of origin or indications of source, as well as to

prevent unfair competition; the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, which provides protection as more explicit indications of source from the Paris Convention; the Lisbon Agreement for the Protection of Appellations of Origin and their international registration; and there is a mechanism to prevent such marks from becoming common by international registration.

The scope and criteria for protecting geographical indications in the Agreement on TRIPs Agreement were more flexible than in many of the international laws mentioned previously. The TRIPs agreement establishes two levels of protection: general protection and special protection for specific goods, such as wine and spirits, in order to penalize those whose geographic identifiers cause public confusion. TRIPs Agreements require the addition of the words “kind”, or “style”, or “type”, or by stating “imitation” for a special level of protection, as well as providing exceptions for violations of geographical indications. The TRIPs Agreement, on the other hand, does not explicitly state the rules for registering and protecting geographical indications on an international level. Furthermore, the absence of clear criteria on this subject creates a void in the application and interpretation of the law regarding whether the TRIPs Agreement protects geographical indications in accordance with the sustainable development principles. After considering the impact of international law on domestic law, it is clear that if each country that adopts international law as its domestic law continues to take a unique approach to geographical indication protection, negative economic, social, and environmental consequences will result, which can be viewed as impediments to sustainable development. (Vandecandelaere, Emilie et al., 2018) That is, when identical goods are protected as geographical indications in one country but not in another or are less protected in another, the producing community does not receive an equitable share of the economic benefits associated with the use of geographical indications. Additionally, it can erode consumer confidence in the quality or distinctive characteristics of products protected by geographical indications within the country of manufacture in the long run. Subsequently, when the producer community loses such benefits, it may cause them to downplay the importance of preserving natural resources and traditional knowledge as factors of production as well as not receive a fair share of benefits, resulting in social inequality. The societies of less developed countries, in particular, have a high level of social inequality while also possessing sovereignty over a large number of natural resources. (Chethana, A.N et al., 2010)

The Importance of Geographical Indication Protection for Sustainable Development

Geographical indications are influenced by a combination of natural and anthropogenic factors. Geographical indications, on the other hand, are the result of human intellectual creation and thus qualify for protection under an intellectual property system. Additionally, when a geographical indication is registered, it is frequently a symbol used to represent agricultural products that are heavily reliant on natural resources and the environment. In addition, it is applied to products that are well-known for their traditional knowledge and are used as inputs. Thus, products used to protect geographical indications can be classified into two categories: agricultural and non-agricultural products.

In the case of agricultural products, it is clear that they have a long history of being protected as Geographical Indications, dating all the way back to France's establishment of the "The Institute National des Appellations d'Origine (INAO)". The Commission considered the factors that contribute to the protection of geographical indications, "terroir", a socially valuable territory resulting from a complex long-term relationship between culture and social conditions, ecological characteristics, and economy. This is necessary to assist the Geographical Indication function in distinguishing protected goods from non-protected goods. The term "terroir" refers to the importance of preserving famous agricultural products associated with geographic origins in order to ensure a sustainable reputation. (Barham, E. 2003, pp. 127-138) This is because the manufacturing community is deeply rooted in inheriting knowledge of natural resource and environmental conservation throughout the product's production process, until the product's uniqueness has been accepted for a long period of time.

Because the protection of geographical indications for agricultural products contributes to the conservation of natural resources and the environment, which are both used as inputs in the production of sustainable goods. Therefore, these agricultural products should only be protected by geographical indication if the protection enables the producing communities to depend on and consume natural resources and the environment in a sustainable manner. In other words, certain agricultural products are eligible for geographical indication protection if the protection contributes to

the sustainable management of the product's resources by the producer community. (Barham, E., 2003, pp. 127-138) Nevertheless, if an agricultural commodity lacks the characteristics that enable continuous linkage of inputs to the geographical source, it will lose consumer trust and its identity as a geographical indication.

