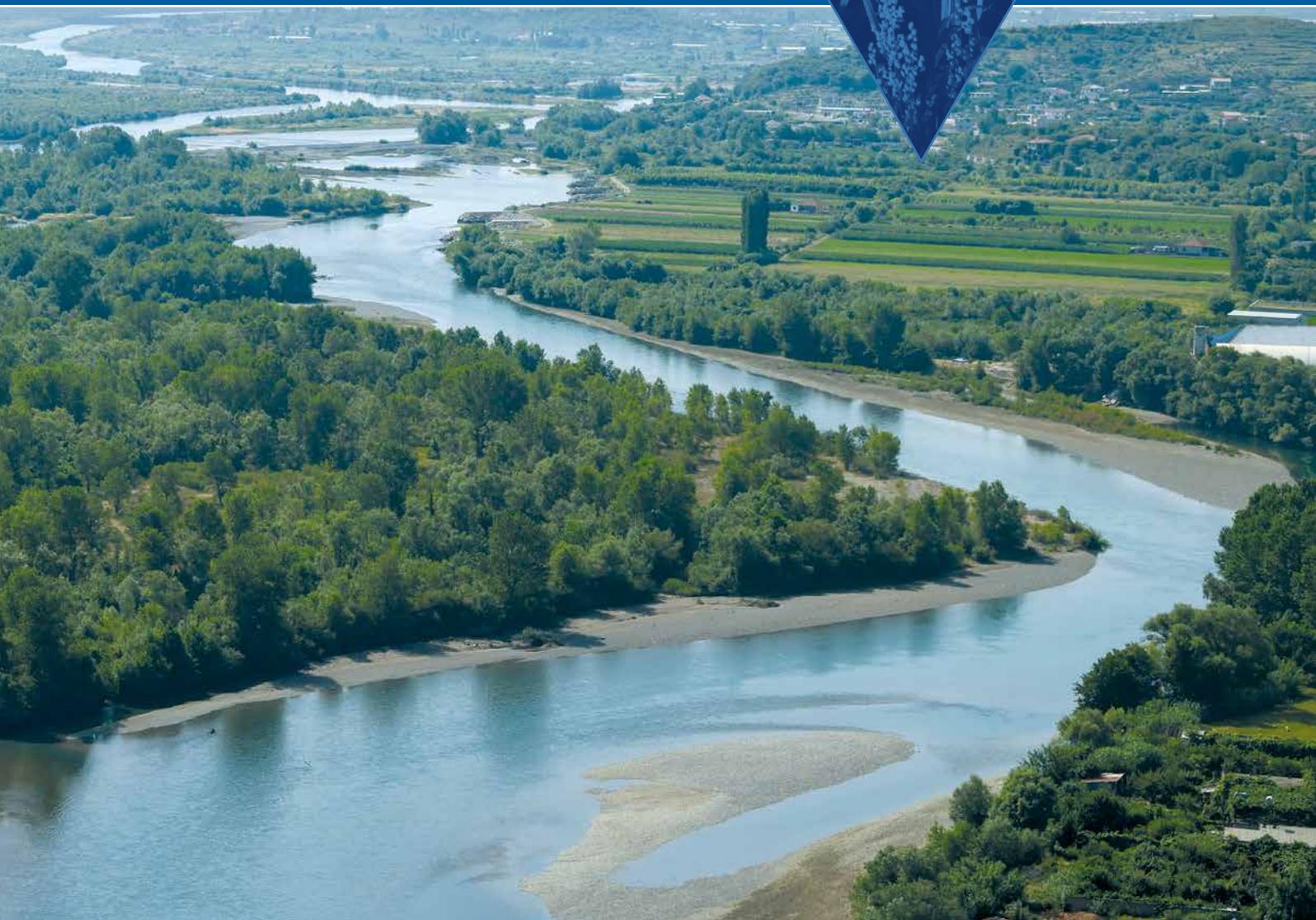




Food and Agriculture
Organization of the
United Nations

Promoting sustainability through the registration of geographical indications

Guidelines for public authorities
to examine applications





Promoting sustainability through the registration of geographical indications

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Abstract

Products with an origin-linked quality can contribute to sustainable local development through the promotion and protection of their geographical indication (GI). A GI is a sign used on products that have a specific geographical origin and possess characteristics or a reputation that are intrinsic to that origin. Such potential needs to be activated by defining the specific quality linked to the geographical origin, collective action by a producer organization, an appropriate marketing strategy and a sound legal and institutional framework. GIs can be registered as intellectual property rights (IPR) to ensure their protection. In countries where GIs are recognized under a public framework, public authorities can play an important role in the creation of favourable conditions for sustainable GIs by providing the appropriate institutional and legal framework. Thus, public authorities in charge of GI rights have an important responsibility when examining applications for protection, and the registration should ensure that GIs can function well. The examination of applications not only serves to verify the legitimacy of the GI as an IPR in terms of the link to the origin, but can also influence the GI system's effectiveness if authorities interact with applicants to improve some aspects of the application.

The objective of these guidelines is to provide guidance to public authorities that examine GI applications and to experts involved in this process. The guidelines build on key principles to support applicants to achieve successful and sustainable GIs. The recommendations and principles are to be adapted to the specific national context.

These guidelines provide examples and recommendations related to the procedures for the examination of GI requests. They focus on the two types of criteria for the registration:

- ▶ the legal criteria that determine the admissibility for registration (link to origin); and
- ▶ additional criteria that can be considered to help improve the GI system's sustainability.

