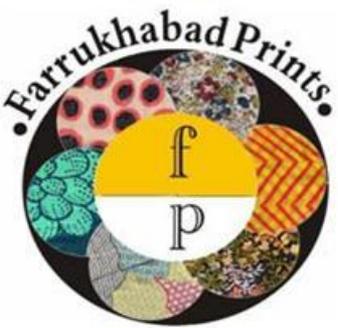
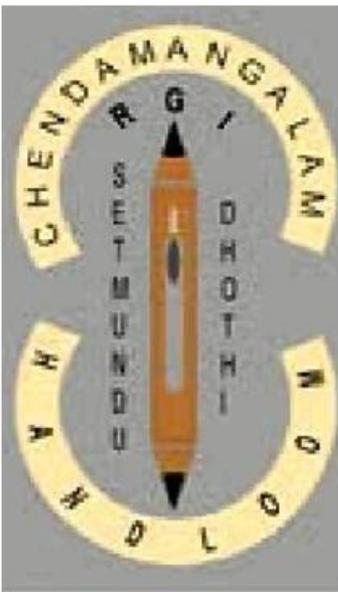




GI Act – in India



- India's journey with Geographical Indications (GI) started 10 years back in 2003, when the GI Act and Rules came into force. In order to comply with India's obligations under the TRIPS agreement.
- India enacted the Geographical Indication of Goods (Registration and Protection) Act, 1999 which came into force with effect from September 15, 2003.
- The Act is administered by the Controller General of Patents, Design and Trademarks, who is the Registrar of GIs
- From the perspective of developing country, one of the best features of the Indian Act is the comprehensive definition given to GI –
- Goods qualify for GI Registration and Protection include:
 - Agricultural
 - Handicrafts &
 - Manufactured goods (includes foodstuffs)



Legislation

- Legislation in India is very detailed as to the particular conditions for registration. The application may comprise a listing of all producers of the GI in question **individually** or a **collective reference** to them
- Actual filing of an application to register a GI in India must include at least the following:
 - An authorized demarcation map of the territory
 - A description of the special quality, reputation or other characteristic unique to the environment, culture, or human skills, and of how the GI serves to designate the goods
 - An inspection structure to regulate the use of the GI, including details of the mechanism to ensure that the standards, quality, integrity and consistency of the noted characteristics are maintained
 - An affidavit that the applicant claims to represent the interest of all the producers
- Foreign applicants who wish to register their GI in India must follow **similar procedure**, applying through an **Indian-based representative** and providing an address for service in India



Law Registration

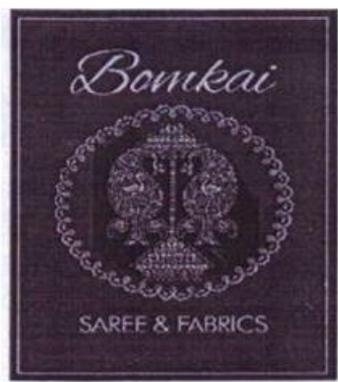


- Provides for registration of GIs, Proprietors & Authorized Users
- Any association of persons or producers
 - or any organization/authority established by or under law
 - which represents the interests of the producers of the concerned goods can move the application for registration
- GI Registry set up in Chennai
- Registration valid for 10 years; unrestricted renewals
- Registration prima facie evidence.



Procedure for Registration

- Filing of application before the Registrar
- Examination by Registry/Consultative Group
- Registrar either refuses or accepts subject to conditions
- Advertisement for opposition
- 3 months time for opposition
- If no opposition, registration
- In case of opposition, copy given to applicant
- 2 months for filing counter statement



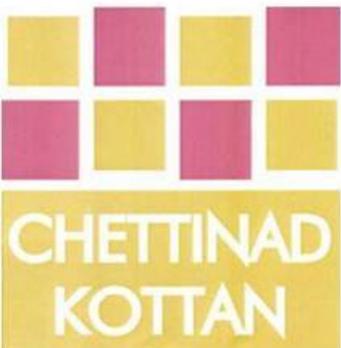


Procedure for Registration contd.



