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Comparative Perspectives on the Protection of Food Geographical Indications in Asian Countries

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Abstract

The significance of food is beyond its gastronomic value. Food symbolises a community's enriched past and holds cultural expressions and traditional knowledge. The linkage of food with religious beliefs, geo-climatic factors, social standards, and various health benefits builds the reputation of the food, which is essentially attributable to its geographic origin. Following the ratification of the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS), the contracting states that have enacted Geographical Indications (GI) legislation (particularly those in Asia) have come forward to protect foodstuffs as GI in order to safeguard their communities and their traditional knowledge associated with foodstuffs. Against this background, the present article attempts to compare foodstuff GIs in eight selected Asian countries with a *sui generis* system of GI protection as TRIPS compliance. The comparative analysis of the evolution and scope of foodstuff protection, pre-registration and post-registration impact, and quality maintenance provides important insights into convergence and divergence among the selected Asian countries. The study further identifies policy implications for the sustenance of GI.

Keywords: Geographical indications (GI); Foodstuff GIs; Comparative Analysis; Asian GI; GI Legislation; Intellectual Property Law

Introduction

Food, beyond its role in sustaining life, is central to human existence and holds great cultural, regional, and religious significance. In addition to its gastronomic value, the method of preparation, the raw materials used, the way of serving,¹ and the events associated with it make food valuable. Food links people and places. The association of food with the identity of people or communities also leads to its diversity.² One of the reasons for food diversity is the different ways in which humans have interacted with their environment and adapted to geo-climatic conditions. Food has been an integral part of social, economic, and traditional status.

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¹Wahyudi David & Daniel Kofahl (eds), *Food Culture of South East Asia: Perspectives of Social Science and Food Science* (Kassel University Press 2017).

²Padmavati Manchikanti, Sayantani Datta & Tapas Kumar Bandyopadhyay, 'Foodstuffs and Geographical Indications in India: An Analysis', in Niharika Sahoo Bhattacharya (ed), *Geographical Indication Protection in India: The Evolving Paradigm* (Springer 2022).

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The Asian continent is rich in aborigines with a great diversity of culture, tradition, and food habits. While there are shared socio-cultural practices in Asia, there is a striking diversity of food practices. Food habits are so enormously diverse that their regular practice in the community over centuries has led to their adaptation into culture (commonly known as food culture). Invasions, colonial rule, and the introduction of new regulations and laws, world wars, natural calamities, and other events have all influenced food practices in Asian countries.³ This diversity is not just confined to disparities between countries, it also manifests within their boundaries.⁴ Notably, food culture in Asia involves standardisation of traditional knowledge passed down from one generation to another. The adaptation of food reflects various factors such as a place's topography, climatic conditions, and people's customs and traditions. India is one such example, where the profession of the people in a particular topography shapes the immense diversity of their cuisine.⁵

Ecological and economic necessities have led to innovations in the food sector. This was prevalent among the local communities in specific topographies. For example, the inhabitants of the mountainous areas of Europe used hard cheese-making to preserve summer milk production.⁶ High-value foods like wines and cheese, as well as essential products like fish and salt, also attracted the attention of trade. The circulation of food products with an extensive geographical history in the trade circle is more prominent than that of agricultural and craft productions based mainly on local resources.⁷ The 'Geographical Indications (GI)' product tag represents a well-drafted and safeguarded Code of Practice (CoP). It stands as a symbol of quality that attracts a large number of consumers.

Many countries, including India, Sri Lanka, Bangladesh, and Thailand, have negotiated the extension of GI protection to products beyond wines and spirits. They included a broader definition of 'goods' in their *sui generis* legislation. Agricultural products, foodstuffs, and handicrafts are popular classes of goods in addition to wines and spirits that have been recognised for protection by most countries. Apart from the European Union (EU) countries, Asian countries like India, Japan, Bangladesh, Cambodia, Thailand, Indonesia, Malaysia, and Singapore have expressly included foodstuffs and agricultural goods in substantive laws and/or practice. This article aims to analyse the scope of protection of foodstuff GIs and their significance in the selected Asian countries, ie, India, Bangladesh, Japan, Malaysia, Cambodia, Indonesia, Thailand, and Singapore. These countries were selected because they have a *sui generis* system and specifically recognise foodstuffs for GI protection. The scope of protection of processed GI foodstuffs includes sweets, syrups, meat, fish, eggs, and other food products that are readily consumable by humans.

Although the need for studies on the impact of GI registration in developing countries⁸ has been highlighted, research on GI laws of South Asian countries is very little; in particular, only one comparative study is available.⁹

The existing narrative focuses on the significance of GIs in developing and least-developed countries.¹⁰ The effects of GI registration has been analysed through a few country-specific (Asian) case

³Pushpesh Pant, 'INDIA: Food and the Making of a Nation' (2013) 40 *India International Centre Quarterly* 1.

⁴Walter F Carroll, 'Asian Cuisine: Ethical considerations', in David M Kaplan (ed), *Encyclopedia of Food and Agricultural Ethics* (1st edn, Springer 2014).

⁵Padmavati, Datta & Bandyopadhyay (n 2).

⁶Gilles Allaire, François Casabianca & Erik Thévenod-Mottet, 'Geographical Origin: A Complex Feature of Agro-Food Products' in Elizabeth Barham & Bertil Sylvander (eds), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International 2011).

⁷*ibid.*

⁸Lina Monten, 'Geographical Indications of Origin: Should They Be Protected and Why? An Analysis of the Issue from the U.S. and EU Perspectives' (2006) 22 *Santa Clara High Technology Law Journal* 315.

⁹Delphine Marie-Vivien, 'Protection of Geographical Indications in ASEAN countries: Convergences and challenges to awakening sleeping Geographical Indications' (2020) 23 *The Journal of World Intellectual Property* 328.

¹⁰United Nations Conference on Trade and Development (UNCTAD), 'Why Geographical Indications for Least Developed Countries (LDCs)?' (2015) <https://unctad.org/system/files/official-document/aldc2015d4_en.pdf> accessed 30 Jul 2022.

studies,¹¹ and the socio-economic significance of GI protection in these countries has been discussed.¹² GIs, as club goods, balance the market by helping consumers to make informed choices.¹³ Agricultural and handicraft GIs have been studied to protect traditional knowledge and local communities. Some of these studies are on *Pokkali* rice and *Navara* rice from Kerala, India;¹⁴ *Jasmine* rice from Thailand; *Gayo* coffee and *Toraja* coffee from Indonesia;¹⁵ Indian handicraft products like *Aranmula Kannadi* mirrors, *Kondapalli* toys, *Thanjavur* paintings,¹⁶ and *Chhauumasks*; *Jamdani* saree from Bangladesh;¹⁷ and *Batik* woven fabrics from Indonesia.¹⁸ The effect of GI registration of products has been studied in Japan for *Miyagi* Salmon, *Jusanko san Yamato Shijimi* clams, *Yonezawa* beef, *Maesawa* beef, *Higashine* cherry, *Aomori* cassis, and *Odate Tonburi* fruit.¹⁹ The impact of GI protection on Japan's *Mishima* potato demonstrates the potential of GIs to enhance sustainable development.²⁰ The post-registration impact studies in Indonesia²¹ relate either to general registered products or specifically to the coffee sector.²² Studies from countries like Malaysia,²³ Thailand,²⁴ India,²⁵ and Bangladesh do not discuss the impact of GI registration (including the challenges). Some studies on the governance mechanism of GIs are available for Indonesia, Bangladesh, Japan, and India. Nevertheless, community governance of GIs and post-registration quality control factors are not analysed. The need for promotional management and fluidity of economic chains in Bangladesh for GIs to survive in the market²⁶ has been highlighted. Indian studies

¹¹N Lalitha & Soumya Vinayan, *Regional Products and Rural Livelihoods: A Study on Geographical Indications from India* (1st edn, Oxford University Press 2019); Mahua Zahur, 'The Geographical Indication Act 2013: Protection of Traditional Knowledge in Bangladesh with Special Reference to Jamdani', in Irene Calboli & Wee Loon Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (Cambridge University Press 2017).

