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GEOGRAPHICAL INDICATIONS IN INDIA: AN ANALYSIS OF LEGAL FRAMEWORK, ECONOMIC IMPACT, AND SOCIO-CULTURAL SIGNIFICANCE

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❖ ABSTRACT

In India, Geographical Indications (GIs) are extremely important on a cultural, economic, and social level. They are a special kind of intellectual property rights alongside the copyrights, trademarks and patents that safeguard goods that have characteristics associated with particular areas. In a nation as culturally diverse and rich as India, GIs are essential for preserving traditional knowledge, fostering regional identity, and solidifying local producers' livelihoods. The legal foundation for GI protection in India is the *Geographical Indications of Goods (Registration and Protection) Act, 1999*, which complies with the global norms established by the TRIPS Agreement of the World Trade Organization. By granting producers exclusive rights, this regulation stops illegal exploitation of GI names and gives local communities the ability to make profit from these products.

Basmati rice, Kanjeevaram silk, and Darjeeling tea are well-known examples of GIs that increase economic value and promote regional development. Additionally, GIs provide farmers and craftspeople in rural areas with solid sources of income, boosting employment in underdeveloped areas. However, a number of obstacles stand in the way of GIs' full potential in India, such as poor producer awareness, a convoluted registration procedure, and insufficient enforcement measures, all of which frequently result in illegal use or counterfeiting of goods bearing the GI designation.

In spite of these obstacles, GIs have the potential to revolutionize regional travel, Indian exports, and cultural preservation. Through enhancing awareness campaigns, streamlining registration, and guaranteeing global collaboration, India can enhance its GI ecosystem and enable local communities to reap the full benefits of these priceless items. India can ensure economic resilience, foster regional pride, and preserve its cultural heritage by making extensive efforts to improve the GI framework. This would establish GIs as a crucial engine for economic growth and the preservation of cultural heritage for coming generations.

❖ Keywords: Geographical Indications (GIs), Traditional Knowledge Protection, Economic Impact of GIs, Challenges under GI, Intellectual Property Rights in India.

I. INTRODUCTION:

1. In India, firms, inventors, and artists are given legal protections referred to as intellectual property rights (IPR) to protect their inventions, works, and brand identities. IPR encompasses a number of categories, such as patents, copyrights, trademarks, industrial designs, and geographical indications, each with its own legal framework. The Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which India signed in 1995, and other international norms are in accordance with India's IPR policy. India has created an extensive legislative framework for IPR protection throughout the years, guaranteeing both adherence to international norms and flexibility to meet the needs of the region.
2. *THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999*, clearly defines the term under *section 2(e)* as, “geographical indication”, in relation to goods, 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 and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.¹

¹ THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999, §2, No. 48, Acts of Parliament, 1999 (India)

3. Thus, briefing that essentially, GIs assist customers in identifying and putting their faith in the genuineness of products like Darjeeling Tea, which derives its distinctive characteristics from the local climate and customs. By guaranteeing that only authorized manufacturers from the defined area may use the name, geographical indications (GIs) protect local producers from producers outside the region using their product names without authorization, thereby promoting and protecting local economies.
4. GIs can be utilized on manufactured goods, natural materials, or agricultural products. At least one stage of manufacturing, processing, or preparation must occur in the designated area, region, or locale for produced items. The financial and cultural value of GIs is derived from an attachment to place, which sets these products apart in the marketplace based upon their place of origin and customs.

II. HISTORY:

1. Given that the formal idea of Geographical Indications (GIs) as a recognized intellectual property right emerged more recently, the history of GIs goes back centuries. At first, regional goods were valued for their distinctive characteristics related to regional resources, climate, and customs. With renowned products like Roquefort cheddar and Champagne (France) that were acknowledged for their distinct regional origins as early as the Middle Ages, the historical roots of GIs are especially clear in Europe. Due to the increased international recognition of these goods, regulatory structures were required to safeguard their validity.
2. Early in the 20th century, European nations like France established appellation rules for protecting regional goods, marking the beginning of the official protection of GIs. One of the first formal GI safeguards was the Appellation d'Origine Contrôlée (AOC)² system, which was implemented in France in the 1930s and made sure that only goods that were actually manufactured in a given area and came from that area could use the regional designation.
3. With the 1958 Lisbon Agreement and the creation of the World Intellectual Property Organization (WIPO), GIs were acknowledged as intellectual property on a global scale. Although the Lisbon Agreement particularly addressed appellations of origin, the