- If no counter statement filed, then the application is deemed abandoned
- Copy of counter statement provided to the opponent
- Hearing of parties, if so desired
- Registrar can rely suo motu, on grounds of opposition not raised by opponent
- Registrar may add conditions or limitations
- Registration if no opposition or if opposition decided in favour of the applicant
- Issue of registration certificate.

Law Rights and Infringement



- **Exclusive right to**
 - Use the GI on the goods and
- **Obtain relief for infringement**
- **Use by any person not being an authorized user in such a manner which misleads as to the geographical origin of the goods or which constitutes an act of unfair competition including passing off is an infringement of the right**
- **Dealings in the lawfully acquired goods by the person who acquired the same and for processing/packaging of such goods are not infringement.**

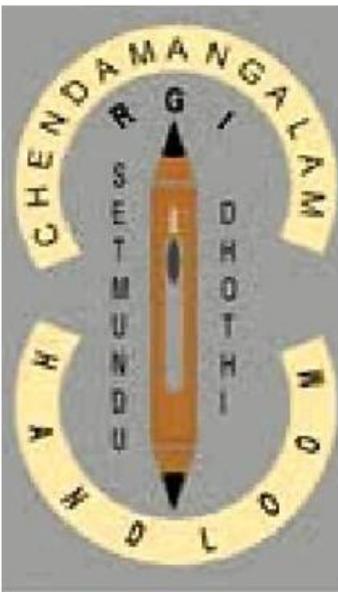
Law Rights & Infringement contd.



- Both civil and criminal remedies available
- Civil action for injunction, claim for damages or accounts and destruction of infringing labels
- Criminal remedies for falsification of a GI, falsely applying a GI to goods, selling goods to which false GIs have been applied and falsely representing a GI as registered
- A cognizable offence which a police officer not below the rank of DySP is entitled to search and seize goods, die, block, machine, plate, etc. after obtaining prior opinion of Registrar 'on the facts involved'.
- Imprisonment for 6 months to 3 years plus
- fine Rs 50,000 (US \$ 1200) to Rs. 200,000 (US \$ 4800) for first offence
- Enhanced penalty for second or subsequent conviction i.e., Imprisonment ranging from 1 year to 3 years plus fine Rs. 100,000 (\$ 2400) to Rs. 200,000 (\$ 4800) .