¹²Dwijen Rangnekar, 'The Socio-Economics of Geographical Indications: A Review of Empirical Evidence from Europe' (UNCTAD-ICTSD Project on IPRs and Sustainable Development, Issue Paper No 8, May 2014) <https://unctad.org/system/files/official-document/ictsd2004ipd8_en.pdf> accessed 30 Sep 2022.

¹³ibid.

¹⁴Michael Blakeney et al, 'Traditional Rice Cultivation in Kerala', in Michael Blakeney & Kadambot HM Siddique (eds), *Local Knowledge, Intellectual Property and Agricultural Innovation* (Springer 2021).

¹⁵Rr Aline Gratika Nugrahani, 'Protection of Local Products Through the Law of Geographical Indication' (Proceedings of the 2nd International Conference on Business Law and Local Wisdom in Tourism 2021) <<https://www.atlantis-press.com/proceedings/icblt-21/125965312>> accessed 10 Oct 2022.

¹⁶Lalitha & Vinayan (n 11).

¹⁷Zahur (n 11).

¹⁸Gratika Nugrahani (n 15).

¹⁹Ai Tashiro, Yuta Uchiyama & Ryo Kohsaka, 'Internal processes of Geographical Indication and their effects: an evaluation framework for geographical indication applicants in Japan' (2018) 5 *Journal of Ethnic Foods* 202.

²⁰Junko Kimura & Cyrille Rigolot, 'The Potential of Geographical Indications (GI) to Enhance Sustainable Development Goals (SDGs) in Japan: Overview and insights from Japan GI Mishima Potato' (2021) 13 *Sustainability* 961.

²¹Claire Durand, Stéphane Fournier & Erik Thévenod-Mottet, 'Effects of geographical indication registration and activation: thoughts on the Indonesian situation' (25th Congress of the European Society for Rural Sociology, 29 Jul 2013–1 Aug 2013) 321 <<https://hal.inrae.fr/hal-02749882>> accessed 30 Sep 2022.

²²Jeffery Neilson, Josephine Wright & Lya Aklimawati, 'Geographical indications and value capture in the Indonesia coffee sector' (2018) 59 *Journal of Rural Studies* 35.

²³Tay Pek San, 'Legal Protection of Geographical Indications as a Means to Foster Social and Economic Development in Malaysia', in Irene Calboli & Wee Loon Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (Cambridge University Press 2017).

²⁴Pradyot Ranjan Jena et al, 'Geographical indication protection and rural livelihoods: insights from India and Thailand' (2015) 29 *Asian-Pacific Economic Literature* 174; Chuthaporn Ngokkuen & Ulrike Grote, 'Challenges and Opportunities for Protecting Geographical Indications in Thailand' (2012) 19 *Asia-Pacific Development Journal* 93.

²⁵Akshita Agrawal & Bhawana Chanana, 'Handloom and Handicraft Sector in India: A Review of Literature on its Demand in the Market and Availability of Original Product' (2021) 3 *International Journal of Education, Modern Management, Applied Science & Social Science* 203; Soumya Vinayan, 'Geographical indications in India: Issues and challenges—an overview' (2017) 20 *The Journal of World Intellectual Property* 119.

²⁶Sabiha Matin & Shahid Hussain, 'Geographical Indications in Bangladesh Supply Chain: What Needs to Be Done Now?' (2018) 7 *International Journal of Supply Chain Management* 591.

have dealt with the GI governance of handicraft products like *Benarasi saree*,²⁷ *Aranmula Kannadi* mirrors, *Pochampally Ikat saree*, and *Swamimalai* bronze icons.²⁸ Indian agricultural GIs have also been discussed in existing studies on GI governance.²⁹

Although there is a large body of work dealing with the origin of foodstuffs in the EU, foodstuffs of Asia remain to be explored. The present study highlights the evolution of foodstuff GI protection in Asia, including registration requirements, scope of protection, application requirements, and quality control measures in Asian countries. It also examines the post-registration aspects, focusing on quality control measures and the authorised users' recognition in the respective domestic legislation.

The paper is structured as follows: the first part discusses the Asian food culture, the relation between foodstuffs and GI, and the existing gaps. The second part discusses the evolution and scope of protection of foodstuffs GI in the selected countries, followed by the substantive and procedural pre-registration requirements for foodstuff GI registration. The third part of the paper reviews the post-registration quality control and recognition of the authorised users or producers' communities. The critical aspects identified in the study are discussed in the conclusion, together with the policy implications.

Methodology

A comparative qualitative analysis method has been utilised in this study. The qualitative data were collected from primary and secondary sources like statutes and scholarly works for the selected countries. The parameters of the study include the definition of the term 'foodstuff GIs', the scope of protection of foodstuffs as GI in the selected countries, and the similarities and differences in the registration requirements for food products from the statutory perspective. The evolution of the GI protection of foodstuffs is identified on the basis of the enactments in the different countries in two stages, ie, the laws prior to accession to the World Trade Organisation (WTO), and the legislative approaches adopted for foodstuffs GI protection in compliance with the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS).³⁰ The pathway towards *sui generis* protection of GI, especially foodstuffs GIs, post TRIPS is analysed on the basis of information available on the intellectual property websites of the respective countries.

The post-registration management of GI products is analysed in terms of the information on quality control of foodstuff GIs provided by producers, the recognition of producers, and the registration of authorised users. Legislations were studied in detail to understand the requirements for quality control of registered foodstuffs. Published works on the recognition of authorised users' recognition and the further impact of GI registration on the quality of the products were analysed.

Results

Evolution of Protection of Foodstuff GIs

Member states to WTO either continued with their existing system of protection (like the US and Australia) or enacted a *sui generis* system to comply with TRIPS. However, the selected countries created their respective specific laws to protect GIs after their ratification of TRIPS. Countries like Japan and Indonesia, however, are exceptions, as they extended the protection of GIs under their domestic trademark laws before switching to the *sui generis* system. TRIPS compliance

²⁷Yogesh Pai & Tania Singla, 'Vanity GIs: India's Legislation on Geographical Indications and the Missing Regulatory Framework', in Irene Calboli & Wee Loon Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (Cambridge University Press 2017).

²⁸Lalitha & Vinayan (n 11).

²⁹Marie-Vivien (n 9).