² The National Institute of origin and quality - Institut national de l'origine et de la qualité (INAO) <https://www.inao.gov.fr/eng/The-National-Institute-of-origin-and-quality-Institut-national-de-l-origine-et-de-la-qualite-INAO> , (last visited Oct. 21, 2024)

Paris Convention (1883)³ had already contained prohibitions on unfair competition, which served as the basis for GIs. The most extensive development was the 1995 TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights) of the World Trade Organization, which required GI protection in all of its member nations. GI protection is a crucial component of trade agreements since the TRIPS Agreement standardized it internationally.

4. The Geographical Indications of Goods (Registration and Protection) Act, 1999 codified GI protection in India and became effective from 2003. With historic goods like Basmati rice, Kanjeevaram silk, and Darjeeling tea at risk of counterfeiting and no obvious legal protection, GIs in India were not well-known prior to this. Local producers and communities are now empowered to protect their cultural items thanks to India's GI Act, which established an organized framework of GI registration. These days, GIs are important to India's rural economy as they preserve traditional knowledge, increase exports, and promote cultural heritage.

III. GI'S LEGAL FRAMEWORK IN INDIA:

1. India's Legal Framework of Geographical Indications of Goods (Registration and Protection) Act, 1999, which gives legal recognition and protection to items with distinctive characteristics associated with particular geographic locations, serves as the foundation for Geographical Indications (GIs). In accordance with the TRIPS Agreement, this Act permits the registration of manufactured, natural, and agricultural products, guaranteeing the protection of items like as Basmati rice, Mysore silk, and Darjeeling tea from plagiarism and imitation. Local producers can regulate the use of the GI name, stop illegal generation, and raise the product's market value thanks to the exclusive rights granted to registration is valid for ten years with the possibility of infinite renewals under the Geographical Indications Registry in Chennai⁴.
2. India's GI system has been effective in promoting local pride, conserving traditional knowledge, and enhancing rural economies. India's GI framework has the ability to improve local communities and raise the international reputation of its distinctive regional products with sustained efforts to increase awareness, streamline procedures,

³ The World Intellectual Property Organization (WIPO) https://www.wipo.int/treaties/en/ip/paris/summary_paris.html, (last visited Oct. 21, 2024)

⁴ Office of the Controller General of Patents, Designs & Trade Marks, Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India, <https://www.ipindia.gov.in/contact-us.htm>, (last visited Oct. 17, 2024)

and strengthen international partnerships.

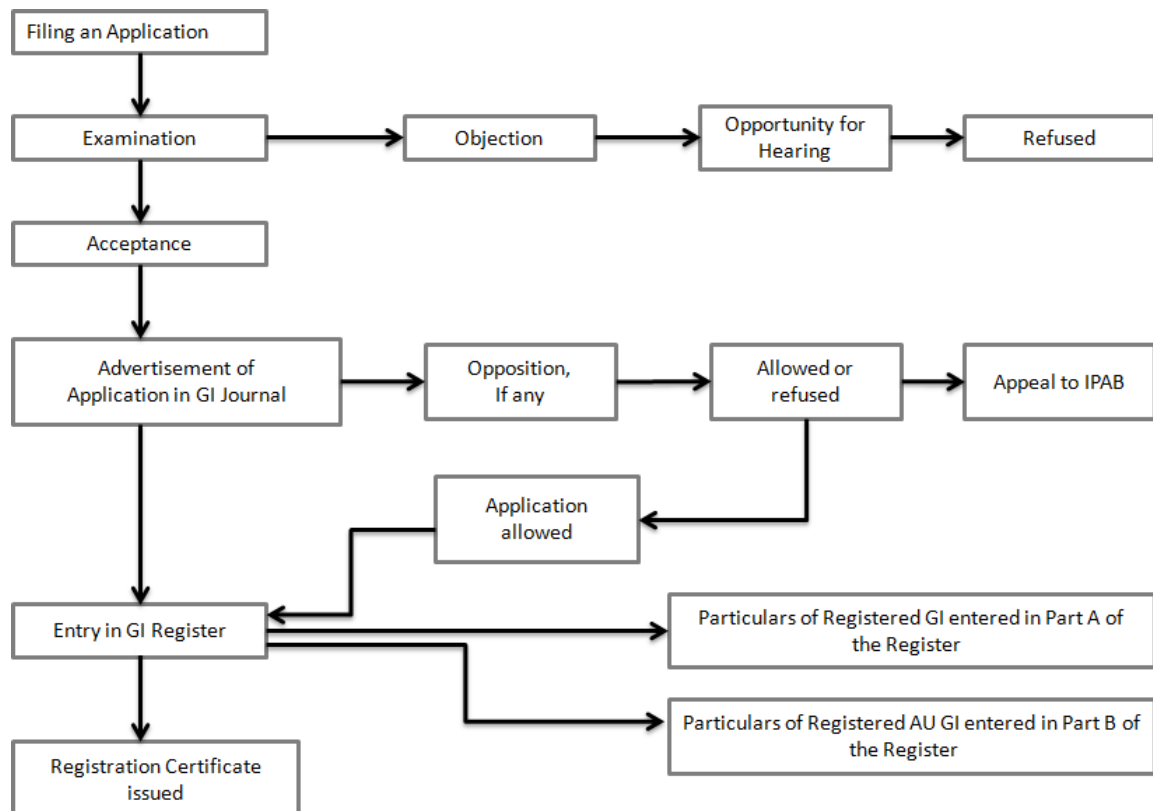
IV. CRITERIA TO BE FULFILLED TO RECEIVE A GI TAG