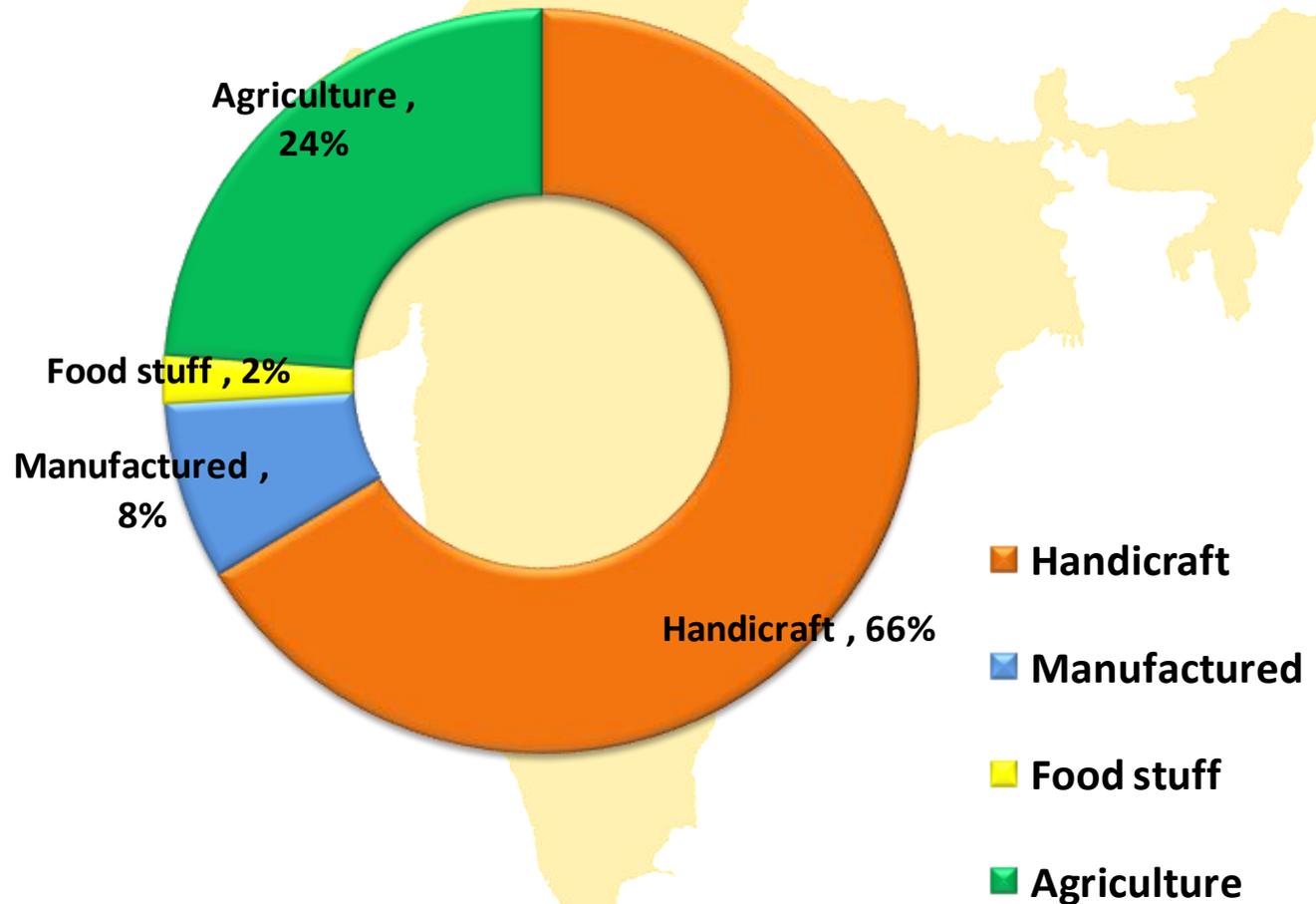
Distribution of Indian Registered GIs

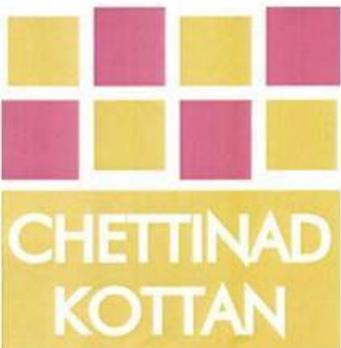


Year	Handicraft	Manufacturing	Food stuff	Agriculture	Total	%
2004-05	02			01	03	02
2005-06	18	04		02	24	13
2006-07	01			02	03	02
2007-08	19	01		11	31	16
2008-09	33	01	01	10	45	23
2009-10	07	01	01	05	14	07
2010-11	15	04	02	08	29	15
2011-12	15	03		05	23	12
2012-13	18	01		02	21	11
Total	128	15	04	46	193	
%	66	08	02	24		100