Finally, the guidelines offer a list of questions to guide examiners along the examination process.



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Abbreviations and acronyms

DO	designation of origin
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
GI	geographical indication
INAO	National Institute for Origin and Quality (France)
IP	intellectual property
IPR	intellectual property rights
PDO	Protected Designation of Origin
PGI	Protected Geographical Indication
TRIPS	Trade-Related Aspects of Intellectual Property Rights [Agreement]
WIPO	World Intellectual Property Organization
WTO	World Trade Organization



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1. Introduction

1.1. Background

Products with an origin-linked quality can contribute to sustainable local development through the promotion and protection of their geographical indication (GI) (FAO, 2010). Such potential needs to be activated by a number of important success factors: a product with a specific quality linked to a geographical origin, collective action by a producer organization that develops and manages the GI, a marketing strategy and a sound legal and institutional framework (FAO, 2018).

A GI is a sign used on products that have a specific geographical origin and possess a quality and/or a reputation that are intrinsic to that origin. Geographical indications are a type of intellectual property right (IPR) that has gained traction in a growing number of countries. With the recent entry into force of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, which provides countries with an international registration system, the protection of GIs has moved to the forefront. Increased attention is being paid to how GIs can be used as a tool for rural development within national policies. Indeed, rural development is an expected consequence of the development and protection of GIs; it is, however, not an automatic result, nor is it an easy element to evaluate.

Countries can adopt different legal tools to protect GIs. Two main approaches can be distinguished at the national level:

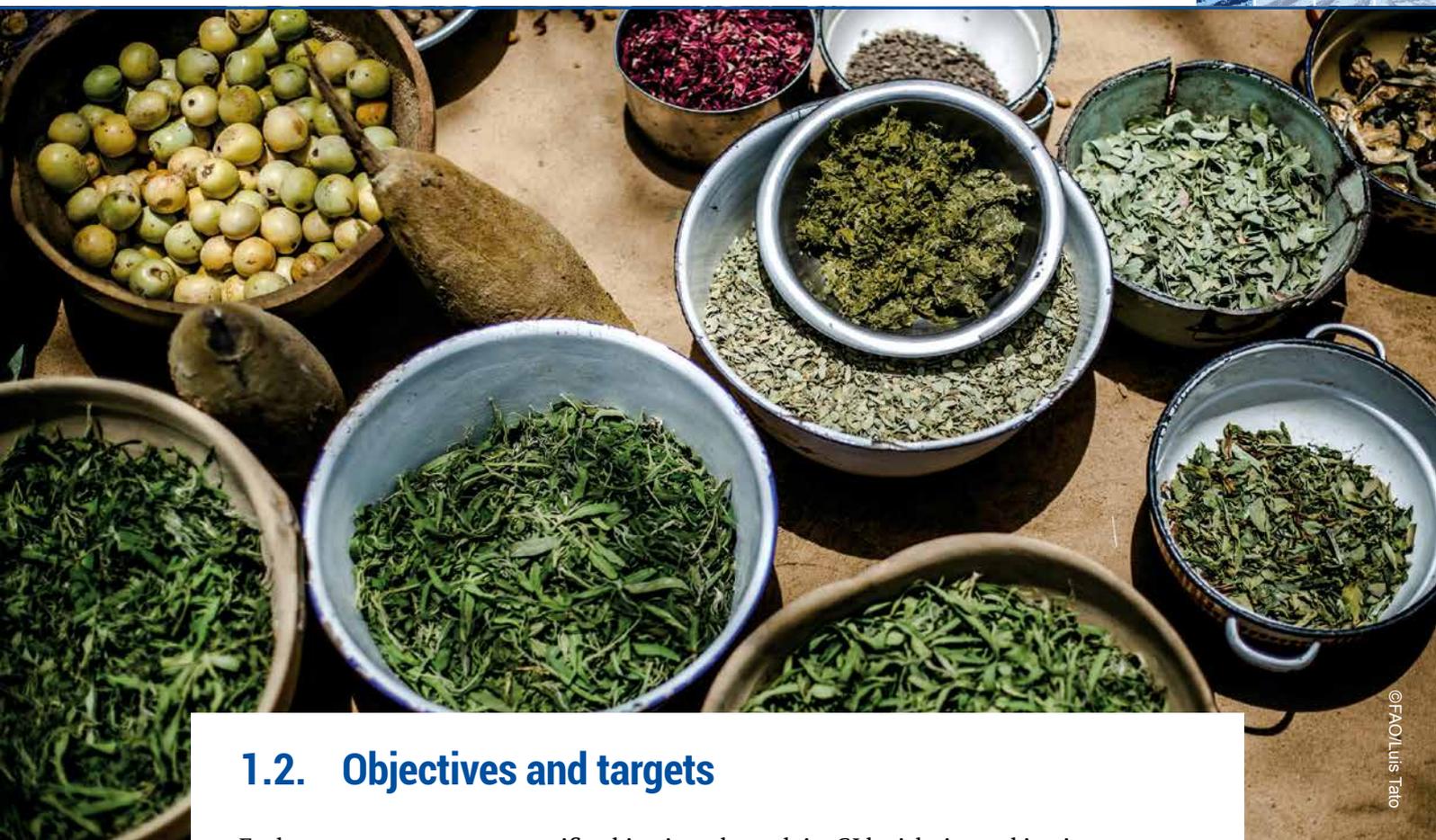
- **a public law** approach, whereby public authorities enact legislation dedicated to the specific protection of GIs (*sui generis* system) and officially recognize GIs by granting the status of a public seal of quality; and
- **a private law** approach, whereby protection is primarily based on private actions, using laws against unfair competition and passing off and trademark laws. These guidelines focus on the public law approach, and only make references to the private law approach where necessary. In countries where GIs are recognized under a public approach as collective IPRs, public authorities play an important role: they must provide the appropriate institutional and legal frameworks and recognize GIs that can function well. The approval of the registration and protection of a GI depends essentially on the demonstration of the link to the origin and its definition by means of the product specifications (or code of practice).