³⁰Marrakesh Agreement Establishing the World Trade Organisation, Annex 1C ('Agreement on Trade Related Aspects of Intellectual Property Rights' on Trade-Related Aspects of Intellectual Property Rights (TRIPS)), 15 Apr 1994.

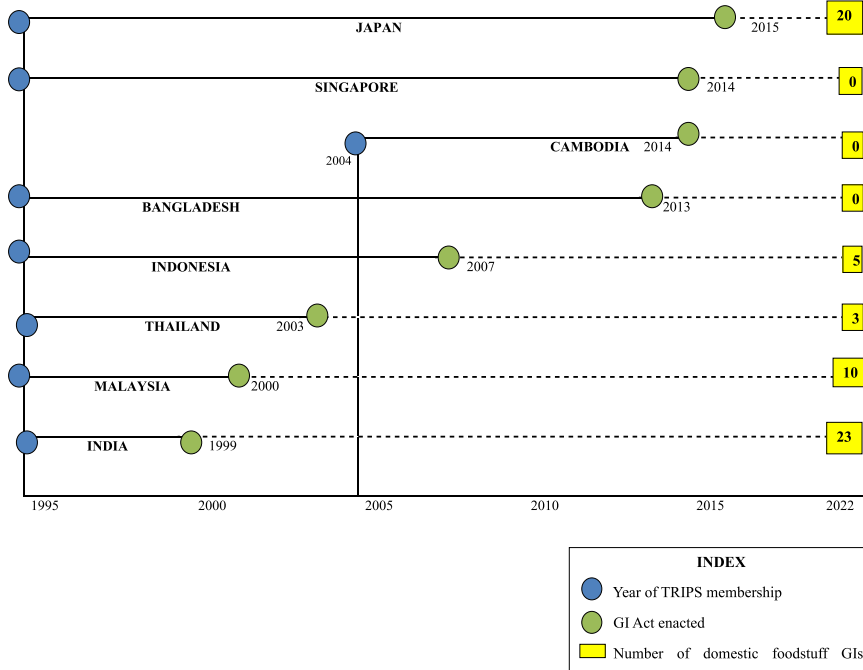


Figure 1. Evolution of foodstuff GI protection in selected Asian countries

began immediately in India and Malaysia, which enacted *sui generis* GI legislations in 1999 and 2000 respectively. Thailand drafted its GI legislation in 2003. In response to its accession to the WTO in 2004, Cambodia framed the procedural laws for registering and protecting GIs in 2007, and later, in 2014, developed a full-fledged substantive law. In the same year, Indonesia developed its own *sui generis* provisions for GI protection as extended protection under its trademark system. On the other hand, Bangladesh, Singapore, and Japan commenced their *sui generis* systems in 2013, 2014, and 2015 respectively.³¹ Figure 1 shows a timeline of the evolution of foodstuffs protection under the *sui generis* GI system in the selected countries.

Although Article 22 of TRIPS provides a minimum GI protection standard for all goods, the enhanced GI protection under TRIPS was only extended to wines and spirits under Article 23.³² Post TRIPS, at the 2001 Doha Ministerial Conference, many countries came together with a more explicit mandate to negotiate for GI protection in TRIPS and the General Council. These countries, called ‘GI friends’,³³ discussed among themselves the extension of GI protection under Article 23 of TRIPS to all products. In their view, the GI register under Article 23 of TRIPS should be extended to all products other than wines and spirits. It will be pertinent to note here that the main intention behind this proposal was to protect other traditional products and the communities

³¹An overview of the *sui generis* GI legislations is given in Table 1, while detailed descriptions will follow in the subsequent parts of this article.

³²TRIPS, art 23.

³³‘GI friends’ include India, Jamaica, Switzerland, Bulgaria, the Czech Republic, Liechtenstein, Kenya, Mauritius, Nigeria, Pakistan, the Slovak Republic, Slovenia, Sri Lanka, Thailand, and Turkey. Many of these countries can be categorised as developing or even third-world countries. The proposal to extend Article 23.1 of TRIPS to other goods would improve the marketability of their domestic products and provide adequate protection against unfair competition. See World Trade Organization Secretariat, Information and Media Relations Division, ‘TRIPS: Geographical Indications. Background’ (Nov 2008) <https://www.wto.org/english/tratop_e/trips_e/gi_background_e.htm> accessed 10 May 2023.

associated with their production. As TRIPS sets up minimum standards of protection, the protection of other products by the member countries should be available for expansion.

Article 22 of TRIPS does not define ‘goods’; hence the member states have interpreted it as per their respective national policy considerations. In the present study, the selected Asian countries are broadly classified into three categories. Countries in the first group expressly includes foodstuffs in the definition of ‘goods’, such as India, Bangladesh, Indonesia, and Japan. The second group consists of countries like Malaysia and Thailand, which do not expressly include the term ‘foodstuffs’ under the ambit of ‘goods’, but in practice protect processed foodstuffs. Singapore falls into the third and final category, where neither the definition of the term ‘goods’ mentions foodstuffs nor foodstuffs are protected. Obviously, where the scope of protection of foodstuffs as GIs under the law is expressly defined, there is less chance of ambiguity. In such cases, foodstuffs with a proper classification available in the domestic laws will not be left unprotected or overlooked for protection.

By December 2023, Cambodia has registered four local products – GI *Kampot* pepper, *Kampong Speu* palm sugar, *Mondulkiri* wild honey, and *Koh Trung* pomelo – as well as two foreign products that include Champagne and Scotch Whisky. In some culinary and tourism studies, these are referred to as foodstuffs. Bangladesh has registered nine products, of which *Hilsa* and *Black Tiger* prawns can be considered foodstuffs (according to the Indian standards of food GIs registered, comparable to *Jhabua Kadaknath* black chicken meat from India). However, without a list of classes of goods or a definition of foodstuffs, it is unclear whether they fall under the foodstuff category. Indonesia, which has foodstuffs mentioned in statute, effectively protects the four domestic foodstuffs eel, milk, horse milk, and milkfish, as well as seven foreign foodstuffs (mainly wines and spirits, cheeses, and hams) as GIs.

Article 2(1) of the *GI Act of Japan*³⁴ defines ‘foodstuffs’ as all food and drinks, excluding items that fall under the *Liquor Tax Act* 1953, or any medicines or quasi-pharmaceutical products. The main objectives of protecting foodstuffs as GIs under this Act are:

- a) protecting the regional brand and revitalising the rural villages,
- b) protecting the traditional food culture and practices and ensuring that these practices are continued, and
- c) consumer welfare.³⁵

The Japanese Ministry of Agriculture, Forestry and Fisheries (MAFF) classification of goods for GI protection can be considered as one of the more systematic classifications among the countries. This categorisation expressly distinguishes the protection of *processed foodstuffs* from vegetables/cereal grains/pulses, fruits, meat, fish, and shellfish. However, the classification of the products is an administrative initiative, and the GI statute does not include such a broad grouping of goods. Currently, Japan has twenty national products registered in the processed foodstuffs class.³⁶

The Indian *Geographical Indications of Goods (Registration and Protection) Act* 1999 (Indian GI Act) expressly includes foodstuffs within the scope of GI protection, as section 2(f)³⁷ stipulates that the term ‘goods’ means ‘any agricultural, natural or manufactured goods or any goods of handicraft or of industry and includes foodstuff’. In India, products protected as ‘foodstuffs GI’ mainly belong

³⁴Japanese Protection of the Names of Specific Agricultural, Forestry, and Fishery Products and Foodstuffs Act (25 Jun 2015), art 2(1).