1. **Specific Geographical Origin:** A country, region, or location must be the product's clearly defined geographic origin. A key component of GI protection is this link to a particular location.
2. **Origin-Related Qualities, Reputation, or Characteristics⁵:** The product's unique attributes, reputation, or other features must "essentially attributable" to its place of origin. This indicates that the product's distinct identity is greatly influenced by local human and environmental elements, such as the climate, soil, customary production techniques, or local knowledge.
Human Factors: According to the definition of GI, a product's unique attributes and reputation are influenced by human production factors, such as customary knowledge, abilities, and practices.
Reputation: If a product's reputation is closely related to its place of origin, it may also be taken into account for determining GI protection.
3. **Product-Place Link⁶:** The product and the geographic region asserting the GI must be clearly and substantially linked. The geographical location including both natural and human influences, should have a direct and observable impact on the product's distinctive qualities, reputation, or qualities.
4. **Legal Protection Mechanisms:** Sui generis systems, collective or certification marks, and anti-unfair competition legislation are just a few of the legal measures used by many nations to safeguard GIs.

V. THE REGISTRATION PROCESS:

⁵ Handicrafts, https://handicrafts.nic.in/CmsUpload/12222017102212GI%20BOOK%20FINAL%202-5-17_resized.pdf, (last visited Nov.05, 2024)

⁶ Dr Raju, A Handbook on Geographical Indications in India, 19, [Thomson Reuters South Asia Private Limited 2021]



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1. The Geographical Indications of Goods (Registration and Protection) Act, 1999 governs the registration procedure for Geographical Indications (GIs) in India. Here is the comprehension of conditions, procedures and reliefs provided:

- a) **Application Filing:** Applicants must submit an application in triplicate to the Geographical Indications Registry in Chennai, representing producers and providing comprehensive details on the product's attributes, standards, region, and inspection procedures.
- b) **Preliminary Examination:** The application is reviewed by the Registrar for any errors that need to be fixed within a month. The information is reviewed by a consultation panel of professionals, and then an examination report is produced.
- c) **Show Cause Notice:** The applicant has two months to reply or request a hearing if the Registrar uncovers objections. The application may be withdrawn in response to objections.
- d) **Publication:** Within three months of acceptance, applications are published in the Geographical Indications Journal.

⁷ Office of the Controller General of Patents, Designs & Trade Marks, Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India, <https://ipindia.gov.in/the-registration-process-gi.htm>, (last visited Oct. 19, 2024)

- e) Opposition: Within three months (with a one-month extension), interested parties may object to the registration. A hearing is held after the opposing party and the applicant have both presented evidence.
- f) Registration and Certificate Issuance: Following approval, the GI is registered, certified, and backdated to the date of application filing.
- g) Renewal: GIs have a ten-year validity period, but they can be renewed indefinitely for a price.
- h) Enhanced Protection: The Act provides extra protection for specific notified products.
- i) Appeals: Within three months, any party that is disappointed may file an appeal with the Intellectual Property Appellate Board (IPAB).
- j) Registration of deceptive, offensive, generic, or misleading names is prohibited by Section 9 restrictions. Comprehensive GI protection in India is described, along with additional paperwork, affidavits, and public inspection procedures.