Thus, public authorities in charge of GI rights have a great responsibility when examining requests for the registration of GIs. Such examinations not only serve to verify the legitimacy of the protection of the GI as an IPR in relation to the link to the origin, but can

also help applicants improve the effectiveness of their GI system. Indeed, the overall recommendation of these guidelines to public authorities is to interact with applicants to ensure that GI specifications are adequate and controllable, while facilitating good governance by the local stakeholders. In addition to the strict definition of GIs (in terms of the link to the origin), examiners must pay attention to the sustainability of GI systems. They must consider the economic, social and environmental dimensions of these systems to ensure their viability and obtain positive externalities on public goods such as landscape, food heritage, biodiversity, job creation, etc. Thus, public authorities can formulate recommendations to applicants that increase the contribution of the GI system to the Sustainable Development Goals.

The examination of a GI request requires the combination of legal and IPR expertise on the one hand with very technical knowledge of production practices (agricultural or industrial practices related to food processing) on the other. The recognition of a GI has a strong economic impact as it grants exclusive use of the label to some producers while excluding others, which can lead to opposition. For these reasons, the examination of a GI request is a rather complex and sensitive process. The experience of examiners is therefore crucial; in contexts where GIs are a rather recent concept, guidance and examples are important tools to support the development of efficient, fair and credible procedures.





1.2. Objectives and targets

Each country may pursue specific objectives through its GI legislation, taking into account the local context and other policies (related to agriculture, rural development and food safety and quality). This is not a simple task. The authority that is responsible for the implementation of GI legislation is usually either the ministry in charge of agriculture (for food and agricultural products) or the ministry in charge of IPRs through the intellectual property (IP) office (for all products). The two types of ministries often collaborate in recognition and protection processes.

In countries where GIs are protected under specific legislation as collective IPRs, authorities must carefully examine applications for the official registration of GIs. The examination report should provide the reasons for non-compliance and formulate recommendations as to the acceptance or rejection of the request. A back-and-forth communication process between authorities and applicants is recommended to help the latter improve the content of their application.

The objective of these guidelines is to provide guidance and general recommendations for the examination of GI registration requests. It formulates key principles to help applicants develop successful and sustainable GI systems. The recommendations and principles are to be adapted to the national context, including the capacity of the country to invest in GI development and protection.

The target audience of these guidelines are public authorities involved in the development and implementation of GI policies and legislation at national and local levels, as well as public and private stakeholders and institutions involved in the examination of GI requests, especially where these requests come from a group of producers.



1.3. Structure of the guidelines

After this introduction (Section 1), the content of these guidelines is organized into two main sections:

- ◉ **SECTION 2** describes important aspects of the general processes and specific procedures for the examination of requests, which results in recommendations for the establishment or review of legal and institutional frameworks.
- ◉ **SECTION 3** focuses on the criteria to consider throughout the examination of requests, to ensure effective and sustainable GI systems. Two types of criteria are described:
 - ◉ Legal criteria that determine the right to registration (3.2): the examiners must ascertain that the request complies with the legal requirements and that the registration of the GI would be legitimate.¹ The assessment has to confirm that the application complies with the regulations and that the product is thus eligible for registration. It should also determine whether the rules defined in the specifications can be controlled.
 - ◉ Additional criteria that can help improve the GI system's sustainability (3.3): these criteria are not a direct part of the definition of the GI as an IPR, and therefore cannot be a cause for rejection of an application. However, their examination by experts can provide useful advice to applicants to foster the positive impacts of the GI system in terms of economic, social and environmental sustainability.

By using the list of questions proposed in these guidelines for the examination of applications (Section 3.4), examiners can ensure that all of these criteria are considered in the analysis of a GI application. The questions are general, and only suggestions: they should be fine-tuned to fully cover national legal requirements as well.

¹ Every country has its own regulatory framework laying down the specific requirements for GI applications, which those responsible for the assessment of requests must observe. These guidelines examine the elements that are common to the regulatory frameworks in multiple countries, and highlights those that should be integrated into such frameworks worldwide.



2. The legal and institutional foundations for good and fair examinations of GI applications

2.1. The examination procedure: overview

In countries where GIs are protected under specific legislation as collective IPRs, GIs must be registered in order to be recognized. Applicants with a legitimate interest in the GI, often a group of producers, submit a request for GI registration to the authority in charge of GIs. This authority is usually either the ministry in charge of IPRs (the IP office) or the ministry in charge of food and agriculture (for food and agricultural products). The authority will approve the registration and grant protection of the GI after an examination procedure (see [Box 1](#) for a detailed general procedure). The registration of a GI confers the right to use the registered GI (name, logo, etc.) only to those actors that are within the specified area and comply with the GI specifications. The decision to register a GI thus leads to the exclusion of those producers who do not comply with the GI specifications. Authorities must therefore make sure that applications meet the legal requirements, and that a correct formal and substantial evaluation is carried out in a fully transparent process that allows for opposition, like any public administrative process.