³⁵Japanese Ministry of Agriculture, Forestry and Fisheries, ‘Geographical Indication (GI) Protection System in Japan’ <https://web.archive.org/web/202111216214716/https://www.maff.go.jp/e/policies/intel/gi_act/attach/pdf/index2.pdf> archived from the original 16 Dec 2021, accessed 22 Nov 2023.

³⁶Data collected from the Japanese Ministry of Agriculture, Forestry and Fisheries, ‘Information Website on Japan’s Geographical Indications’ <<https://pd.jgic.jp/en/register/processed-foodstuffs/>> accessed 22 Nov 2023.

³⁷Indian Geographical Indications of Goods (Registration and Protection) Act (30 Dec 1999), s 2(f): ‘Goods’ means any agricultural, natural, or manufactured goods, or any goods of handicraft or industry, and includes foodstuff.

to Classes 29 and 31 of the Fourth Schedule under the GI Rules 2002.³⁸ Unlike Japan, India does not distinguish between processed foodstuffs, meat, fish, and shellfish. The Indian foodstuff GI covers sweet preparations, savoury foods, and raw meat. Seventeen domestic and three foreign products are protected in India under the foodstuff categories. The foreign foodstuffs registered in India mainly include different cheese varieties from Italy.

It is interesting to note that although Malaysia does not include foodstuffs in the scope of protection, in practice it has protected processed foodstuffs like *Kek Lapis Sarawak* (Sarawak layered cake), *Sarawak Sesar Unjur* dried shrimp, *Sarawak Umai* raw fish salad, and *Biskut Dan Dan* from Sungai Lembing. It also covers foreign products like *Parmigiano Reggiano*, a type of cheese from Italy. As in Malaysia, Thailand's statute – ie, the *Act on Protection of Geographical Indications 2003*³⁹ – does not explicitly include 'foodstuffs' in its *sui generis* system. However, in practice, the Department of Intellectual Property (the competent authority for GI registration in Thailand) has granted GI protection to various foodstuffs in Thailand. *Trang Roast* pork, *Surat Thani* oysters, and *Chaiya* salted eggs are popular foodstuffs with GI tags. The GI law in Thailand aims for multifaceted benefits of GI registration, like enhancing food quality, opening up market demand for Thai traditional and GI products, and encouraging GI tourism. For example, there is a great demand among tourists for *Surat Thani* oysters, which are clean and white, with thick, creamy textures. When consumed with lime juice, garlic, fresh chilly, fried onion, and local sprigs, it gives a delicious taste and, in turn, generates enormous revenue for the place.

The foreign GIs protected in Asia are mainly from EU countries. The recent international trade negotiations between the EU and other countries are possibly the main reason for the successful protection of EU GIs in some of the selected countries, such as Japan and Singapore.⁴⁰ However, foodstuffs from non-EU countries, like the United Kingdom and Peru, have also acquired their position in the GI registers of selected Asian countries like India. Such implementation will provide a firm ground for the selected countries to obtain better national treatment from their trading partners.⁴¹

It is observed that although some countries do not mention foodstuff GIs in the substantive part of the law, in practice the foodstuffs are registered as GIs. [Table 1](#) provides a brief comparative overview of the protection of foodstuffs under the national laws of these jurisdictions.

Registration is an important aspect of recognising a potential product as GI. Registration of GIs not only acknowledges the product, but also confers legal protection and remedies to the places and communities associated with it to prevent inappropriate use. Understanding the definition of an applicant is the first step in registering a GI. Unlike a trademark, a GI is a community right. Therefore, the GI legislations of the selected countries define 'applicants' to endorse the welfare and development of the community, as will be seen below. Once the applicant is determined, the process of filing an application with the relevant authority is commenced by the eligible applicants. The examination, advertisement, opposition (if any), hearing of the opposition, and the final entry in the respective GI registers complete the whole registration process. The procedure is similar in all the selected jurisdictions. However, some countries have different application requirements, mainly in terms of supporting documents, quality control requirements, and the available language options for filing applications. A detailed comparison of the application requirements of the selected jurisdictions is provided in the subsequent sections of this study.

³⁸Indian Geographical Indications of Goods (Registration and Protection) Rules (2002) <<https://ipindia.gov.in/rules-2002.htm>> accessed 25 Jul 2022.

³⁹Thai Act on Protection of Geographical Indication BE 2546 (2003) <<https://www.wipo.int/wipolex/en/text/585477>> accessed 25 Jul 2022.

⁴⁰Martijn Huysmans, 'Exporting protection: EU trade agreements, geographical indications, and gastro-nationalism' (2022) 29 *Review of International Political Economy* 979.

⁴¹Paula Zito, 'Current and future protection of Geographical Indications in Australia' (2021) 16 *Journal of Intellectual Property Law & Practice* 348.

Table 1. Comparative analysis of the protection of foodstuffs under the GI legislations of the selected countries

Country	<i>Sui generis</i> legislative framework	Scope of protection for foodstuffs	Number of local foodstuffs registered as GI	Number of foreign foodstuffs registered as GI
Bangladesh	Geographical Indication of Goods (Registration and Protection) Act 2013	Section 2(8) of the Act	20 (no specific description of the class or category of the <i>Bangladesh Ilish</i> , Kumilla Rasamalai.)	Data not available
Cambodia	Law on Geographical Indications 2014 Ministerial Regulation (PRAKAS) on the Procedures for the Registration and Protection of Marks of Goods which include a Geographical Indication 2009 and 2016	Article 3 of the Law	3 (as referred by various authors: <i>Kampot Pepper</i> , <i>Koh Trung</i> pomelo, palm sugar, wild honey)	2 (Champagne and Scotch whisky)
India	Geographical Indications of Goods (Registration and Protection) Act 1999	Expressly stated under section 2(f) of the Act	17	3
Indonesia	Government Regulation No 51 of 2007 regarding Geographical Indications	Article 2(2)	4 (eel, fish, milkfish, horse milk)	7 (all are either wines and spirits of cheese and ham)
Japan	Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs (Geographical Indication (GI) Act), 2015	Article 2(1) provides for foodstuff that are excluded	20	1 (Parma ham)
Malaysia	Geographical Indications Act 2000	Not expressly included in the Act	10	7 (majorly cheese, wines, spirits, ham)
Singapore	Geographical Indications Act 2014	Not included in the substantive law	0	Data not found
Thailand	Act on Protection of Geographical Indication 2003	Not expressly included in the substantive law	3	11 (cheese, wines, spirits, ham)

The Varied Nature of the Applicant Category Benefits the Registration of a GI

As GI is a community right, the applicant can be the communities themselves. This is acknowledged by law or by an organisation or governmental agency representing a community. In most of the selected countries, the substantive GI laws are flexible in defining the term ‘applicant’. Associations of producers, legal entities, and organisations representing producers or the communities, including the government institutions, are eligible to file GI applications. However, in countries like India, Thailand, and Malaysia, public authorities or government institutions are the predominant parties filing GI applications.