In the case of non-agricultural products, it can be seen that the products of famous local communities that are not agricultural products are folk arts and crafts products that have inherited the method of creation to become cultural heritage. Additionally, there is a connection between the product's reputation and its geographic location through the use of the community's wisdom to produce the product. Whereas the law protects symbols that convey the meaning of a product to consumers in order to preserve them for the producer community to exploit, it does so in a way that preserves traditional knowledge that is part of the public domain. For example, in the case of weaving Thai silk, a handicraft product that uses traditional knowledge to create patterns for each community's unique weaving, the factor that contributes to the product's reputation is not the raw materials used in production, as the manufacturer used silk from outside the production area; rather, the significant factor that contributes to the product's reputation is the local community's ability to preserve the traditional knowledge, thereby ensuring the uniqueness of each community's weaving. However, due to the high cost of silk weaving and the lengthy production period, the community's knowledge base for creating works dwindled. (Kuanpoth, J. and Setsirote, B., 2013, p. 208, p. 215)

The foregoing information indicates that certain types of folk arts and crafts products with distinctive identities should be protected through geographical indication registration in order to leverage economic benefits for the producer community while also preserving heritage values expressed through sustainable production of their products. The geographical indication symbol, in particular if the product is protected at the international level, will be an excellent tool for promoting the product in foreign countries. Although this type of product is highly refined, it can be produced in small batches and takes a long time to produce. If this geographical indication is used to communicate marketing to interested consumers, the target group will increase market demand, allowing the producer community to be compensated appropriately for their dedication to producing the product and instill pride in the local wisdom.

Research Result

The protection of geographical indications requires the application of international law consistent with sustainable development, which entails striking a balance between the economy, society, and the environment, as each community's origins are based on the body of knowledge derived from natural resources and the environment. If the producer community is only protected by the laws of the country of origin, it may be violated by foreign countries that seek to exploit the community's reputation for commercial gain. Additionally, if countries that have adopted international law as their domestic law take divergent approaches to geographical indication protection, this can obstruct sustainable development. Due to the fact that identical goods are not protected or are protected differently in different countries, the manufacturing community does not benefit fairly as a result of social inequality. Additionally, it erodes consumer confidence in the protected product's specifics, depriving the producer community of the economic benefits associated with the product's reputation. As a result, they diminish the importance of preserving natural resources and indigenous knowledge as a factor of production.

The TRIPs Agreement is the subject of this article because it provides for the protection of intellectual property rights that are accepted by a large number of member states. While there are guidelines for protecting geographical indications, which can assist in preserving traditional knowledge and natural resources at the source of goods for sustainable use, there is no clarity regarding international registration. This has resulted in violations of geographical rights, economic losses, and a lack of incentives for environmental protection in some member countries. Additionally, the rules are ambiguous regarding the scope of protection provided by the registration law, registration conditions, requests for amendments to registration data, and exceptions to geographic infringements. Thus, by clarifying this issue in the TRIPs Agreement, member states will be able to implement the TRIPs Agreement's principles in accordance with the sustainable development principles.

According to the study's findings, the researcher makes the following recommendations regarding the TRIPs Agreement:

1. It should be noted that criteria or an interpretation of the protection of geographical indications in the country of origin should be added to include

that the country of origin is scrutinized as well as having a proven process linking the product's characteristics to geographical sources with distinct boundaries, which may be connected by the reputation of raw materials used to manufacture the product, local knowledge used to create production processes, or preparation of production. Moreover, the requesting country may request amendments to its registration data relating to factors relating to product reputation and geographic origin, including a request to expand or contract the geographic area previously stated in the registration, subject to balancing the economy, society, and environment, as well as their mutual integrity.

2. Exceptions to geographical indication infringements should be made in cases where the terms are homonymous but the term implies a different geographical origin. Although such rules are included in article 23 of Article 3 of the TRIPs Agreement, they apply only to wines and spirits; they should also apply to other types of goods and should be included in article 24 (10) of the TRIPs Agreement. Additionally, it should allow member states affected by the registration of a geographical indication whose name is identical to their country's geographical indication to request that the country using that synonym amend the registered name or apply for registration by adding details of words or symbols to clearly indicate the product's origin.

Discussion

The Paris Convention is not particularly explicit regarding the protection of geographical indications, whereas the Madrid legal system is primarily concerned with trademark protection, according to the researcher's analysis of various international laws. In comparison to the TRIPs Agreement, the Lisbon Agreement and the Geneva Conventions have a smaller number of member states. This would indicate that the Lisbon Agreement and the Geneva Conventions may be deemed ineffective in the social context of each country. If the TRIPs Agreement's criteria for registration of geographical indications can be developed in accordance with the principles of sustainable development, it will enable the communities of each member country to collaborate closely on their own development. Because the principle of sustainable development does not

place an excessive emphasis on output but rather on the potential of the community's own resources, it is important to consider the potential effects of various changes within the context of sustainable development's focus on the potential of the community's own resources.

