

कृषि विश्वविद्यालय का यही प्रयास
प्रत्येक कृषक का हो सही विकास।

Geographical Indication
(GI)



**Daisy Basandrai, H K Chaudhary, V K Sood, Ashwani Basandrai,
Shivani Bhatia, Supriya Kaldate, Naiya Sharma,
Aastha Sharma**



**HIMCOSTE Shimla
&**

**CSK Himachal Pradesh Krishi Vishwavidyalaya Palampur
HP (176062)**

Introduction

Geographical indication (GI) is a sign used on goods with a specific geographical origin and possesses qualities, reputation or characteristics, essentially attributable to that place of origin. Generally, GI includes the name of place of origin of the goods. Agricultural products have typical qualities derived from their place of production and which are influenced by specific climatic factors i.e. climate and soil.

GI are protected in accordance with international treaties and national laws. Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), does not impose any obligation for other countries to extend reciprocal protection unless a geographical indication is protected in the country of its origin. India did not have a specific law governing GIs of goods which could adequately protect the interest of producers of such goods. This resulted into controversial cases like turmeric, neem and basmati rice.

In case of turmeric, a US Patent was granted to two NRIs at the University of Mississippi Medical Centre Jackson, in March 1995, for turmeric for using it as a wound healing agent. This patent was challenged by CSIR at the USPTO based on the facts that "Prior Art" claiming that turmeric has been used for time immemorial for healing wounds and rashes and hence, it was not a new invention and upholding the objections, the US patent office cancelled the Patent. In addition, US-patent was also granted to Texas based Rice Tec Inc who claimed that this invention pertains to a novel breed of rice plants and grains. The USPTO granted the patent on 'Basmati Rice Lines and Grains' in September 1997 after thorough examination for three years and accepted all the 20 claims put forwarded. India challenged the patent and the company had to withdraw 11 claims. The patent was granted to three hybrid varieties viz. Bas 867, RT 1117 and RT 1121. None of the claims granted by the patent pertained to the basmati rice as a generic category. The patent granted, therefore, neither prevents Indian Basmati from being exported to the US nor puts it at a disadvantage in the market.

It became pertinent to formulate a comprehensive legislation for registration and to provide legal protection to GIs to avoid such unfair exploitation. India, as a member of the World Trade Organization (WTO), enacted the GIs of Goods (Registration & Protection) Act, 1999 which came into force with effect from 15th September 2003. The present GIs regime in India is governed by the Geographical Indications of Goods (Registration & Protection) Act,

1999 and the Geographical Indication of Goods (Regulation and Protection) Rules, 2002.

“Geographical indication” in relation to goods under the Act means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin. In case of manufactured goods, one of the activities of either the production or of processing or preparation of the goods should take place in such territory, region or locality.

Himachal Pradesh has a unique treasure of traditional and locally adapted bio-resources and products. State is endowed with climatic conditions for growing many niche based farmers varieties of different crops like red rice, rajmash, urd, maize, kulthi etc. These are preferred by the people because of their unique cooking quality, taste and aroma and thus are sold at premium prices and can fetch very high prices in the national and international market. However, the benefit accrued generally does not reach the farmers due to lack of awareness and absence of mechanisms to protect their produce under special category. These resources are mostly under neglected sector and some of which have been over exploited and have become rare and warrant extinction. If such crops, products, commodities are granted GI, the rural population in general and farmers in particular may be benefited by getting recognition and premium price of their unique nutraceutical food.