A credible GI system, with good and fair examinations, requires the investment of capacities and resources by public authorities, from the examination of the request to the protection of the GI on the market by means of a sound certification and control system. These guidelines focus on the examination of requests. Public authorities must dedicate the necessary funds for the establishment and functioning of the examination procedure. National legislation normally establishes two levels of examination: formal and in-depth or substantial (see [Box 1](#)).

Building on experiences in many countries, the following elements are at the basis for a good and fair examination procedure; it is important to consider them when creating the legal and institutional frameworks for GI protection:

- 📍 a **clear scope** and definitions for the recognized GI;
- 📍 impartial and **effective procedures**;
- 📍 clear and **transparent rules**;
- 📍 **dynamic system** for evolutive GIs; and
- 📍 system to consider **connected public policies**.

These elements are detailed below, with a list of recommendations for legislators.



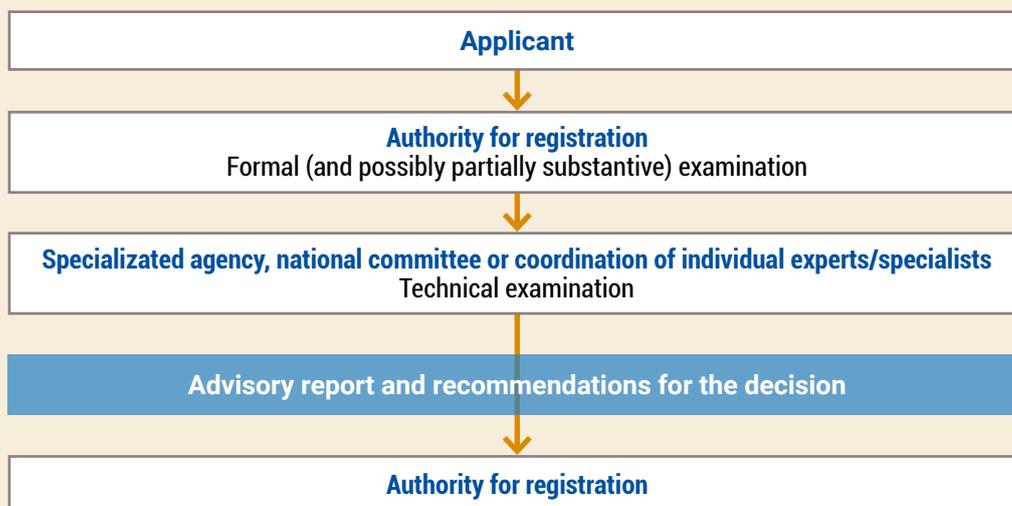
Box 1

A general framework for GI registration

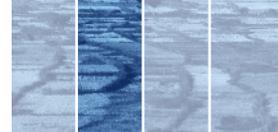
Although each country defines its own administrative procedure for the registration of GIs, the following is a step-by-step summary of an approach that is commonly used globally (see the figure below):

1. The applicant submits the GI application to the authority (the ministry in charge of IPRs or agriculture, depending the national context).
2. The authority considers whether the application complies with the legal requirements, both in form and in substance:
 - The *formal* examination checks whether the submission is complete, with all the requested information, documents and justifications needed for registration, according to legal requirements. The formal examination can also include a check regarding IPRs i.e. verifying whether the GI name is not already registered and protected. The existence of a GI name of a generic nature may also constitute a legal impediment to the registration; this can be assessed during the formal or the substantial examination (see [Section 3.2](#) on GI names). The formal examination can be carried out by the authority's staff.
 - The *substantial* or in-depth examination subsequently assesses the legitimacy of the registration of the GI in relation to the link to origin, based on the examination of the documents submitted. An in-depth or technical examination is conducted into the link to origin. For the substantial and more technical part of the examination, the authority can rely upon specialized experts or representatives of the production sector.
3. Meanwhile, or after having ascertained that the requirements for registration have been met, the authority ensures that the public is informed of the request, to allow legitimate oppositions to be made. If there is opposition, the GI application may be modified.
4. After the examination and the consideration of other legitimate interests, the technical advice and recommendations regarding the GI registration are sent to the authority, and the minister grants or denies the protection to the GI.

The examination phase can involve back-and-forth communication with applicants to complete the information submitted or improve the request.



Source: Authors' own elaboration.



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2.2. Principles for good and fair examinations

2.2.1. Clear scope and definitions of GI typologies

The basis for the examination is the national legal definition of GIs and their scope. Geographical indications tend to fall into one of two types based on the definition of appellations of origin in the Lisbon Agreement and of geographical indications in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (see [Box 2](#)).² Note that the present guidelines use the term of geographical indication for both types, and for the related terminology used in national legislation. When national legislation refers to two types, it is often done to distinguish between two cases:

- The GI is mainly built on characteristics linked to the natural and human resources of the place of origin: in this case, the local resources involved in the production of the GI, starting with the raw material, are crucial to the origin-linked quality of the product, meaning that all production phases are included in the GI specifications and must take place within the delimited area.
- The GI is mainly built on reputation: here, the specific quality linked to the origin can essentially be related to human factors and to the processing and maturation phases of the product, which take place in the delimited area, while the agricultural production of the raw material can take place elsewhere.