On the other hand, in countries like Indonesia, Cambodia, and Japan, only the producer’s community can file applications. Indian law upholds the interests of producer communities. Hence, in the Indian statute, the applicant must be an association of persons or producers, or any organisation or authority established by or under the law, and must represent the interests of the producer community. For foodstuff GIs in India, it has been observed that the producer’s community forms a trust or society and submits the application for registration along with the government institutions, either jointly⁴² or independently. In most of the registered foodstuff GIs, the producers’ welfare associations are the applicants. Foodstuff GIs such as *Joynagar Moa* and *Dharwad Pedha* stand as exceptions, where the community had formed the society or trust and filed the application independently. Nonetheless, *Odisha Rasagola*, *Bardhaman Sitabhog*, and *Bardhaman Mihidana* are examples where the government body and the producers’ association jointly applied for registration. Bangladesh’s GI laws also provide for an association, institution, or government body representing the community’s interests to be an applicant.

The Indonesian GI law⁴³ expressly allows the local government up to the city level and an organisation or association of producers and cooperative agencies established for the producers to apply for registration.⁴⁴ An association can be under the leadership of a municipal or city-level government that includes the producers, members from outside the community that may involve a lawyer, academic expert, or other person associated with skills-training institutions.⁴⁵ However, government agencies are not directly involved in the registration process as applicants. Unlike Indonesia, the GI laws of India and Bangladesh are silent on the association’s constitution.

The definition of ‘applicants’ in the GI law of Thailand⁴⁶ is more comprehensive than in other countries. There are three categories of applicants under the GI Act. First, any local governmental agency or organisation with a distinct legal identity that has been responsible for the place of origin of the goods can be an applicant. Second, a natural person or a group of persons can be an applicant, provided that there is a connection with the product’s trade and that they are resident in the geographical area of the goods produced. Third, a consumer of the ‘good’ with the GI tag can also be an applicant. Consumers and governmental agencies need to be related to the GI good as users or as those responsible for the product’s place of origin, respectively.

The GI statute of Japan states that only a ‘group of producers’ can be the applicant. The statute defines a ‘group of producers’ as a group comprised of producers as direct or indirect members, as provided by the order of the Japanese Ministry of Agriculture, Forestry and Fisheries.⁴⁷ Cambodia

⁴²Indian GI Act (n 37), s 11(1): ‘Any association of persons or producers or any organization or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods, who are desirous of registering a geographical indication in relation to such goods shall apply in writing to the Registrar in such form and in such manner and accompanied by such fees as may be prescribed for the registration of the geographical indication’.

⁴³Law of the Republic of Indonesia No 20 of 2016 on Trademarks and Geographical Indications.

⁴⁴Marie-Vivien (n 9).

⁴⁵Dian Ety Mayasari, ‘Protection of Geographical Indications as a Form of Consumer Rights Protection’ (2019) 35 *Yuridika* 41 <<https://e-journal.unair.ac.id/YDK/article/view/13990>> accessed 27 Aug 2022.

⁴⁶Thai GI Act (n 39), s 7.

⁴⁷Japanese Act on Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs (25 Jun 2014), art 2(5).

defines ‘applicants’ expressly as an association,⁴⁸ but there is an exception: it recognises a single producer or operator as an association if it is the only one willing to apply for GI registration of the product.⁴⁹ The GI Act of Singapore⁵⁰ follows the general definition provided in the laws of the other selected countries (except Malaysia). Producers, associations of producers, or any competent authority can be applicants in Singapore, including a single producer who produces the product in the geographical area specified in the application for registration. The competent authority can only be an applicant if it is responsible for the GI. The Malaysian Act,⁵¹ one of the oldest GI legislations amongst the selected countries, does not elaborate on the definition of ‘applicant’. In practice, however, the majority of GIs in Malaysia are filed by government agencies.⁵² However, the new Malaysian GI Act promulgated in 2022 states in Article 8(1) that any person can be an applicant.⁵³

Differences in Application Requirements for GI Registration

The GI legislations of the selected countries specify the application requirements. The specification of the product and a map of the geographical area of production highlighting the link between the product and the place are two standard documents required. The comparison of the documents relating to the historical proof of origin, the accounts, the statutes, and the association regulations revealed differences from one jurisdiction to another.

The Indian GI law⁵⁴ expressly mentions the supporting documents to be submitted with the application for registration. The requirements include historical proof of the product’s origin, specifications, the product’s class according to the law, and quality control mechanisms. However, the application form also contains other requirements that go beyond the provisions of the law and which are in consonance with the GI rules, such as the structure of the inspection body and the uniqueness of the product. The uniqueness of the product varies in many ways apart from the product’s place of origin. For example, *Dharwad Pedha* encompasses traditional knowledge safeguarded by the family. *Banglar Rasogolla*, *Bardhaman Sitabhog*, and *Bardhaman Mihidana* exhibit uniqueness through a combination of geo-climatic factors and human craftsmanship. Certain food GIs, like *Hyderabad Haleem*, *Palani Panchamirtham*, and *Tirupati Laddu* carry religious significance. The historical origin of the product and the specification must include the product-place linkage along with its inherent natural and human factors. The application requirements in Bangladesh⁵⁵ are similar to those in India, but additional information is required. In addition to the historical proof of origin, the application must include the period of usage of the product and details of the product’s users.⁵⁶ Bangladesh has fewer registered GIs than India, and no registered foodstuffs.

The application requirements for Cambodia are set out in both the procedural law and the substantive part of the GI law. The application requirements in the Cambodian system expressly state

⁴⁸Cambodian Law on Geographical Indications of Goods (KH038, entered into force 20 Jan 2014), art 3.

⁴⁹*ibid* art 6.

⁵⁰Singapore Geographical Indications Act (Cap 140, 23 May 2014), s 38: ‘Each of the following persons shall be entitled to file an application for registration of a geographical indication: (a) a person who is carrying on an activity as a producer in the geographical area specified in the application with respect to the goods specified in the application; (b) an association of persons referred to in paragraph (a); (c) a competent authority having responsibility for the geographical indication for which registration is sought’.

⁵¹Malaysian Geographical Indications Act (Act 602, as amended by Act 1141; published 15 Jun 2000, entered into force 15 Aug 2001, amended 3 Mar 2003) <<https://www.myipo.gov.my/wp-content/uploads/2022/03/GEOGRAPHICAL-INDICATIONS-2022-ACT-836.pdf>> accessed 10 May 2023.

⁵²Marie-Vivien (n 9).

⁵³Malaysian GI Act (n 51), art 8(1): ‘Any person may file an application for registration of a geographical indication of any goods in the form as determined by the Registrar together with payment of the prescribed fee’.

⁵⁴Indian GI Act (n 37), s 11, read with Indian GI Rules (n 38), rule 32.

⁵⁵Bangladeshi Geographical Indications (Registration and Protection) Rules (2015), rule 9.