Some GI tags of Himachal Pradesh



Potential products identified for registration under Geographical Indications

- Kinnauri Cap
- Red Rice
- Apple Wine (Kalpa)
- Angoori (Traditional wine of Kinnaur)
- Chilgoza
- Chamba Chukh
- Lahaul Aloo
- Kangri Dhaam
- Barot Rajma
- Karsog Kulthi
- Unique traditional jewellery of Gaddi women
- Pashmina from Cheegu goat
- Tardi, drigal, kachalu, jimikand, Kakora from Bilaspur etc

General requirements for the GI

1. **The Applicant** must be a legal entity representing the interest of the producers of the good and the Applicant Authority must prove that they represent the interest of producers.
2. **Size, Language & Signing of Documents:**
 - All applications, notices, statements, or other documents must be typewritten, lithographed or printed in Hindi or in English in large and legible characters with deep permanent ink on strong paper.
 - Application must be prepared on A4 size paper with a margin of at least 4 centimeters on the top and left hand part and 3 centimeters on the bottom and right hand part thereof with lines spacing of 1.5 or double space in non-script type font.
3. All documents must be signed by the authorized signatory and accompanied by the name of the signatory in English (in capital letters) or in Hindi.
4. **Fees :**

The prescribed fee to be paid in respect of applications, oppositions, registration, renewal or any other matters is given in First Schedule and can be paid in cash or money order or by bank draft or cheque. If sent by post, the fee must be paid on the date it reaches the Geographical Indications Registry.

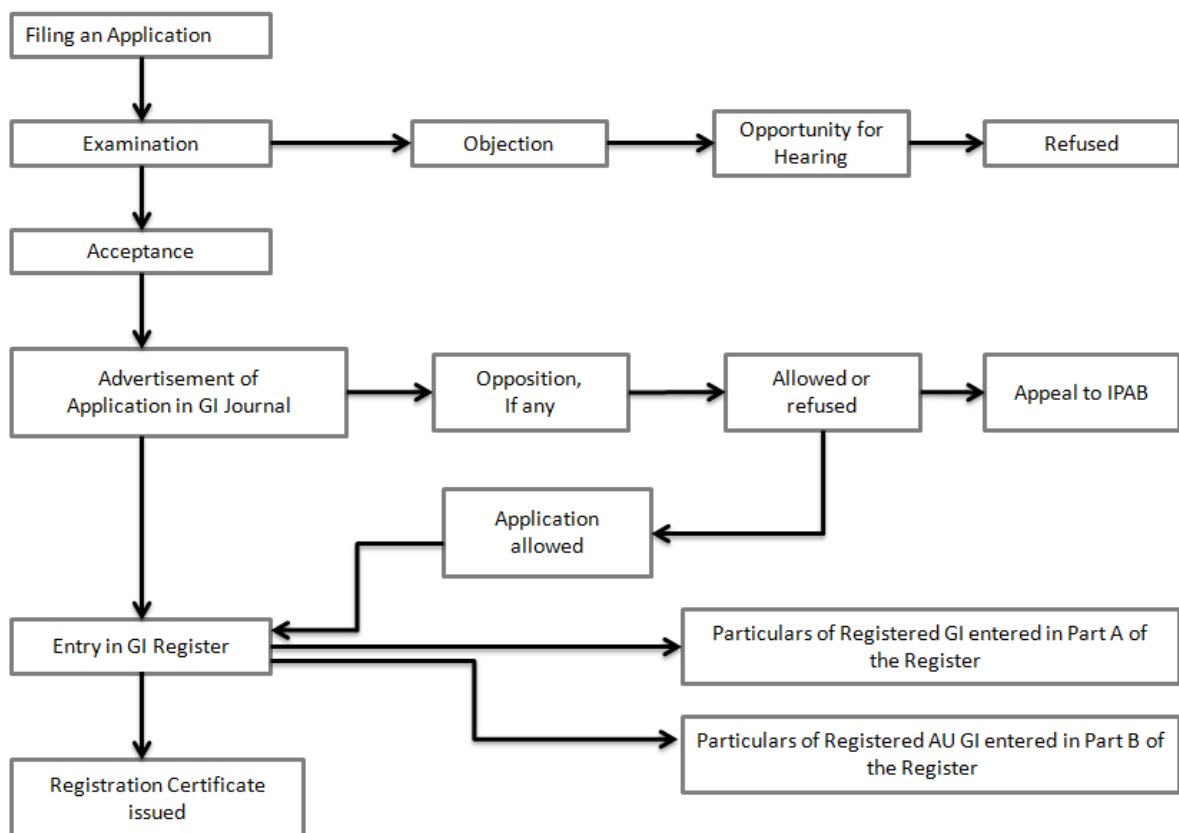
5. A model Application Form is given in Annexure-I.