² The Lisbon Agreement for the protection of appellations of origin was signed in 1958. Its latest revision, the Geneva Act of 2015, provides for the international protection of both appellations of origin and GIs through a single procedure with the World Intellectual Property Organization (WIPO). For more information, see www.wipo.int/treaties/en/registration/lisbon. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement between all Member Nations of the World Trade Organization (WTO). The agreement, which came into effect on 1 January 1995, requests Member Nations to provide protection to IPRs, including GIs. For more information, see www.wto.org/english/tratop_e/trips_e/intel2_e.htm



Box 2

Definitions provided by the Lisbon Agreement and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The Lisbon Agreement (Article 2) defines appellations of origin as:

The geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors.

The TRIPS Agreement (Article 22) defines geographical indications as:

Indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

Sources:

WIPO. 1958. Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Geneva. World Intellectual Property Organization. Available at: <https://www.wipo.int/wipolex/en/text/285838>

WTO. 1994. Agreement on Trade-Related Aspects of Intellectual Property Rights. World Trade Organization. Geneva. Available at: https://www.wto.org/english/docs_e/legal_e/27-trips.pdf

Examiners must examine requests for registration considering the category contemplated by the applicant, as the importance of the criteria can differ in certain cases. For example, the link to origin is stronger for appellations of origin, and must include not only human but also natural factors in the delimited area.

2.2.2. Impartial and efficient examination procedures

The registration of GIs presents special challenges as a GI is an exclusive right to use a name (and other related indicators, if any) that does not *per se* belong to anybody. Therefore, an authority's decision to grant GI protection must be acceptable for society. This acceptability depends not only on whether there are prior rights to the name, or on the fulfilment of the clerical registration requirements. With respect to the TRIPS Agreement, applicants for GI registration must commonly justify (if appropriate in the national context) the geographical areas to which the GI applies and the quality, reputation or other characteristic of the good in question. Certain technical aspects are beyond the competency of the legal experts of the authority, who mainly examine the clerical elements of the registration, including the eventual existence of prior rights.

Collective examination and gathering of expertise

The balanced and comprehensive examination of requests for GI registration calls for a wide range of technical expertise. Assessing the link to origin, the uniqueness linked to specific and traditional knowledge and specific natural conditions, etc. requires specialists in production and processing methods and their consequences in terms of the link to local



resources and the delimitation of the area. The analysis also requires specialist knowledge of the human conditions of production, including aspects linked to history, anthropology and geography. Authorities are therefore advised to maintain and regularly update a list of experts and institutions to support the analysis of the technical aspects of GI applications. Experts should be selected depending on the product, sector and territory, and called upon to contribute to the examination.

Among these experts, representatives of the production sectors (and especially the sector concerned by the GI) are particularly important and should provide their experiences, vision and opinions regarding the future GI. Conflicts of interest must be carefully managed, and opinions considered only in as far as they are technically justified.

It is further important to ensure the collegial examination and formulation of recommendations for the authority's decision. The examination process should be collective so as to avoid individual subjectivity and partiality. By bringing together experts with a wide range of competences and experiences, a multidisciplinary and meticulous technical assessment of the application can be ensured.

How this collective process will determine the final decision must be defined in function of the national context. Certain rules must be established, particularly regarding the roles and profiles of the examiners involved. Do all voices have the same weight? Should decisions be reached by consensus (after a process of improvement of the application) or by a qualified majority (to be defined)? It is recommended to first aim for consensus. If a consensus cannot be reached, a qualified majority may be considered. Voting should be anonymous to ensure that people can freely express their opinions.

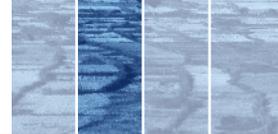


It is useful to develop methods or strategies to gather expertise and information in all relevant fields, including in relation with:

- 🔍 the policy and regulatory sector(s) concerned by the GI system;
- 🔍 the technical dimensions of the production system (e.g. livestock or other agronomic practices in the case of agricultural products, food technology and food safety in the case of food products, artisan practices, etc.); and
- 🔍 the level of intervention and markets (local, regional, national/federal and international).

Various methods or strategies can be adopted to gather expertise to analyse registration requests, depending on capacities and resources:

- 🔍 the creation of a specific assessment commission with experts to examine a particular GI application (with formal statutes and rules of procedure) and report their conclusions to the public authority;
- 🔍 the ad hoc mobilization of experts for the assessment of a specific GI system; these experts can answer specific questions of the commission, and their report or conclusions can feed (but not replace) the committee examination;
- 🔍 the use of databases, documents, etc. to check information;
- 🔍 the identification and interviewing of key stakeholders in the GI system;
- 🔍 the organization of field visits by members of the assessment committee and/or selected experts to collect information and meet with applicants and other local actors and stakeholders (including possible opponents), and reporting back to the committee; and
- 🔍 the organization of written consultations and the seeking of expert opinions on specific technical topics.