⁵⁶*ibid*.

that the meaning of the phrase ‘other documents’ in the substantive law should be read on a par with the ministerial declaration.⁵⁷

The Japanese GI law⁵⁸ covers a wide range of goods, with processed foodstuffs being a distinct category expressly defined in the substantive law, mirroring similar provisions in the other selected countries. Although Japan has a processed foodstuff category distinct from meat, fish, shellfish, and other consumable goods, it lacks specific application requirements for this category. However, the standards set by MAFF provide some of the general guidelines for the application. Similarly, in the other selected jurisdictions, the applicant is required to submit the characteristic features and specifications of the product. Nonetheless, Japan maintains its inclusive list of characteristics, disallowing the use of abstract terms like ‘delicious’, ‘wonderful’, and ‘very nice’ when describing the quality of the product. Japan requires historical proof of production or origin. In contrast to the other countries, applicants in Japan must provide documentary evidence of a specific number of years of production, which is explicitly stated by MAFF: twenty-five. The twenty-five years of production should be consistent. This consistency includes the maintenance of specific characteristics of the products that distinguish the product from others of the same breed or variety throughout the period. Conversely, in cases of discontinuation, the law strictly stipulates that the applicants (the group of producers) must state the period and the reason for discontinuation in their application.

Unlike Japan, India, and Bangladesh, the Cambodian system is flexible regarding the period of use or historical proof of origin. In Cambodia, documentation requirements include evidence of the product-place link, a product description, information on the production method, and information on the labelling of GI products. The filing process is more straightforward, as the producer’s community need not prove the historical linkage of the people to the product and place.⁵⁹

In a typical scenario, the community either finds the missing historical data or indicates that the historical data is undocumented. The latter is a hindrance that delays the filing process or discourages the producers of the potential products from applying for registration. In some countries, such as India, it is also a ground for abandoning applications; *Hyderabadi Biryani* (Application No 168), *Agra Petha* (Application No 223), and *Agra Dalmoth* (Application No 222) are some examples of abandoned applications on this ground. Although Cambodia has ratified the *Geneva Act of the Lisbon Agreement 2015*,⁶⁰ it has yet to register a processed foodstuff GI.

Unlike Cambodia, the application requirements of Thailand are part of the substantive law. Documents relating to the sustenance of quality, reputation, or other characteristics of the goods, and the linkage with the geographical origin must be attached to the application. Only a few requirements are stipulated in the statute, the rest being derived from the ministerial regulations.⁶¹ However, the regulation is silent on the accompanying documents. Thailand’s application requirements are more flexible than those of India, Japan, Cambodia, and Bangladesh. Historical proof of origin, a statement of case including production or manufacturing mechanism, is optional for registration. The Malaysian GI legislation, similar to that of Thailand, provides a general mandate on the

⁵⁷Cambodian GI Law (n 48), art 8: ‘Filing of the applications: The application for geographical indication registration shall be filed with the Ministry of Commerce accompanied with the book of specifications and other related documents. The application form, book of specifications, sample and other related documents for registration shall be determined by Prakas (Ministerial Declaration) of the Minister of Commerce’ <<https://www.wipo.int/wipolex/en/text/543967>> accessed 30 Aug 2022.

⁵⁸See the Japanese GI Act (n 47), art 7.

⁵⁹See Cambodian Prakas (Ministerial Declaration) of the Minister of Commerce (29 Dec 2016), art 9, which clearly mentions the Content of geographical indications application form.

⁶⁰Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (adopted 20 May 2015, entered into force 26 Feb 2020).

⁶¹Thai Act on GI Protection (n 39), s 9: ‘The application for registration of a geographical indication shall be in accordance with the rules and procedures prescribed in the Ministerial Regulation’; s 10: ‘An application for registration of a geographical indication shall consist of details as to the quality, reputation or other characteristics of the goods, the geographical origin and other details prescribed in the Ministerial Regulation’ (‘Ministerial Regulation’ refers to Ministerial Regulations of Geographical Indications BE 2547 (2003, latest version entered into force 28 Apr 2007)).

application requirements. The details of the applicant, the goods, the geographical area, and the documents proving the quality, reputation, characteristics, and association of the product with its geographical location of origin should be provided.⁶² The description of the product, other product characteristics, and proof of origin, the link between the product and the place, and the inspection body are additional information to be submitted.

The application requirements in Indonesia are mentioned in the government regulation.⁶³ The provisions relating to application requirements are identical to those in Cambodia. Indonesian law is silent on the submission of historical proof of origin. Nonetheless, there is a requirement to submit product-place links and product characteristics (for foodstuffs).

One of Asia's most recent GI legislations is Singapore's *Geographical Indications Act 2014*, which regulates the submission of supporting documents similarly to all other countries except Japan and Cambodia. However, the description of quality, reputation, and other characteristics is required. For example, the definition of goods includes the principal physical, microbiological, and chemical characteristics of the goods, as well as their organoleptic features. When describing the goods/product, the applicant should also mention the difference between the potential GI product and other products in the same category. Applicants in Singapore must also demonstrate that the product's reputation is linked to its geographical area of origin through documentary evidence such as specialist books, press reports, or prestigious awards. Singapore also emphasises quality control mechanisms. It is also pertinent to mention that Singapore's local products have yet to be registered as GI. However, Singapore entered into international arrangements with the EU in 2019. Since then, the GIs registered in Singapore have mainly come from the EU, a testament to the collaboration between the two regions.

The language of the filing also holds significance in the application procedure. Some countries, such as Bangladesh, Indonesia, Japan, Cambodia, and Thailand, allow the application to be filed in English and vernacular languages. Filing in the local language makes the process easier and less rigorous, as the producer communities are well versed in it. Documents like historical proof of origin are commonly available in the local language. Translating these documents into the official language or English may present new challenges for the community. In India, the language for filing GI applications is English. This is one of the reasons for delays in the filing and registration process in cases where producers are not familiar with English.⁶⁴ Malaysia and Singapore also make it mandatory to apply in English. A brief comparative overview of application requirements in the selected countries is given in [Table 2](#).

Quality Control: Structure-Function Differences

One of the essential documentary requirements of the application is to identify the quality control aspects of GI products. Quality control of a GI product starts with the standard set by the producers' community. Quality is not a pre-defined term; it is negotiated by the producer(s) or the community. The community unanimously develops measures commonly known as CoPs (Community Protocols). A CoP includes a control plan or requirement for an inspection body that will ensure the maintenance of the quality of the GI product. Quality control through a structured CoP serves for healthy competition in the market among the community. It also builds trust among the consumers regarding the premium quality of the product. It is not only linked to the final product, but includes the process as well. Product conformity for foodstuff is checked through various measurable aspects such as composition, shape, taste, and colour. The quality control method starts with

⁶²Malaysian GI Act (n 51), s 12.

⁶³Government Regulation of the Republic of Indonesia Regarding Geographical Indications, arts 5 and 6 (No 51, 2007) <<https://wipolex-res.wipo.int/edocs/lexdocs/laws/in/id/id051in.html>> accessed 26 Dec 2023.

⁶⁴Syantani Datta, Padmavati Manchikanti & Niharika S Bhattacharya, 'Enhancing geographical indications protection in India for community relevance' (2021) 24 *The Journal of World Intellectual Property* 420.

