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## GI Protection Gets Boost In BRICs; Common Definition Needed For International Debates

By Catherine Saez, Intellectual Property Watch on 09/10/2012 @ 10:52 pm

The protection of geographical indications at the international level is a brainteaser which translates into lack of progress in several fora, to the dismay of geographical indications proponents, according to speakers at an event last week. A publication was launched by GI advocates at the event, aimed at providing producers in emerging economies with useful tools to protect their GIs.

On 4 October, alongside the World Intellectual Property Organization General Assemblies, the Organization for and International Geographical Indications Network (OriGIN) launched its latest publication during a side event co-organised with the permanent mission of Italy to the United Nations.

The manual entitled "Protecting the Geographical Indications in Emerging Economies (Brazil, Russia, India and China – BRICs countries <sup>[1]</sup>)" aims at helping producers in developing countries to understand the concept of GIs, said one of the authors, Giorgio Bocedi, an Italian lawyer specialised in intellectual property and food law. It also aims at providing GI producers a practical tool to get protection for their GIs in key export markets in which there is a middle class who can afford to buy those products, said Massimo Vittori, managing director of OriGIN.

The publication looks at the sui generis system of intellectual property protection established by the four BRICs countries, Bocedi said. Some common aspects tie together the four systems, but notable differences can also be found, he said. For example, one such common aspect is the low fees for the registration and the maintenance of GIs, he said.

According to Jorge de Paula Costa Avila, president of the National Institute of Intellectual Property in Brazil, "the issue of GIs is possibly one of the most interesting issues in the IP scenario". GIs might protect not only spirits and agricultural products, but also all kinds of products alike handicrafts, he said. Brazil is a large country with many different well-known regional products that become well-known nationally but not worldwide, he said. The institute helps producers get organised to protect their products.

One example of such products is "golden grass," he said, a special grass growing near the southern border of the Amazon. When collected at certain periods it becomes very golden and resembles spun gold. Many handicrafts are made from this grass, he said.

There are now 29 GIs for Brazilian products registered in Brazil and 6 GIs for foreign products, he said. The most interesting thing about GIs protection, Avila added, is that it helps producers get better organised and think about their market strategies.

Scattered Definition and Concepts, WIPO Says

GIs refer to goods that have a specific geographical origin and display qualities or characteristics that are directly linked to that geographical origin, according to most definitions. Examples of GIs include champagne, tequila, Turrón de Alicante, and prosciutto di Parma.

According to Matthijs Geuze, head of the International Appellations of Origin Registry at WIPO, one of the problems of international discussions about GIs is the diversity of definitions and approaches in different national systems. As shown by the new OriGIN publication, he said, four countries already show quite important differences toward GIs. Trademark systems and patent systems have more or less the same definition globally, but that is not the case for GIs, he said.

One definition springs from the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and another can be found in the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, he said. But there are

several others as well. That is part of the difficulty at the international level.

In terms of GIs, WIPO is administering several treaties providing protection, the first one of which is the Paris Convention for the Protection of Industrial Property <sup>[2]</sup>. It contains a provision against false indications of source. The Madrid System for the International Registration of Marks <sup>[3]</sup> contains measure to fight against false and deceptive indications of source, and the Lisbon System for the International Registration of Appellations of Origin <sup>[4]</sup>.

#### Lisbon System under Review

The Lisbon System has only 27 members while the Madrid system has 88, and this constitutes one of the major differences between the two instruments, he said. That is one of the reasons why the Lisbon System is currently under review, he added. The sixth meeting of the working group on the development of the Lisbon System will take place from 3-7 December <sup>[5]</sup>.

The initial mandate of the working group was to look for improvements to the Lisbon System to make it more attractive for countries and users, while preserving the principles and objectives of the Lisbon Agreement, Geuze said. But after the last meeting of the working group in June, this mandate was refined to follow a two-fold objective: first to revise the legal framework and to provide full accession possibility for intergovernmental organisations, such as the European Union or the Organisation Africaine de la Propriété Intellectuelle (OAPI). The second objective is to establish an international registration system for geographical indications. The Lisbon System provides a definition for appellations of origin while many countries only have a definition for geographical indications, he said.

The Madrid and Lisbon systems have similar procedures of registration and the protection has to be first sought in the requesting country, Geuze said. For the Lisbon System, the protection can then be registered under the system and is automatically extended to the other members of the system. However, countries have a right to refuse to protect an appellation of origin.

For example, the first registration of the Lisbon system was for a Czech Republic beer: Plzeň. Six countries initially refused to protect it <sup>[6]</sup>, he said. France because it said the appellation of origin did not meet the national definition, the former Yugoslavia because it was a generic name in the territory, Macedonia for the same, Peru because there was an earlier trademark, Iran because it is an alcoholic beverage, and Mexico because of an earlier trademark, but the country withdrew its opposition later on. So for five countries, there are five different situations, Geuze said.

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[1] Protecting the Geographical Indications in Emerging Economies (Brazil, Russia, India and China – BRICs countries): [http://www.origin-gi.com/index.php?option=com\\_content&view=article&id=2289:origin-latest-handbook-gis-brics&catid=33:regular-update-on-gis&lang=en&Itemid=](http://www.origin-gi.com/index.php?option=com_content&view=article&id=2289:origin-latest-handbook-gis-brics&catid=33:regular-update-on-gis&lang=en&Itemid=)

[2] Paris Convention for the Protection of Industrial Property: [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html)

[3] Madrid System for the International Registration of Marks: <http://www.wipo.int/madrid/en/>

[4] Lisbon System for the International Registration of Appellations of Origin: <http://www.wipo.int/treaties/en/registration/lisbon/>

[5] 3-7 December: [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=27683](http://www.wipo.int/meetings/en/details.jsp?meeting_id=27683)

[6] refused to protect it: <http://www.wipo.int/ipdl/en/lisbon/key.jsp?KEY=1>

[7] Most-Read *IP-Watch* Posts Of 2011 Tell Story Of International IP Policymaking: <http://www.ip-watch.org/2012/01/03/most-read-ip-watch-posts-of-2011-tell-story-of-international->

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[8] New Guide Issued To Help Developing Countries Embrace GIs, As WTO, WIPO Meet:

**<http://www.ip-watch.org/2011/12/10/new-guide-issued-to-help-developing-countries-embrace-gis-as-wto-wipo-meet/>**

[9] South Africa Hopes New Bill Brings Traditional Knowledge Protection: **<http://www.ip-watch.org/2012/05/17/south-africa-hopes-new-bill-brings-traditional-knowledge-protection/>**