Organization of the collective examination

Different models can be adopted to carry out collective technical examinations according to the local context. The main approaches include the following:

- ◉ **A national advisory committee:** most commonly, authorities create a national advisory committee to support their decisions with sound examinations and expertise. These committees, often referred to as “national committees on GIs”, bring together representatives of public authorities and other entities (see [Box 3](#) for the example of Morocco and [Box 5](#) for that of Argentina). The usual duties and responsibilities of these national committees range from awareness raising and promotion to the examination of GI specifications. For the substantial examination, the committee usually relies upon external specialists in the particular product and/or sector. Thus, the administrative aspects of the specifications are analysed by the committee (whose composition reflects the range of professional competencies involved, to lend credibility to its opinions), while technical aspects related to the link to origin are examined by specifically selected external experts.
- ◉ **A specialized agency:** in contexts where GIs and other public labels account for a large sector of the economy, the authority (IP office and/or ministry of agriculture) can create a specialized agency in charge of the examination of GI applications; this agency then provides an examination report to help the responsible minister decide on the approval or rejection of the request (see [Box 6](#) for the example of France). Such agencies can cover other functions linked to a country’s GI policy, from awareness raising and promotion to certification. The agency assumes all tasks related to the administrative processing of GI requests and organizes the committees of independent experts for the substantial examination of requests. In addition, the agency’s staff can provide support to producers in the preparation of their requests for GI registration.
- ◉ **Intermediation by a regional institution:** public institutions at the regional level function as intermediaries between the national public authority in charge of GI registration and local producer groups in the GI territory. These regional institutions, in charge of local policies for rural development, can assist local actors in the preparation of GI specifications and other elements of the application. In addition, they can help officials of the national public authority examine the application by providing information about the local context and value chains, highlighting diverse regional interests. Italy is an example of this approach (see [Box 4](#)), which is particularly interesting in the case of federal states.



Box 3

The Moroccan national commission for distinctive labels of origin and quality

Applications for GI registration in Morocco are sent to the Ministry of Agriculture, which formally reviews the application and sends it on to the national commission for a substantial review. The national commission is chaired by the Ministry of Agriculture and is composed of government representatives (the IP office, research centres, chambers of agriculture and fisheries) and six professionals from the private sector with no conflicts of interest. For two months, and while it examines the request, the national commission publishes information about the GI request. The commission submits its report to the Ministry of Agriculture within six months.

Source: Authors' own elaboration.



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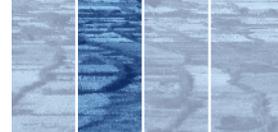
Box 4

The role of regional administrations in Italy

In Italy, the authority responsible for GIs is the Ministry of Agriculture, with an office dedicated to the certified quality and protection of geographical indications for agricultural, agrifood and wine products. This office is responsible for the implementation of GI regulations (e.g. the registration of amendments) and employs officials with competencies relevant to the sectors of the protected denominations. The Ministry of Agriculture recognizes consortia or GI organizations upon the presentation of GI applications; these organizations must be representative of producers according to a set of criteria established in a ministerial decree. In the regions, regional authorities can play an important role by accompanying applicants for new GI registrations or for the amendment of existing registrations. Indeed, regional authorities can support applicants in the preparation of the

specifications and interact with them at every step of the process. GI producers often inform regional authorities of their GI project and later on send the GI application to both the national and regional authorities (each having their own services to manage rural development policies and GIs). The regional administration can consult applicants and submits its own comments to the national authority within 90 days of the submission of the application. The Ministry can organize, together with the regional authority, a public meeting in the GI area to gain a better understanding of the GI system and consult with local stakeholders. The regional administration plays a coordinating role, but if needed can also mediate to reconcile different aspects of farming, value chains and territory, not only in terms of economics but also in terms of environmental and social sustainability within a broader regional context.

Source: Authors' own elaboration.



The first two approaches allow for a collective decision about the recognition of the GI to be submitted to the minister in charge of GI registration. Under the third approach, requests are examined by national officials, while regional administrations act as intermediaries to ensure that sufficient attention is paid to the local context and rural development issues.

A fourth approach would be to collect a range of opinions and expertise, based on which an official from the ministry in charge of GI registration builds a decision. In this case, the final decision is not made collectively.

Impartiality

Examiners must be impartial. To guarantee impartiality, it may be necessary to divide tasks between the officials in charge of helping applicants formulate their request (usually officers from ministries in charge of production or regional development), and those responsible for assessing the application (generally from the ministry in charge of intellectual property). The need for impartiality also concerns the specialists (public or private actors) called upon to contribute to the examination. For these specialists, conflicts of interest and partiality must be avoided. Examiners should therefore be required to disclose any conflict of interest; where such conflicts of interests jeopardize impartiality, experts must be recused from the decision. For example, when a national advisory committee examines a GI for which certain members have a conflict of interest, these members must leave the room during examination and decision-making.



Capacity building and examination approach

Examiners must be knowledgeable about the specificities of the GI under examination. Capacity building should be provided to newcomers, and longer-serving examiners should pass on their experience (see Box 5). One particular aspect to be careful about is the need to shift from the usual approach of **process optimization** (which is what experts usually aim to achieve when evaluating production methods) to a new approach of **typicity preservation** (where the emphasis is on understanding and maintaining particular traditions and producers' know-how, for the sake of the origin-linked quality).