Table 2. Comparison of the application requirements in the selected jurisdictions

Country	Provision in the substantive law	Types of applicants	Language of filing	Historical proof of origin	Specification of the product (includes production process)
Bangladesh	Section 9	Association, institution, or government body that represents the interests of the community	Bengali or English	Yes	Yes
Cambodia	Article 8	The association of producers can also be a single producer if he is willing to file for the protection of the good.	Khmer	No	Yes
India	Section 11 read with Rule 32	An association of persons or producers, or any organisation or authority established by or under the law, must represent the interests of the producer community.	English	Yes (documentary evidence)	Yes
Indonesia	Articles 5 and 6	The organisations representing the producer communities can be the applicants and the local government down to the city level.	Indonesian	No	Yes
Japan	Article 7	Group of producers	Japanese	Yes (a record of 25 years is needed)	Yes (through a separate specification form)
Malaysia	Section 12	Silent	English	Yes	Yes
Singapore	Section 39(1)	Producers, the association of producers, or any competent authority	English	No	Yes
Thailand	Section 10	Local government agency or organisation responsible for the area of origin, consumers, and any person involved in the trade of the product	Thai	No	No

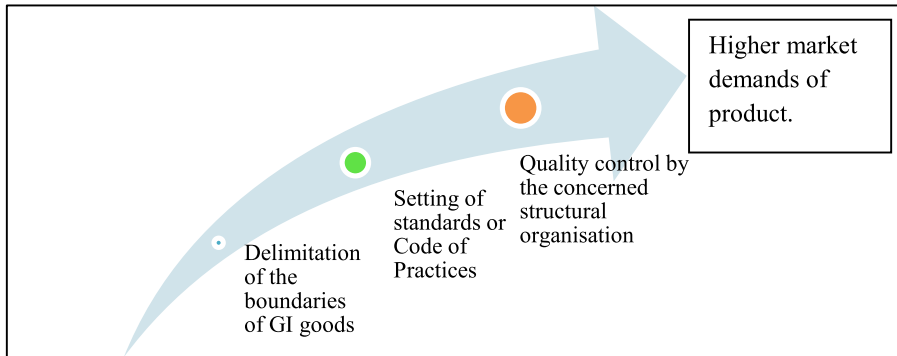


Figure 2. Process and impact of quality control of the registered products⁶⁵

defining the quality of the products in convergence with the specifications mentioned in the application for registration. A significant step for quality control is to verify that the CoP is followed by each producer and that the product meets the specification standards. A comparative analysis has been carried out to understand the quality control system in the selected countries, which is illustrated in Figure 2.

Table 3 illustrates the scope and management of quality control in the selected countries. Countries like India, Bangladesh, and Cambodia expressly set out the formation and function of quality control bodies or have established rules governing them. However, the nomenclature varies from country to country. In Japan, for example, such rules are called ‘management rules’.

While the formation of an inspection body is not part of the main text of the GI Act 1999 in India, the GI Rules 2002 make it mandatory to form an inspection body.⁶⁶ Inspection bodies carry out inspections only in some cases, with community members commonly doing this instead.⁶⁷ There is also no particular structure in the law to encourage the formation of an inspection body for Indian foodstuff GIs. For example, *Dharwad Pedha*, India’s first registered foodstuff GI, has a standard and quality committee under a trust (Thakur’s Dharwad Pedha Manufacturer’s Welfare Trust). The standard and quality committee constitutes the inspection body for *Dharwad Pedha*, and committee members must be family members. GIs like *Banglar Rasogolla* and *Joynagar Moa* have an inspection body comprising representatives of all stakeholders, such as administrative and government representatives, academic experts from reputed institutes, and members of the producer association or communities. The inspection body of *Hyderabad Haleem* constitutes only one organisation, namely the National Research Centre on Meat, Hyderabad. The primary function of this body is to oversee the adherence to standards of raw materials, especially meat, which is the main ingredient of this foodstuff. The provisions are theoretical and far from practical, unlike the EU GI system where quality control is at the core of GI registration.

Bangladesh⁶⁸ also emphasises the formation of an inspection body at the time of application. Japan,⁶⁹ Cambodia, and Malaysia⁷⁰ emphasise the documents that describe the control plan and

⁶⁵ Author’s own compilation.

⁶⁶ Indian GI Rules (n 38), rule 32(6)(g), read with Form GI-1. Form GI-1 is the application form used in filing the GI application. This form is required for filing of application under a single class. Form GI-1 mandates for an inspection body under point 1.

⁶⁷ Datta, Manchikanti & Bhattacharya (n 64).

⁶⁸ Bangladeshi GI Rules (n 55), rule 9.

⁶⁹ Japanese GI Act (n 47), art 7(3) (which deals with quality control) mentions ‘production process management rules’.

⁷⁰ Malaysia’s law is silent on the matter of inspection bodies, but the GI applications for Sarawak Pepper (Registration no-GI03-00001) and Halia Bentong (Registration no-GI2013-00010) mentioned in their applications that the organisations under local governments serve as the control bodies.

Table 3. Comparative study on quality control of food GIs in the selected countries

Countries	Parameters			
	Legal provision for quality control	Special body formation	Formation structure	Functioning mechanism
India	Yes (Rule 32(1)(g) GI Rules 2002)	Inspection structure	Usually equal representation of all stakeholders.	Single body entity to check and inspect on the quality maintenance of the registered foodstuffs
Bangladesh	Yes (Rule 9 of the GI Rules 2015)	Inspection mechanism and authorities	Majority representation of the government authorities	Single body entity to check and inspect on the standard benchmarks of specification that make the product unique and linked to its geographical location.
Japan	Yes (Articles 6 and 7(2) of the Act on the Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs 2015)	No, only rules for the management of the production process	Group of producers	The group of producers develops 'production process management rules' necessary to bring the producer's production, as a member of the producer group, into conformity with the specification.
Cambodia	Articles 26 and 27 of the Law on GIs 2014	Certification or control body	Selection of the certification or control body authorised by the Kingdom of Cambodia, an impartial body, or a private body certified by the International Organization for Standardization (ISO).	The certification body checks the quality mentioned in the Book of Specification, while the efficiency of the certification bodies is checked by the Government of Cambodia.
Indonesia	Article 6(4)(h) of the Government Regulations on GIs 2007	Quality control mechanism	Done by the Directorate General of Intellectual Property in Indonesia	Silent
Malaysia	The substantive law is silent, but the application form does mention the quality control structure.	Technical specifications to be mentioned for quality control	Organisations under local government have the power of quality control	Silent
Thailand	The substantive law is silent, but a guidebook named 'One Village, One GI' mentions quality control rules.	Silent	Two-tier mechanism (internal and external control)	Provincial committee for internal control and a third party committee recognised by the International Organization for Standardization (ISO) for external control
Singapore	Silent	Silent	Silent	Silent

technical specifications, respectively, alongside the application for registration. Cambodia's two-tier quality control mechanism, resembling the French system in the EU,⁷¹ involves producers carrying out internal control, while external control is executed by a certification body approved by the Ministry of Commerce.⁷² The Indonesian⁷³ government regulation mandates applicants to form a quality control mechanism and submit it along with the application. As observed in all selected countries except Thailand and Singapore, the quality control body or rules are generally formed during or before the application is filed. The respective statutes of Thailand and Singapore are silent on the quality control mechanism of the GIs, but quality control mechanisms have to be presented along with the application. However, the quality checks start only once the product gets the GI tag. Regrettably, there is no available literature to date on the quality control bodies and their functions in the above-mentioned Asian countries.