Proving the connection between products and their geographical origins

In this case of establishing a link between a product and its geographical origins, the researcher did not intend to analyze scientific and technological evidence to demonstrate that the product's characteristics are related to its geographical origins; rather, this is a truly analytical study in the field of jurisprudence. It is based on legal interpretation to determine how the reputation and characteristics of a product derived from a geographic source should be linked. Thus, by registering intellectual property rights under the TRIPs agreement, international conflicts can be avoided. They were classified into two categories: the problem of using geographic names as duplicate product identifiers and the problem of using geographic names or country names in a way that foreign consumers perceive but domestic consumers understand to refer to goods produced in a specific area of that country, with the following specifics:

1. Utilization of geographical names as a means of identifying the same product

Regarding the problem of establishing the connection between goods and their geographical origin, it can be seen that, under the TRIPs agreement, it is essentially the case that geographical names that are used to identify the same product have essentially the same meaning but refer to different geographical sources. That is, it is a feature of a homonym, which may be homonymous but has a distinct geographical origin, which can be protected under different terms in accordance with the specifics of each contracting party's domestic legal provisions fairly and shall not cause the public to be confused or misled as to the origin of such goods as well. This criterion, however, is found in section 23 (3), which details the criteria for geographical indication protection in the context of specific goods. Additionally, there is a guideline stating that this coverage is limited to wine products. When evaluating the criteria's compliance with the principles of sustainable development, which are principles aimed at achieving a balance between the economy, society, and environment in order to meet the needs of the current

generation without jeopardizing the needs of future generations, in this case, it can be seen that if countries with the same geographical name compete with each other to protect geographical indications of their own countries, they will cause conflicts and economic losses as a result of the dispute over which country should be entitled to protect the geographical indication. (Reviron et al., 2009) This may result in counter-measures on the economic front. And it is likely that during the dispute, the two countries are not as cognizant of the need to conserve the value of their natural resources as they should be, as their products' reputations are tarnished by products from other countries that bear the same name. This results in a lack of incentives for natural resource conservation and the development of sustainable products. Thus, it is appropriate if the TRIPs agreement's provisions require that homonymous be registered for international protection. In addition, it should be noted that it is a geographical indication that is subject to different definitions depending on the specifics of the domestic legal provisions of each contracting party. This requires fair cooperation and must not cause the general public to be confused or misled about the origins of the goods or products.

As is the case with "Rioja" the well-known wine-producing region that spans both Spain and Argentina, and both countries are signatories to the TRIPs Agreement. As can be seen from the criteria above, both countries used the term "Rioja" to refer to their wine products. The two countries agreed not to infringe on each other's geographical indications for "Rioja" wine products and to ensure that both countries receive equal fairness when marketing their wine products under the name. (Monten, L., 2005) As can be seen, registration of international geographical indications benefits both countries by preventing conflicts over the use of congruent geographical names. However, this is contingent upon the public not confusing or misleading the two countries' geographical indications. However, if both countries choose to register as a trademark in the same manner as countries with national laws protecting the trademark system, such as the United States, they must rely on the trademark's fundamental principle, which is the principle of priority. Priority has the effect of treating the priority date as the date of filing the trademark application for purposes of determining which rights take precedence in *inter partes* proceedings.¹ Thus, both countries are motivated to seek evidence that will

¹ USPTO.GOV. 213 Right of Priority of Foreign Application [R-08.2017]

establish the rights of their respective countries' prior to the rights of the other. While protection can be viewed as a geographical indication, countries with specific laws protecting geographical indications, such as the European Union, India, and Thailand, accept them on the basis of equal terms of agreement and a commitment not to confuse or mislead the public, thereby facilitating the adoption of additional compromises. Because the names of products in both countries can be homonymous, it may be necessary to include words or symbols to clarify the true origin of the product, as required by Thai law.