Specification, description of goods, proof of origin, method of production, uniqueness, inspection body and other details, as required under rule 32, may be made as statement of case and enclosed along with the duly filled application form.

6. Application for registration of a GI shall contain

- The duly filled Application form.
- Three copies of map of the geographical area of production
- Showing the title, name of publisher and date of issue
- List of members of the association of producers
- Two additional representations
- An Affidavit. No affidavit is required to be submitted if the applicant is an association of producers of goods.
- Registration certificate from the competent authority along with the bye-laws / articles of association / memorandum of association

Registration Procedure



FILING OF GEOGRAPHICAL INDICATIONS APPLICATION

1. An Indian application for registration of geographical indications can be made in triplicate in Form GI-1(A) for single and GI-1 (C) for multiple classes. Or a Convention Application shall be made in triplicate in Form GI – 1(B) for single and in GI – 1 (D) for multiple classes.
2. Application can be filed directly or sent by post/ registered post/speed post/courier services to the Geographical Indications Registry, Intellectual Property Office Building, Industrial Estate, G.S.T Road, Guindy, Chennai – 600 032
3. **Preliminary Examination** - Examiner/Authorized Officer scrutinizes application to ensure compliance with GI Act and Rules viz.,
 - application has been filed in a proper form
 - prescribed fees have been paid
 - applicant or his agent has appended his signature in the Application
 - application has been filed along with five additional representations
 - application has been filed along with statement of case in triplicate
 - application has been filed along with three certified copies of map
 - power of attorney or authorization form has been executed and submitted in original.
 - class of goods has been mentioned correctly.
 - documentary evidence (Original / Notarized / Attested) relating to the legal status of applicant

4. Communication of deficiencies detected in preliminary examination

Deficiencies if any must be addressed within a time limit or the application may be abandoned. Applicant may also request extension of time in Form GI-9(C) with prescribed fee. Examiner/authorized Officer must submit Application to Registrar for consideration once the deficiencies have been addressed.

5. Examination of Application

- Registrar will ordinarily constitute a consultative group to ascertain the correctness of the particulars furnished in the statement of case.
- The applicant will be invited to make a presentation before the consultative group to explain their statement of case in group meeting held in GI Registry offices situated in Delhi, Mumbai and Kolkata.
- The consultative group will assess the correctness of the statement of case and recommend amendments, corrections or furnishing further documents.

- Registrar considers application on merits and issues examination report.
- The applicant must comply with proposals in the examination report within two months or submit observations in writing or apply for a hearing. If they fail to do so, the application is dismissed and if found to be in order, the registrar accepts it and publishes it in the GI Journal.

6. Publication in the geographical indications journal

If application is found to be in order, the registrar accepts it and publishes it in the Geographical Indication Journal.

7. Opposition to registration

- Any person can file a notice of opposition within three months (extendable by another month on request which has to be filed before three months) opposing the GI application published in the journal.
- The registrar shall serve a copy of the notice on the applicant.
- Within two months the applicant shall send a copy of the counter statement.
- If he does not do this he shall be deemed to have abandoned his application. Where the counter-statement has been filed, the registrar shall serve a copy on the person giving the notice of opposition.
- Thereafter, both sides will lead their respective evidences by way of affidavit and supporting documents.
- A date for hearing of the case will be fixed thereafter.
- If the evidences of applicant found to be true then, application is accepted.

8. Registration

- When an application for a GI has been accepted, the registrar shall register the geographical indication. If registered the date of filing of the application shall be deemed to be the date of registration.
- The registrar shall issue to the applicant a certificate with the seal of the Geographical Indications registry.

9. Renewal

A registered GI shall be valid for 10 years and can be renewed on payment of renewal fee.