Box 5

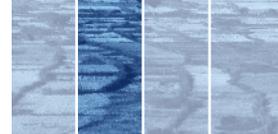
Training of members of the advisory committee, Argentina

In Argentina, the Registry of Appellations of Origin and Geographical Indications is under the responsibility of the national Ministry of Agriculture, Livestock and Fisheries. Applications for GI registration are evaluated by the National Advisory Commission for Geographical Indications and Appellations of Origin of Agricultural Products and Foodstuffs, which functions as a permanent advisory body that is not linked to the registry. The commission is made up of representatives (ad honorem) of public and private entities and organizations competent in the matter and of the 24 provinces of Argentina. Technical entities that participate most in the commission include the National Institute of Agricultural Technology, the Federal Investment Council, the National Service for Agrifood Health and Quality, and the National Institute of Industrial Technology. Chambers and producer associations with an interest in the products concerned also participate in certain processes. Exchanges between the registry and the technical bodies mainly take place during the analysis of the different versions of applications for recognition, and during the meetings for the formal presentation of the applications to the National Advisory Commission. These meetings are also attended by representatives of those

provinces that want to participate, especially the province of the product under examination.

From 2009 to 2020, the training of technicians and the creation of workspaces for the evaluation of applications involved professionals from various government agencies. The composition of the National Advisory Commission for Geographical Indications and Appellations of Origin of Agricultural Products and Foodstuffs has evolved over the years. In the beginning, it was made up of legal experts; later, professionals with training in biotechnical sciences were included. The latter receive continuous training and support to evaluate the technical aspects of applications, provided by the National Institute of Agricultural Technology of Argentina. Some training sessions are also attended by representatives of provinces, as well as by other technicians involved in local projects. The analysis of preliminary applications by the members of the National Advisory Council has resulted in the creation of a skilled group of professionals. However, the stability of this group is affected by the rotation of ministerial officials and representatives of technical institutions and provinces, as well as by the variability of public policies to support the development of GIs and designations of origin.

Source: Authors' own elaboration.



Field visits

It is recommended that the members of the examination committee and the experts called upon to assist in the examination visit the GI territory. The programme of the visit must be tailored to the GI under examination, and should include meetings with local actors in all sectors concerned, including operators in the value chain, public authorities and possible opponents. Such meetings allow examiners to gain a better understanding of the context, the specific link between quality and origin. This facilitates the examination process and can help applicants improve the sustainability of the GI specifications, if needed. Through separate meetings with different types of producers (including those outside the group of applicants) and objectors, examiners can better analyse conflicts and identify solutions to prevent future formal oppositions. It is particularly important to verify whether specifications reflect the vision of all producers, or are influenced by one group of producers, excluding others who may also have a right to use the GI. For example, specifications tailored to large-scale or modern producers may exclude more traditional producers. Thus, examiners should ensure that the GI rules are inclusive (see the example of the French National Institute for Origin and Quality in Box 6).



Box 6

An example of an investigation group: the French National Institute for Origin and Quality

In France, applications for GI registration are submitted to the National Institute for Origin and Quality (INAO), which verifies whether the application complies with all formal requirements and then selects the members of an investigation committee. These investigators (with no conflicts of interest, nor links to the territory) go into the field to examine the request locally. Their objective is to assess whether the link to origin is justified and well defined; their findings feed the examination process and allow INAO specialists to delimitate the GI area in accordance with the draft specifications. The investigation committee can meet with value chain actors, applicants, opponents and any other actor they consider relevant; they can take into consideration observations from actors who were not considered in the pre-submission phase. The investigators prepare a detailed report that will be used in the next steps of the examination procedure (including the delimitation of the GI area and the decision of the national committee).

Source: Authors' own elaboration.



An interactive and iterative process: back-and-forth communication with applicants

The preparation of the specifications and other elements of the GI application (such as a draft control plan) requires many different capacities to ensure that the application complies with all legal requirements, and adequately describe the link to origin and the production methods and resources involved. This is challenging for applicant producer groups, especially if the application is a new one. The proposed specifications may need clarification and improvement, not only from a formal point of view but also technically. Feedback from the national advisory committee can help producer groups consider previously overlooked aspects or situations and fine-tune the GI specifications. Back-and-forth communication between examiners and applicants is therefore crucial. The learning process resulting from this communication can not only help producers improve the efficacy and sustainability of the GI system; it also helps anticipate and prevent future opposition to the GI registration, and facilitates consensus when the national committee makes the final decision. It is therefore important to allow enough time for such a back-and-forth process during the examination. Deadlines should be set for answering specific requests or questions, as well as for field visits (see [Field visits](#)). Time spent at this stage is time won in terms of the sustainability of the GI system.

2.2.3. Transparency and clear rules

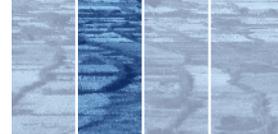
A clear and transparent process, for both applicants and other stakeholders, is crucial to ensure the legitimacy and inclusiveness of the GI to be registered. The below sections provide a number of recommendations in this respect.

Transparent rules for applicants

It is important that the administrative procedure is easily accessible and understandable for all applicants, including actors from vulnerable categories or places. The publication of clear rules for the submission of GI requests is key to ensuring transparency and facilitating the preparation and submission of good and compliant requests by applicants. For multilingual societies, it is recommended to publish these rules in the languages spoken by the different segments of the population, even if they are not considered official languages. The publication can also include recommendations and guidelines to facilitate the work of applicants.