Furthermore, the researcher observed that the TRIPs agreement's restriction on applying the aforementioned criteria to wine products is an unreasonable restriction on the rights of geographical identification registrants. This issue with homonyms can also occur with the names of products other than wine. Specifically, international registration is conducted to obtain geographic protection for all TRIPs members; if homonyms are not accorded adequate protection for registration, inequalities will result in international society. Thus, when the criteria in article 23 (3) of the TRIPs agreement are expanded to include homonyms for other types of products, they should also be expanded to include synonyms for concurrence geographic names. It may be necessary to rely on local customs in order to choose the most appropriate name and to enable consumers to understand the precise geographical origin of the products sold under that name in order to demonstrate the correlation of homonymous geographic names. Additionally, TRIPs Agreements should include a provision allowing affected member states to register a geographical indication name that is homonymous with its geographical indication, either by requesting the country that uses the homonym to amend the registered name or by registering the homonym as a geographical indication under the TRIPs Agreement's international protection registration criteria and subject to negotiation between the two countries.

2. The application of geographical terms to a large geographical area

When examining the conditions for the protection of geographical indications, it is necessary to refer to a geographical area that is sufficiently defined in order to establish a connection between the reputation of the product's characteristics and the geographical origin of the product. In general, the term "geography" refers to specifics

such as geographic location, climate, and biological characteristics. (Blakeney, M. L. 2012, pp. 7-34) As manufacturers take the initiative to improve the quality or specificity of a product in accordance with their geographical location, consumers recognize the quality or specificity of a product based on the manufacturer's name or symbol, rather than referring to the product by its geographic source, until the product has established an accepted reputation. In other words, a geographical indication's lasting value is determined by its reputation. Also, the product's reputation stems from the manufacturer's associating a name or symbol with the product to help the consumer understand the quality or unique characteristics associated with the area, climate, or biology of the product's origin, as well as public relations to ensure the product is accepted and trusted by long-term consumers. However, the use of a name or symbol for a geographical origin or a country name as perceived by a foreign consumer, while understood by a domestic consumer to mean a product produced in a specific area of that country, can pose a problem in the international registration of geographical indications. A name or a symbol representing a geographical origin or a country as perceived by a foreign consumer should be registered, as should a name or symbol that represents the connection between a product and a specific geographic area of each country, in order for the product to remain well-known in the international arena.

For example, in the case of Colombian coffee, which is coffee produced in specific regions of Colombia, geographical indication protection has been established under Colombian law and has been designated as "Café de Colombia" under EU law. (Making the Origin Count: The Colombian Experience, 2010) For the protection of Café de Colombia, Colombia has chosen to classify it as a category in which manufacturers are not required to perform all major production steps in a particular geographical area. Due to the fact that roasting coffee beans, one of the most important steps in the process, may occur outside of the geographical area specified in the registration, it can be seen that the identification of a geographical region that is narrower than the entire country of Colombia, for the purpose of maintaining the reputation of quality or characteristics of coffee beans, allows for clear control over product specification audits. (Teuber, R., 2010, pp. 277-298) Customers will have confidence in the geographical indication symbol used to represent a product if it has specific properties that meet the standards that will meet their needs in the future. This will continue until the product's popularity increases as the geographical indications promote the product's distinctive characteristics.

In light of the TRIPs agreement's criteria, it is clear that in order to register international protection under this agreement, the Member States' statutory protection criteria must be met. Whereas national law must contain a mechanism requiring the rights holder's community to demonstrate the reputational association of a product's characteristics with a specific geographic location within the country, the geographical indication to be registered internationally must be identical to the one protected under a member state's domestic law, which allows the member state to determine whether the name or symbol should be used in place of its own, or a symbol in lieu of its own country's name or symbol, or should use a local name or symbol in their own country, in order to sustainably expand their international market and benefit from the TRIPs agreement's protections. Nevertheless, if national law would provide protection by recognizing the entire country as the extent to which it protects the right to use a geographical indication, then it must be in the case where the geographical indication is connected to the wisdom of all the peoples of that country without relying on the factors of natural resources in each locality as important or the production factors that come from natural resources that can be obtained from various areas throughout the country. Take, for example, the case of Thailand's silk products, which rely on the wisdom of designing fabric patterns in each locality rather than on the specific properties of mulberry varieties or silk varieties being important, etc.

How can Geographical Indications be used to advance the principles of sustainable development?