Discussion and Policy Implications

The comparative study of the selected jurisdictions provides several insights into the evolution and scope of foodstuff protection, eligible applicants, application requirements, and quality control. There are similarities and differences in GI laws among the countries. Public policies must contribute to enhance and foster the potential of GI goods. Although Asia's processed food sector is yet to succeed in making use of this vital intellectual property rights tool, supportive policy would help the nations to grow their food heritage. The forthcoming or existing GI policy should encourage the registration and promotion of foodstuff GIs to preserve and promote food heritage. The key factors that have policy implications are discussed below.

The contrasts in the scope of protection provide an insight into the express or implicit inclusion of foodstuff in the definition of 'goods' that can be protected as GIs. Our findings suggest that the ambit of GI protection varies across the selected countries. The GI statutes of Singapore and Japan are among the most recent GI legislation of the selected countries. However, the extent of registration of foodstuffs is different. All the selected countries, except Malaysia, Singapore, and Thailand, specifically recognise and protect foodstuff GIs under their legislation. The inadequate public policies to protect foodstuffs as GIs are dangerous for the community and the product. In the absence of specific laws for traditional knowledge and traditional cultural expressions, GI protection can be a solution. Hence, the express protection of gastronomic heritage is necessary to preserve the specialised knowledge, skills, and traditions of a specific region and people.

The diverse pre-registration requirements primarily involve state intervention and controls. The absence of producers in the GI implementation system demonstrates the need for greater management at the local level. A recent study has shown that one of the main reasons for state intervention is to demonstrate the state's sovereignty over the territory recognised by the GI tags on the product.⁷⁴ Existing work has also highlighted that state intervention has an intention of achieving a greater good, apart from simply claiming sovereignty.⁷⁵ The preservation of national heritage, the support to producers, and the coverage of costs of GI enforcement are some of the examples of such greater goods.⁷⁶ The absence of local producers in the policy measures also raises concerns. The public-private partnership structure of GI protection should be maintained, ie, the protection of producers' rights and the common heritage. The states should play an active role in ensuring a valid authorisation of the producers' community. Registration of authorised users will protect producers from counterfeiting and unauthorised exclusion from the use of geographical names. The

⁷¹See Cambodian GI Law (n 48), arts 26, 27.

⁷²Marie-Vivien (n 9).

⁷³Indonesian Government Regulation Regarding GI (n 63), art 6(4)(h).

⁷⁴*ibid.*

⁷⁵Estelle Biénabe & Delphine Marie-Vivien, 'Institutionalizing Geographical Indications in Southern Countries: Lessons Learned from Basmati and Rooibos' (2017) 98 *World Development* 58.

⁷⁶*ibid.*

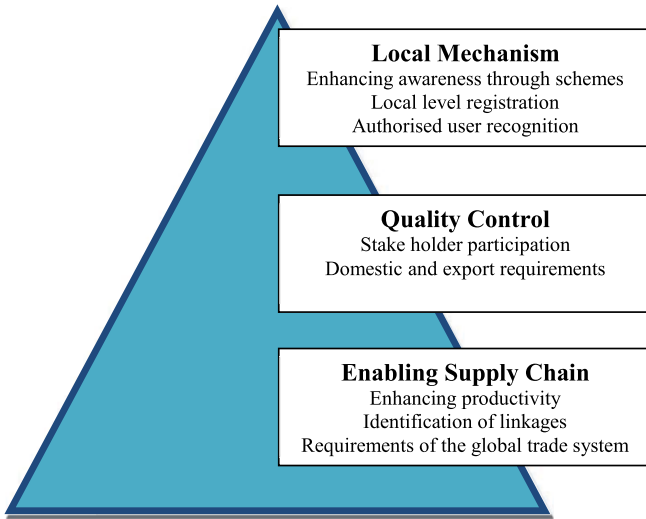


Figure 3. Policy implications for enhancing foodstuff GIs

detailed requirements under the GI laws in the selected countries and the lack of facilitation mechanisms limit the critical outcomes of interest, ie, GI registration and authorised user registration. Simplification of filing language requirements and documentary evidence would be beneficial for enhancing registration. This implies targeted registration of food products, thereby recognising the socio-economic rights of the specific communities.

Quality control is one of the key post-registration activities that should be taken care of to ensure continued relevance in the market. In practice, therefore, the actors in the value chain must be present in the quality control and management structures that carry out the inspection. The state is seen as the appropriate authority to monitor producers, rather than the producer association. State interference in the selected countries shows weak self-governance and collective action as a community. Producer representation is essential for product quality control. While the existing top-down model of producers involved in GI quality maintenance is necessary, a more local approach is crucial. Some studies suggest that a policy covering the entire GI identification and value chain process is required.⁷⁷ Such a policy maximises the positive effects and minimises the negative ones and is called a 'proactive GI policy'.⁷⁸ A balanced and appropriate mix of public and private initiatives is necessary to manage the GI system and promote rural development. The findings of this paper indicate the need to involve different levels of stakeholders in the definition of public policy for foodstuff GIs. Policy considerations at various levels are required for the promotion and protection of foodstuffs GI. The key factors for studying policy implications that help to support a GI system are: first, the recognition and impact of GI registration in improving GI productivity; second, the trade policies of countries to foster food GIs; and finally, strengthening linkages at national, regional, and local levels, ie, mechanisms for supply chain, quality maintenance, and livelihood support.

In order to achieve the sustainable development of GI products, it is necessary to develop a consolidated policy that encourages the concept of 'local to global' and supports local and rural development. This policy should take into account different levels of production and quality circles. It must be a part of the local governance system. Figure 3 provides an illustrative policy diagram focusing on the local governance system.

⁷⁷Matin & Hussain (n 26).

⁷⁸Emilie Vandecandelaere et al, 'Linking people, places and products: A guide for promoting quality linked to geographical origin and sustainable geographical indications (2nd edn, Food and Agriculture Organization of the United Nations (FAO) and Strengthening International Research on Geographical Indications (SINER-GI) 2010).

Conclusion

It is suggested that institutions that are involved in local governance should be empowered to support and enforce the sustainable framework for GIs. Among the various factors that need to be considered are awareness programmes at different stakeholder levels, the need to promote fair trade, the encouragement of value redistribution along the food chain or supply chain for the entire territory, and the protection of public interest. Above that, the approach needs to be environmentally sound and to respect and uphold cultural values. Policies should consider possible actions such as preventing distress migration of future generations of communities, and encourage sustainable production practices in local GI production systems. GI has a virtuous circle involving four steps or phases: identification, qualification, remuneration, and reproduction of resources.⁷⁹ Stakeholders must be encouraged to participate and contribute effectively to the development of such a system. The state should be proactive in ensuring adequate quality certification of products and in promoting local governance. A sound legal policy framework that achieves the collective interest and defines the responsibilities of the stakeholders will be an ideal way forward for a sustainable food policy.

⁷⁹ibid.