Distribution of Indian Registered GIs across Sectors during 2004-13



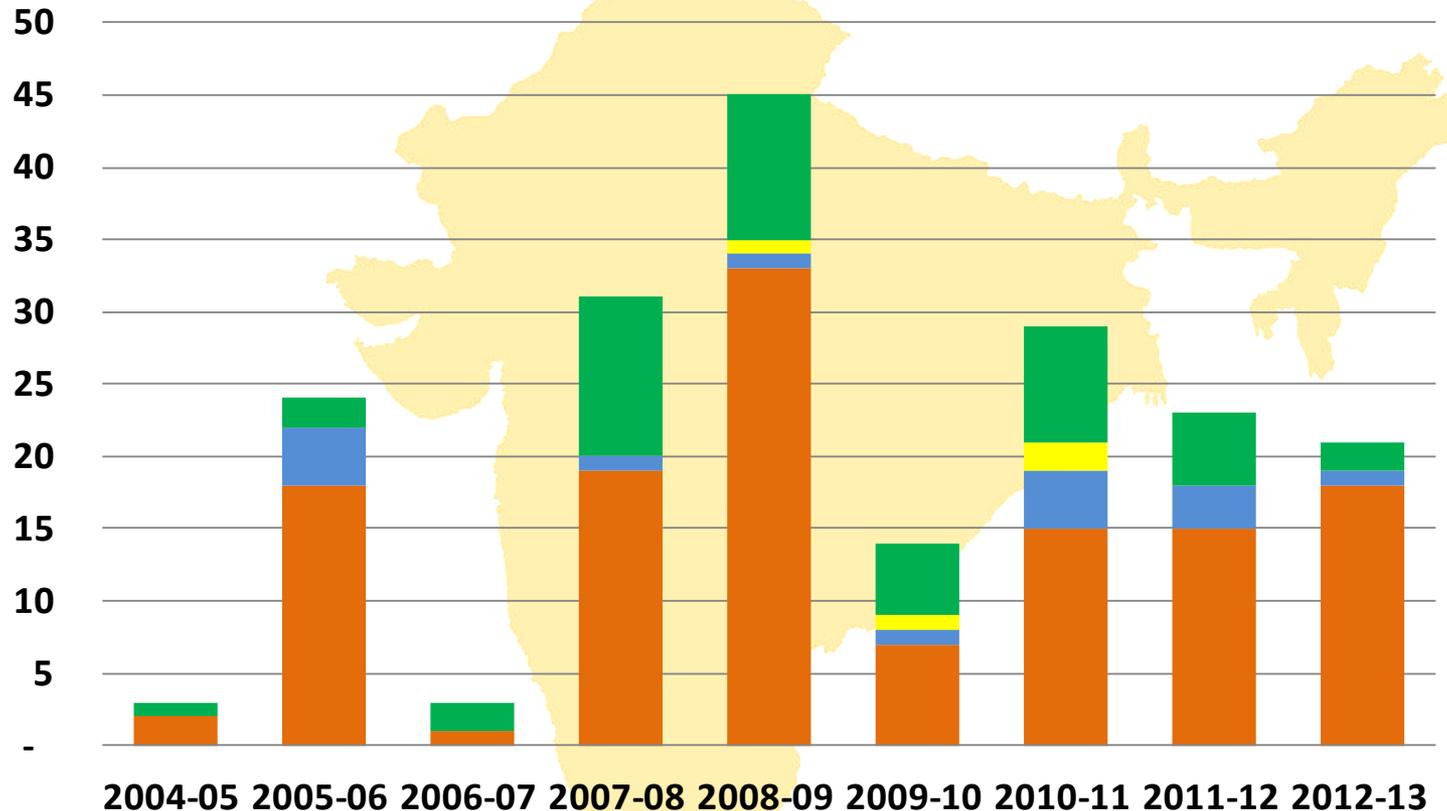
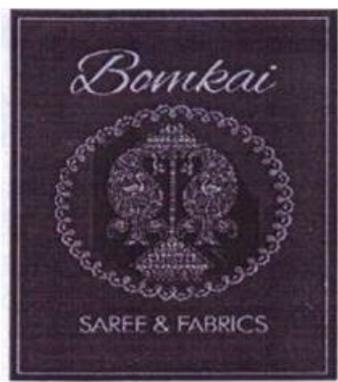


India's Experience with GI Protection

Product types

- Of the 193 Registered GIs , only around one forth (24 percent) are agricultural Products and rest of all (76 percent) from Non-agricultural products.
- On this more than half (66 per cent) are handicrafts, followed by 8% from manufactured goods and 2% from food stuff
 - Handicrafts have been the most registered GIs consistently
 - Food products registered in the GI basket of India during 2008-09, when Dharwad Pedha from Karnataka was granted the status of a registered GI product.
 - The increase in manufactured products being registered as GI can be partially attributed to more foreign products being registered at the Indian GI Registry.