VI. GI's Economic Impact:

1. Increased Sales and Higher Prices: Because of the distinctive characteristics and reputation connected to the products' place of origin, GIs allow producers to charge more for their goods. Customers' willingness to pay extra for genuine, superior products associated with a particular area is the source of this price premium. Increased sales volume may also result from increased demand brought on by customers recognizing the GI designation.

For instance, Table 1 in the sources shows the notable price hikes that different items underwent upon GI registration. For instance, after receiving GI designation, the price of the below mentioned products has been at least increased by 100%, to the max of 16.5k%, which is shockingly amazing.

Table 1: Indicating the Raise of Product's Prices After Registration as a GI Product

Product Name	Place of Origin	Price Before Registering as GI product (Rs.)	Price After Registering as GI product (Rs.)	The change of Price (in %)
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Channapatna Toys(units)	Karnataka	4-358	400-8,000	100-2134	
Aranmula Kannadi(units)	Kerala	20-800	3,500-5,500	17400- 587.50	
Thanjavur painting(units)	Tamilnadu	100-3000	5000-500000	4,90 0-	16,566.67
Khola Chilli(kg)	Goa	20-80	100-400	400	
Kashmir Saffron (1 gram)	Kashmir	100-800	2500-5000	2,40 0-	525

2. Increased Export Potential: GIs may prove to be a useful tool for entering foreign markets. A GI's reputation and fame might draw the sight of international buyers looking for distinctive, superior goods with a particular place of origin. This can increase exports and support the expansion of the national economy. The GI registration of a product increased the state-product level exports by 67.7% on average⁸.
3. Decreased Marketing Expenses: GIs serve as a regional producer's collective brand. Because they can take use of the GI's well-established familiarity and reputation, independent producers can reduce their marketing expenses by using this shared brand identity. Small-scale producers, who might not have the resources for individualized marketing campaigns, will especially benefit from this.
4. Job Creation and Rural Development: GIs have beneficial economic effects that go beyond those of individual producers and support overall economic growth, particularly in rural regions. GI products' higher demand and premium costs have the potential to boost economic activity in the selected areas, creating jobs and revenue⁹. Enhancing livelihoods, reviving rural economies and maybe lowering rural-to-urban migration are all possible outcomes of this.
5. Tourism and Regional Branding: GIs can support the growth of both tourism and regional branding. Tourists who want to experience a region's culture, heritage, and

⁸ ScienceDirect, <https://www.sciencedirect.com/science/article/pii/S0970389624001393> , (last visited Oct.24, 2024)

⁹ CERKIA BRAMLEY, ESTELLE BIÉNABE AND JOHANN KIRSTEN, THE ECONOMICS OF INTELLECTUAL PROPERTY, THE ECONOMICS OF GEOGRAPHICAL INDICATIONS: TOWARDS A CONCEPTUAL FRAMEWORK FOR GEOGRAPHICAL INDICATION RESEARCH IN DEVELOPING COUNTRIES, CHAPTER 4, 118, PARA 3, 2007, https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1012-chapter4.pdf

6. cuisine may be drawn to GI products due to their distinctive qualities and stellar reputation. Increased tourism-related income, the development of jobs in the industry, and general economic expansion in the selected areas are all possible outcomes of this.

VII. Socio-Cultural Impact of GI's

1. Preservation of Traditional Knowledge and Practices: Generation-to-generation transmission of traditional knowledge and practices is inextricably related to GIs. GIs contribute to the protection of this cultural heritage by preserving goods linked to particular geographic origins and production techniques.

For instance: Protection of the "Pashmina Shawls", Pashmina shawl is hand embroidered¹⁰, known for its fine texture, is an example of GIs preserving cultural heritage in India. The GI status helps protect the traditional weaving techniques and the cultural significance.

