NEW WORLD DEVELOPING COUNTRIES AND THEIR VIEWS ON GEOGRAPHICAL INDICATIONS

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BACKGROUND
Paris Convention 1883 - 1967
Repression of False Indications

Madrid System - 1891
Repression of False or Deceptive Indications in Products (35 M)

Stressa Convention - 1951
International Convention on the Use of Appellations of Origin and Cheese Designations (4 M)

Lisbon Agreement - 1958
Protected Designations of Origin and International Register. Repression of False or Deceptive Indications (26 M)
Economic effects of each agreement on GI products?
MULTILATERAL FRAMEWORK
TRIPS - WTO
(153 M)

RELEVANT ASPECTS OF THE AGREEMENT

➢ Regulates *private rights*

➢ Creates an "*International Public Law System*" applicable to "disputes between public organizations"

➢ *Territorial* rights
States are sovereign to establish a broader protection than required under the agreement, although this is not mandatory.

"Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice"
Intellectual property rights are territorial, i.e. they are valid in an area limited to the territory of the granting state.

Protected GIs in a Member will not necessarily be protected in others.
They 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.**
TRIPS PROTECTION

a. General protection system applicable to all products
   - Prevent misleading consumers
   - Prevent unfair competition

b. Special system applicable to wines and spirits
ARTICLE 22 TRIPS
IT IS THE LEVEL OF PROTECTION APPLICABLE TO:

► OLIVE OIL
► TABLE OLIVE

Not necessarily positive recognition
EXCEPTIONS TO WINE GI PROTECTION

ART. 24

- Applied for or registered trademarks
- Generic names
- Grape varieties
- Names of people or their predecessors used in trade transactions
- GIs not protected in origin or in disuse
- Recognition of homonymy (art. 23)
WTO DOHA ROUND
The extension of additional GI protection to other agricultural products

- No negotiating mandate
- Under discussion
- Uncertain outcome

Now minimum mandatory GI protection for agricultural products (art. 22)
INTERNATIONAL AGREEMENT ON OLIVE OIL AND TABLE OLIVES, 2005

- Commitment to detailed consideration of the definition of designations and geographical indications of economic interest to Members

- Minimum national legal provisions necessary to ensure their protection in the territory and in international trade related with designations and GIs

- Creation of a "system of mutual recognition" of geographical indications
The IOOC should adopt decisions to ensure that all genuine olive oils are covered by its standards and can be protected by GIs.
NEW WORLD’S VIEW ON GEOGRAPHICAL INDICATIONS
Europe first to protect products with a reputation due to origin with intellectual property rights.

Around the world there are products with reputation attributable to the origin even if they are not protected with intellectual property rights.
GEOGRAPHICAL INDICATIONS

- Are a policy tool to differentiate products
- The quality or reputation of the product is essentially attributable to its geographical origin
- Policy promoted by the EU in CAP II
- No uniform definition of GIs and PDO in international agreements
SITUATION IN DEVELOPING COUNTRIES

WEAKNESSES

► High system costs for the state and producers
► Competes with other "quality" programmes, Kosher, Halal, collective trademark, organic, etc.
► Benefits: uncertain and very limited
Cont.

- Little interest of governments in promoting the system.
- Lack of funding to develop GIs.
- Uncertain results.
- It raises false hopes in small producers.
- No international obligation to protect them with positive rights.
Cont.

► Low or zero consumer demand for GI products. Interest in real origin.
► GI's don't necessarily change the price of products.
► It requires a greater effort for market placement.
► Advance of private label brands.
► Competition with leading brands to differentiate products.
► Little interest of producers in GI's.
Occasional Benefits

► Promotion of associativism between producers.
► Compliance with quality protocols.
► Uniformity in production.
► Products with local identity.
► Promotion of the name of the country abroad as producer of foods associated or not with actual “top quality”.
CONCERNS ABOUT GI s

- GI s are most developed in Europe but few are known worldwide.

- The use of GI s has not proved to guarantee greater market access or bigger commercial success in relation to other strategies.

- It has not been proved that all GI products have a special quality.

- It has not been proved that the use of GI s provide more economic benefits than TRADEMARKS or that economic benefits are distributed in the chain.
Results of Study by Insight Consulting

Olive Oil and Olive GIs

- 120 of the EU
- 5 of Turkey
- 1 of Tunisia
- Other countries... Potential GIs
We should ask...

► How many GI IOOC products are traded at national level within the EU?

► How many GI IOOC products are exported?

► What studies have been conducted to evaluate differential benefits among origin-associated collective trademarks, GIs and provenance?

► Who is benefitted by a GI IOOC system?
Study on the Olive Oil Value Chain and Price Setting in Spain

- + 50% of oils marketed with private label brands.
- 10%-12% leading brands.
- The rest corresponds to small producers that trade locally.
- 31 PDOs - 2% of total - 25,000 tons
Estudio elaborado por la Agencia del Aceite de Oliva de España. Enero de 2010
Will the current market equation change with the IOOC system of GI protection?

Does a commodity turn into a specialty product just with a GI?

Why has the CAP III for the development of GIs not succeeded in changing or avoiding the current sales structure of olive oils in Spain, Europe and their exports to the rest of the world?
WHAT REAL BENEFITS HAVE BEEN GAINED FROM OTHER GI AGREEMENTS?

WHAT REAL BENEFITS WOULD DEVELOPING COUNTRIES WITH NO GIs TO PROTECT HAVE?
MARKET STRATEGIES IN NEW WORLD COUNTRIES

WHAT DO CONSUMERS LOOK FOR?
DO CONSUMERS IDENTIFY THE INTRINSIC CHARACTERISTICS OF A PRODUCT WITH ITS GEOGRAPHICAL ORIGIN? OR MAKE A CHOICE BASED ON ORIGIN?

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Conclusions

► The TRIPS Council has not managed to solve the unresolved GI issues.
► To date, GIs remain an EU policy.
► Policy of unclear results in terms of costs and consumer awareness.
► The IOOC should continue discussing GIs before addressing the negotiation of a mutual recognition system.
► What is the benefit for developing countries with no GIs?
THANK YOU
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