Distribution of Indian Registered GIs across the Year/Sectors during 2004-13



Handicraft Manufactured Food stuff Agriculture



India's Experience with GI Protection

Year wise Growth

- Since 2003, with the first application for registration of 'Darjeeling Tea' the filing has reflected an escalating trend. In the year 2004-2005 only 4 registrations were granted. The year 2008-09 witnessed a huge hike in the number of applications filed for GI registration as can be seen from the graph. However this reduced in the following year and then the trend was stabilized during the following years.





Region wise Distribution of Indian GIs



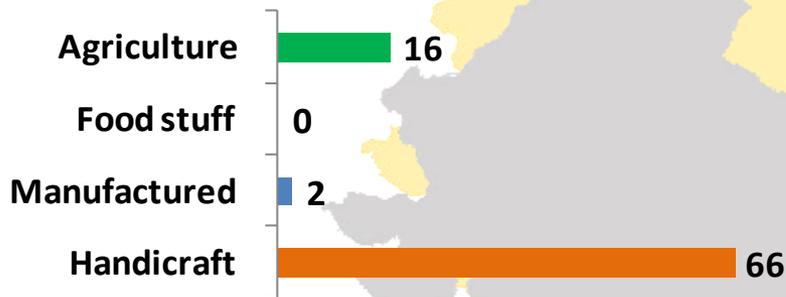
Region	Handicraft	Manufactured	Food Stuff	Agriculture	Total	%
South	62	05	03	30	100	52
North	38			04	42	22
West	10	02		04	16	08
East	18			08	26	13
Outside Countries		08	01		09	05
Total	128	15	04	46	193	
%	66	08	02	24		100



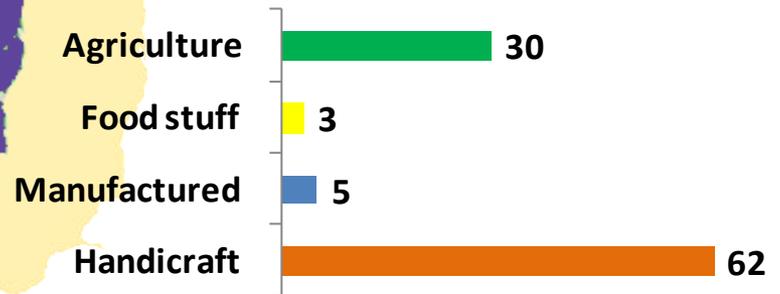
Region wise distribution of GI



Rest of India (84 GIs/ 44%)



Southern India (100 GIs/ 52%)



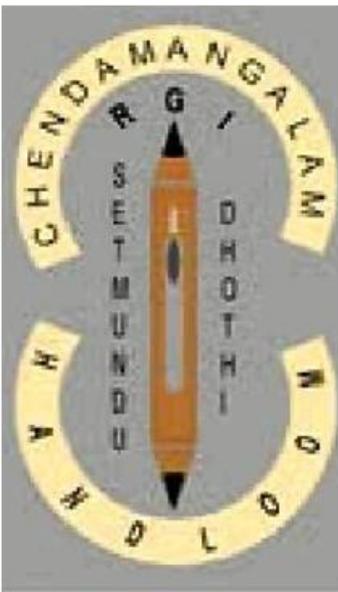


India's Experience with GI Protection

Region wise Registrations



- An interesting trend that can be noticed is the state of origin of various registrations. **The southern States in India have topped the charts in obtaining GI registrations as against the rest of the States.**
 - the state of Karnataka is leading the way with 32% of GI registrations followed by the state of Tamil Nadu with a total number of 24% registrations. Andhra Pradesh 22% and Kerala 20% are also not far behind, falling in the third and the fourth In position respectively. These four states together account for over 50 % of the total GI registrations granted in India
- **The spread of GI recognition is concentrated in the southern states. Products from other states are getting registered now.**
 - There are only three GIs from all of north east India.
 - The states of Punjab and Haryana have no GI either except for a joint GI on Phulkari embroidery along with Rajasthan.
 - Phulkari is the only GI in India which covers more than one state.
- **Since 2009, 9 foreign products (8 manufactured and 1 food) have been accorded the status of registered GI under the Indian Act.**
 - These are Champagne and Cognac from France, Scotch Whisky from the United Kingdom, Napa Valley wines from the United States of America, Porto & Douro wine from Portugal, Peruvian Pisco from Peru and Prosciutto di Parma from Italy