2. Social Cohesion and Community Empowerment: GIs frequently entail group endeavours and community participation in industrial processes. A GI's shared ownership promotes collaboration among producers and a feeling of communal pride. By strengthening social relationships within the specified territory, this collective identity can foster a sense of belonging and social cohesion

For Instance: The sources emphasise how the "Banarasi saree"¹¹ was successful in obtaining GI designation, indicating how local populations are empowered. In Varanasi, the GI tag contributed to the revival of the old weaving industry, helping the local economy and giving many weavers a means of subsistence.

3. Consumer Perceptions and Cultural Significance: By informing consumers about the product's source, quality, and cultural significance, GIs have an impact on how they view it. The GI tag influences customer preferences and choices by serving as a symbol of authenticity and dependability. By linking items to certain regions and cultural customs, GIs develop a story that gives the product worth and significance, increasing its attractiveness to buyers looking for distinctive and culturally meaningful products.

Examples: According to the sources¹², consumers are willing to pay more for GI

¹⁰ Luxury Pashmina Shawl, <https://www.pashmina.com/what-is-pashmina/>, (last visited Oct.25, 2024)

¹¹ Banarasisaree, <https://www.banarasisaree.com/history-of-banarasi-saree/>, (last visited Oct.25, 2024)

¹² Kasturi Das, Socioeconomic Implications of Protecting Geographical Indications in India, 35, August 2009, https://wtocentre.iift.ac.in/papers/Gi_Paper_CWS_August%2009_Revised.pdf

products, demonstrating their perceived worth and the significance of the cultural narrative surrounding them.

VIII. Case Studies:

1. Tea Board India v ITC Limited¹³:

- ❖ A significant instance of efforts to safeguard India's first geographical indication (GI)-tagged commodity is the Darjeeling Tea Case. Darjeeling tea is renowned globally for its distinct flavour, which is ascribed to the region's particular geography and processing circumstances. Dr. A. Campbell was a pioneer in the cultivation of this tea during the British colonial era in the 1840s. Darjeeling tea became a significant export, particularly to markets in Japan, Russia, the US, and the EU, after the tea gardens were transferred to Indian hands following India's independence.
- ❖ In 1983, the Tea Board of India created a Darjeeling logo and obtained GI designation under the Geographical Indications of Goods (Registration and Protection) Act, 1999 in 2004 among other procedures, to safeguard the Darjeeling brand¹⁴.
- ❖ This gave Darjeeling Tea a legal protection and made it India's first GI product. The Tea Board keeps a close eye on illegal use all around the world, working with businesses to monitor violations and pursuing about 15 cases globally, including significant agreements with businesses like Bulgari to stop misuse.
- ❖ "Darjeeling Lounge" Dispute: ITC Ltd. used the Darjeeling emblem for a "Darjeeling Lounge" in their hotel in Kolkata in a significant dispute. The Tea Board filed a lawsuit, alleging violations of the GI Act and trademark infringement. The Calcutta High Court, however, dismissed the complaint as being past the statute of limitations and decided in favour of ITC Ltd., concluding that there was no product relationship between the lounge and Darjeeling tea.
- ❖ The TRIPS Agreement, which only provides strong GI protection for wines and spirits and not other products, makes it challenging to obtain worldwide GI protection for Darjeeling tea despite efforts. Proponents propose revising Article 23 of TRIPS to more thoroughly encompass goods like Darjeeling tea.
- ❖ This case highlights both the achievements and difficulties encountered in preserving the reputation of the Darjeeling tea brand and its authenticity, illustrating the

¹³ Dr. Sudhir Ravindran and Ms. Arya Mathew, The Protection of Geographical Indication in India – Case Study on 'Darjeeling Tea', INTERNATIONAL PROPERTY RIGHTS INDEX, 58, 60-61, [2009]

¹⁴ Tea Board India v ITC Limited, 2010 CALHC 250

continuous difficulties of protecting GI items on a global basis.