The author notes that, while geographical indication protection can significantly contribute to the principles of sustainable development for the reasons stated above, when these principles are applied in accordance with the needs of producers of protected goods, geographical indications must be carefully considered in order to maintain economic, social, and environmental balance. Due to the fact that geographical indication-protected goods can be more expensive than non-protected goods, this could have a detrimental effect on sustainable development as favorable economic benefits will incentivize the protected product manufacturing community to focus on producing an increasing number of such products, particularly in large quantities to cover the cost of exporting and selling to foreign countries. If a large quantity of products with the same quality or characteristics cannot be managed, it will have a negative effect on all

manufacturers due to market oversupply issues as well as the fact that producing large quantities of goods requires the consumption of large amounts of local resources, which may result in environmental harm, biodiversity loss, and competition for local resource consumption. (Sustainable agriculture for the future we want, European Commission) Besides, when resources used in production are limited, if they are compelled to use them to maintain the product's unique properties, the resources will quickly deplete to the point where they cannot be used to maintain the product's reputation. At some point, the protection will be withdrawn. Furthermore, on an international level, the adverse effect of a product on the environment is frequently cited as a reason for some countries to deny imports, resulting in inequity in international societies.

Accordingly, the production of goods by the producing communities of this geographical indication requires the establishment of appropriate production control standards for each community that are consistent with the sustainable development principles and are registered within the producing country. Simultaneously, it is critical to collaborate at the international level to develop international rules. Furthermore, it is important to note that not all products are required to be protected by international law with geographical indications. Indigenous knowledge and cutting-edge technology are being used to develop the community's business and produce products before the geographical indication can be registered. When a mechanism for controlling product characteristics is in place, it encourages resource conservation as a factor in production to be sustainable. Furthermore, in order for products sold on the international market to maintain a sustainable reputation, international law, which is a tool used to protect geographical indications at the international level, must have a rationale that is not solely economic in nature, but also includes considerations for environmental protection, biodiversity, and traditional knowledge.

Conclusion and Recommendations

In terms of what the law provides for protection in the form of registration, the author is of the opinion that there should be rules for geographical indication registration under the TRIPs Agreement, through which member states can bring goods protected under a specific legal system or the trademark system for registration. This is because the study discovered that some TRIPs Agreement member states protect

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geographical indications both through their specific legal systems and through their trademark systems. While countries that choose to protect their trademark systems may do so under other international law, trademark protection is required in the same way that geographical indications that certify the product manufacturer's community rights are protected. This is to promote cooperation among local communities in the conservation of natural resources and the use of wisdom in the production of sustainable products.

Additionally, the country applying for registration should have the option of registering for general product reputation protection under article 22 or for specific product level protection under article 23 of the TRIPs Agreement, which must be consistent with the level of legal protection in the country applying for registration. Moreover, the types of goods eligible for registration under the article 23 degree of protection should not be limited to wine or spirits but should be expanded to include other types of goods.

In the event that a geographical indication becomes a generic name, there are exceptions to the rule. Local customs should be considered when determining the generic name of the goods, as the name of the goods applied for registration cannot become common in the country in which the registration is sought. However, registration pursuant to the TRIPs Agreement should not preclude the registered product's name from becoming common. In this regard, article 24 (6) establishes criteria for allowing the use of names or texts that are identical or homonymous with geographical indications of other member states if the name or statement is customary in the member state to certify that it is the common or generic name, or if the member state's custom deems the name or statement to be consistent with the name of the grape variety grown within the member countries' territories. This criterion, however, may create uncertainty regarding the registration of protection under the TRIPs Agreement, as the country applying for registration may be unaware of the common names used for customary goods in other countries. Additionally, to make the TRIPs Agreement more tangible, customary countries must demonstrate that the geographical indication filed for registration is the generic name or common name of the commodity in their country, and that information on becoming a generic name or common name shall be presented to the registrar of international registration applications pursuant to the TRIPs agreement within a time period mutually agreed upon by the member states.

In the case of homonyms, the exception of geographical indications should be established for cases where they may be homonymous but that the term refers to a different geographic source. As with Rioja, a member state may apply for registration under the TRIPs Agreement at both the article 22 and article 23 levels in accordance with its domestic legal provisions. The application for protection registration must not create public confusion or mislead about the product's origin. Although the aforementioned rules are already included in article 23 (3) of the TRIPs Agreement, this provision only applies to wine products. Other types of products should also be included in accordance with the principle of equality. Therefore, it should be specified as an exception in article 24 (10) for violations of geographical indications. In addition, this article should include a rule allowing member states affected by the registration of a geographical indication whose name is identical to their country's geographical indication to request that the country using the synonym change the name that has been registered or applied for registration as a geographical indication by adding words or symbols to clarify the true origin of the goods.

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