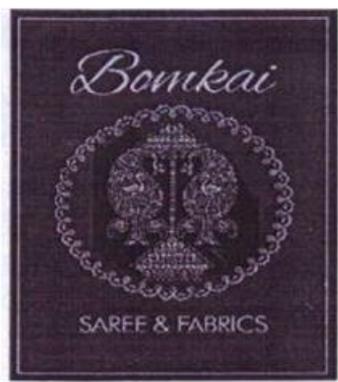


Impacts of GI registration in India:

- A number of observers point out that of all the different types of intellectual property rights, GI may be **more amenable** to the particular context of developing countries.
- GIs may especially facilitate **protection of the collective rights** of the rural and indigenous communities in their indigenous knowledge, ensuring that the entire community which has preserved the knowledge and has passed it on with incremental refinement over generations, stand to benefit from the knowledge and that this is not locked up as the private property of one individual
- Other advantages of GIs are that the **knowledge remains in the public domain**, the scope of protection is limited to controlling the class and/ or location of people who may use the protected indication and the rights can potentially be held in perpetuity as long as the product-place link is maintained
- Also, holders of a GI do not have the right to assign the indication, thus, preventing its transfer to non-locale producers.

Impacts of GI registration in India contd.

- A geographical indication (GI) acts as a mechanism that helps producers **differentiate their products** from competing products in the market and enables producers **to build a reputation and goodwill** around their products that will fetch a **premium price**.
- Prevents unauthorized use of a registered geographical indication by others;
- Enables seeking legal protection in other WTO member countries.
- Registering GIs for non-agricultural in particular to handicrafts and textiles could help the revival of traditional Indian crafts that are disappearing
- Enhancement of brand value
- To retain product quality
- Enhanced profit post registration



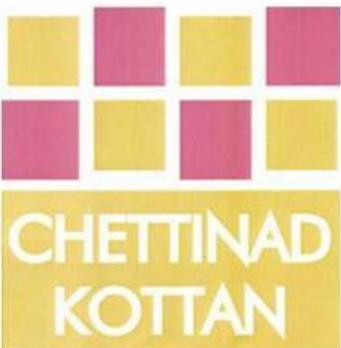


Challenges



- Analysis of the legal framework as well as experiences with registered GIs indicate the presence of number of challenges
 - It only **protects the name** or indication **not the knowledge** or technology
 - **Ambiguity in the definition** of the term 'Producer' in the legislation which does not distinguish between real producer, retailer or dealer. As a result of this, the benefits of the registration may not percolate down to the real producer – it may so happen that, they may not even consulted/involved in the process
 - Defining the exact **geographical boundaries** of a product is often a big challenge, particularly in the context of non-agricultural products
 - Constant need for **building capacity** and **awareness** about GIs among stakeholders including consumers

Challenges



- **Who should be the applicant?**

- Though the applicant for the GI is required to be legitimately representative of all the producers in the GI region, this may be difficult to prove in practice

- **Quality Assurance**

- **Maintaining** to serve the desired goals of providing an assurance of quality to the consumers and socio-economic benefits to the producers
- While the GI system is based upon quality, reputation and characteristics, **there are no provisions** within the Act to ensure such traits, as desired in the initial registration, are maintained post-registration. Even though this is mentioned in the application inspection structure, there are no provisions for managing inspections or validation after the registration has been approved.
- Some times registered without reference to an inspection body, but with only a mention such as “under preparation”
 - **There is a proviso that such lack of control can be grounds for the GI to be cancelled from the registry upon application to the Registrar by an interested party and investigation**

Challenges



- Evidence on the socio-economic impacts of GIs in the Indian context are, however, limited although anecdotal evidence suggests that GIs have significant implications for producers in developed and developing countries
- Interestingly, the collective nature of GIs also brings to the fore significant collective action related problems across various stages of organization and governance .
 - For example, a group of producers may take the initiative in the GI registration process, while others not willing to join initially may join later thereby attempting to free-ride on the efforts of the forerunners.