2. India-US Basmati Rice Dispute¹⁵:

- ❖ The Basmati Case highlights how difficult it is to preserve geographical indications (GIs) in international trade, especially for culturally important goods like Basmati rice, which is valuable to both India and Pakistan both economically and culturally. Concerns regarding biopiracy and market dilution were raised in India in 1997 when the US Company Rice Tec received a patent for rice varieties it marketed as "American basmati," using terms like "Kasmati" and "Texmati" that imitated Basmati features.
- ❖ India contested Rice Tec's patent in the US, claiming that the term "Basmati" deceived customers and that certain rice strains were not unique. Consequently, the USPTO revoked certain more general patent protections and Rice Tec retracted some of its most important patent claims. India created the Geographical Indications of Goods (Registration and Protection) Act, 1999, which granted domestic GI status to Basmati rice. in response to this controversy.
- ❖ The case emphasized the need for more robust GI frameworks under agreements like TRIPS and the limitations in international trademark law for GI protection. The difficulties of creating worldwide GI protections when several regions assert a product's ancestry are seen in the fact that, despite India's successful local GI recognition, obtaining international GI status has been difficult because of Pakistan's resistance and Nepal's claims. The Basmati case continues to have an impact on global conversations about harmonizing GI regulations, strengthening GI protection, and increasing awareness of biopiracy.

IX. CHALLENGES FOUND¹⁶:

- ❖ The difficulty of striking a balance between conflicting needs. Although the goals of GIs are to safeguard the interests of both producers and consumers, these goals can clash. For instance, manufacturers may choose to restrict the use of a GI in order to guarantee the quality of their goods, but this may make it more challenging for

¹⁵ Kranti Mulik, John M. Crespi, Journal of Agricultural & Food Industrial Organization, Geographical Indications and The Trade Related Intellectual Property Rights Agreement (TRIPS): A Case Study of Basmati Rice Exports, Volume 4, Article 4, 2011 <https://dr.lib.iastate.edu/server/api/core/bitstreams/2a471037-29cb-40ed-ab21-3f63e576cda5/content>

¹⁶ Megha Ojha, Guide To Geographical Indications: Registration of Geographical Indications in India, 22, [KAAV PUBLICATIONS 2020]

customers to locate and buy those goods.

Without the presence of a suitably inventive goal; New innovations are not protected by GIs, in contrast to patents. Rather, they safeguard customary goods associated with a particular region. Because of this, it may be challenging to defend the high degree of protection that GIs have, particularly when the product isn't really distinctive.

- ❖ The challenge of establishing and implementing GIs; A GI's definition can be ambiguous and challenging to implement in real-world situations. This may result in disagreements regarding the usage of GIs and the theft of GIs by manufacturers who are not authorized to use them. The question of whether the name "basmati" may be used to refer to rice farmed in the United States, for instance, was a point of contention between India and the United States.
- ❖ The burden of balancing the interests of several nations; International accords oversee the protection of GIs, but they can be challenging to understand and implement. As each nation wants to safeguard its own interests, this may result in international conflicts.
For example, in the case of Darjeeling tea, there was a dispute between India and Nepal over the use of the term "Darjeeling" to describe tea grown in Nepal.
- ❖ The difficulty of preserving the connection between the product and its origin; The relationship between the product and its location of origin determines the GI's value. If producers are permitted to employ contemporary production techniques that are not customary in the area, this connection may be compromised.
For instance, there have been worries that the employment of contemporary winemaking methods in the case of Champagne may weaken the wine's unique flavor.
These are only some of the issues connected with GIs. These difficulties will probably get even more complicated if the world economy develops further.

X. CONCLUSION:

By associating their products with a particular geographic origin, companies can use geographic indications (GIs) to distinguish their goods in the marketplace. This connection to a certain location, area, or nation highlights attributes, reputations, or other features related to that area. As a powerful marketing strategy that draws customers to particular geographic areas, especially rural ones, GIs create a link between a product's identity and its place of origin. By fostering rural development, maintaining economic activity, raising living standards, and

creating jobs and revenue, GIs can help local farmers. By transmitting quality signals and lowering search expenses related to locating high-quality products, they can help customers.

The possibility of genericide, in which a GI becomes a generic name for a product rather than a distinct geographical origin, is one of the difficulties that GIs must contend with. Furthermore, in order to avoid free-riding and guarantee that only authorized producers are able to utilize the GI, the deployment of GI protection necessitates efficient enforcement methods. Another difficulty is juggling the demands of customers, who want access to these items, and producers, who could try to limit the use of GIs in order to preserve quality control. Conflicts between nations may arise from the complexity of international agreements governing GI protection. Furthermore, as production techniques change, it becomes increasingly important to preserve the connection between the product and its place of origin in order to maintain the authenticity and value of GIs.