Today GI in India

- The Geographical Indications Registry has granted 193 registrations for various Geographical Indication Applications in India
 - Number of Applications Filed-458
 - Registered Applications- 193
 - Remaining are Pending
 - On this more than 100 applications are from out side India
- Ten years down the line, evidence from the ground suggests that while there has been some progress in terms of number of goods registered under the GI Act, there remain a number of issues and concerns in the context of harnessing the potential commercial benefits out of GI registration in India. it is important to understand that only registration of goods per se does not fulfil the objectives of the Act, unless it is backed by sound enforcement mechanism both in domestic and export markets



GI Road Map for tomorrow

- Given India's historically vibrant and famous craft traditions, a number of craft genres and products from the crafts sector qualify as GI goods. If harnessed properly, trade gains from enhanced sale of these GI goods could provide tremendous socio-economic benefits to the producers of such goods. India,
- Countries like India have **more GIs in the non-Agricultural goods**
- As per the rough estimate there are **over 1000** products which qualify for GI tags in India
- These are in the SME and **mostly rural** sector
- Have potential to transform rural economy if properly exploited.
- Need extension of higher level of protection currently provided only to wines and spirits to all products
- If any multilateral register is to be established for GIs, then that should include all products and restricted to wines and spirits.



GI Road Map for tomorrow contd.

- **Actions to explore possibilities of products which qualify for GI tags and facilitate creation of IP value**
 - **To Accelerate pro-active approach of the governments**
 - **Industry Federations/Associations & NGOs to contribute significantly**
 - Identify products to qualify for GI Tag
 - Facilitate club formation
 - Technical assistance programmes
- **series of workshops and consultations to ensure maximum level active participation in the process for GI registration. This will in turn translate into socio-economic benefits to the community flowing from GI registration post-GI.**
- **Well-crafted policies and strategies on post-GI mechanisms are required for marketing, distribution, branding and promotion of the Indian GI products to realize the commercial potential of Indian Gis.**



GI Road Map for tomorrow contd.

- **Success in exploiting the economic potential of a GI, to a great extent, depends on effective marketing and promotional efforts to develop consumer perceptions about the 'niche' acquired by the product on account of product-place link. Building up reputation about a GI-product is not an easy task, however. It takes a lot of time, patience, money, quality control and a well crafted marketing strategy to create a valuable GI brand. Champagne, for instance, took 150 years to build up reputation and goodwill.**
 - **Attempts required by the Central & State Government to tap this potential by merging GI promotion with the department of tourism, promoting producer companies and other promotional measures**
 - **There is the need for setting up a national level fund for fighting against infringement, brand building and promotional efforts of GI products.**



GI Road Map for tomorrow contd.

- **There is a dearth of literature from an Indian perspective on potential benefits from GI protection**
 - **studies need to be available to address some of the pertinent questions related to GI and its development potential such as:**
 - **What are the price premium consumers are willing to pay for goods protected under GI and given the ground realities,**
 - **whether and how much the commercial benefits from GI protection**
 - **will percolate down to the downstream supply chain?**
 - **What implication will GI protection have in for rural development in India?**
- **The implications of GIs in the context of rural development in India need to be studied especially for sectors like agriculture, fisheries, crafts and artisanal works that provide livelihood for a large section of the poor in India. Studies of the entire supply chain should be undertaken. Without a collective body of empirical evidence on the impact of geographical indications, policy decisions in the developing world will remain uninformed, potentially producing unintended welfare impacts.**

**“Life can only be understood
backwards; but it must be lived
forwards.”**

— [Søren Kierkegaard](#)

- Danish philosopher and theologian



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