Public consultations during examination

Most legal systems foresee an opposition procedure, after examination and before the registration of the GI, once it is confirmed that there is no major opposition (see [Box 7](#)). In addition, it is recommended that the responsible authority or the national committee organize preliminary public consultations during the examination process in the product's territory. This allows local actors to be informed of the ongoing examination process and present any initial objections. Any conflicts should be resolved through discussions and changes in the specifications, to avoid opposition to the registration at a later stage and minimize the disruption this would likely cause (see the example of the French National Institute for Origin and Quality in [Box 8](#)).



Box 7

Opposition to GI registration under European Union legislation

Some legal systems, such as that of the European Union, foresee a time period after the registration of a GI for any interested party to oppose the registration. If the opposition is valid, then the opposer and the applicant should consult each other to find a solution.

In the absence of such a solution, the deciding authority takes the final decision on whether or not to cancel the registration. For more information, see the European Commission's website at https://agriculture.ec.europa.eu/farming/geographical-indications-and-quality-schemes/registration-name-gi-product_en

Source: Authors' own elaboration.



Box 8

An example of public consultations: the French National Institute for Origin and Quality

The French National Institute for Origin and Quality (INAO) organizes specific public consultations on the delimitation of the GI area, to inform the public about the GI project and collect any objections. The procedure has two phases:

1. Notification of the public consultation, at least 15 days before the field visits by the INAO investigation group, providing the beginning and end dates of the consultation and the modalities for the presentation of claims by persons with legitimate interests, including landowners concerned by the delimitation.

This information is published in the local or national press (general and specialized), through the public administration network (including municipalities) and on the INAO website.

2. The consultation itself: once the area has been delimited by the investigation group, the group's report about the delimitation can be consulted for two months on the INAO website and through the municipalities. Legitimate claims must be sent to INAO for examination before the end of the consultation period.

Source: Authors' own elaboration.

Manual of procedures and capitalization on experience

It is important to clearly define the role of the examination committee and lay down precise rules regarding its functioning. Such a manual of procedures, which can be defined through regulations, ensures that the committee functions in a consistent and fair manner, even with new members.

In addition to this manual, examiners should be able to capitalize on prior experiences of the committee, in other words use the knowledge developed during the examination of earlier specific cases to analyse similar cases. To this end, an internal “state of the art” guidance document can be developed by committee members; here, experienced examiners should write down their knowledge and share lessons learned.



2.2.4. A dynamic system for inclusive and evolving geographical indications

To support sustainable rural development, GI systems should:

- be inclusive, to benefit any operator complying with the collective GI rules (including small-scale and vulnerable operators); and
- evolve in response to changes in the local or global context, including environmental (e.g. caused by climate change), economic or social changes (e.g. new regulations, food safety crises).

Small-scale operators and operators belonging to vulnerable categories may not be able to comply with the requirements of an official quality system from the very beginning. Indeed, doing so may require investments in new equipment, changes in production methods, or entry into the formal economy, with official registration and regulations (including taxes). For those requirements that may prove too burdensome for small or vulnerable operators, transition periods can be considered: a reasonable time period to allow these actors to comply with the requirements while continuing to use the GI name. This period should be accompanied by measures to support the operators in their compliance efforts.

A frequent challenge for traditional and small-scale food producers, and particularly for those producing animal-based products, is compliance with food safety regulations. Indeed, in many countries, small and traditional producers are unable to comply with some requirements of the general food safety regulations. In some countries, food safety legislation foresees flexibility for GI producers who can guarantee the safety of their products. Flexibility and derogations are based on the recognition that the specifications of GI systems prescribe safe production methods and thus provide guarantees in terms of food safety. This flexibility, while guaranteeing the public's right to safe food, allows specifications to be tailored to size and traditionality (see [Box 9](#)).

The context in which producers operate may evolve, for example as a result of climate change. Thus, it is important to create procedures that facilitate changes in the specifications of registered GIs. For these cases, submission and examination procedures can be simplified, especially if the changes are minor, taking into consideration the fact that the GIs have already been fully assessed before. The examination should concentrate on verifying whether the changes do not affect the link to origin and reputation.

In addition, temporary derogations from GI specifications can be authorized following officially recognized emergencies, such as climate or sanitary crises. Such derogations should be restricted to a specific period and area; afterwards, there should be a return to the normal enforcement of the rules.



Box 9

Flexibility in food safety regulations: the example of meat products in Montenegro

The new food safety regulations that were issued in 2017 by Montenegro's Ministry of Agriculture, Forestry and Water Management include flexibility measures and derogations for small-scale meat producers, processors and distributors, as well as for producers of traditional meat products (specific guidelines were also disseminated to help producers comply with the country's new food hygiene requirements). For example, specific requirements related to the construction and layout of facilities are either not compulsory for small-scale operators, or can be adapted. These regulations protect the livelihoods of producers, most of whom are small operators, without sacrificing food safety and whilst maintaining differentiated and high-quality products.

Source: Authors' own elaboration.

Without these measures, most producers would largely be excluded from competing in big markets. Indeed, many of Montenegro's family farmers make specialty meat products using production methods that were passed down over generations. While some of these methods are safe, they do differ from the new rules and regulations. The flexibility provisions, however, enable businesses making such products to continue following traditional production methods, from production to packaging, without cutting corners on food hygiene. The flexibility provisions are important as they help preserve the diversity of food products in Montenegro, as well as local traditions, cultural heritage and livelihoods.

2.2.5. An interconnected public policy system

Public policies regarding GIs are not disconnected from policies concerning other issues, but rather touch upon a number of intersecting topics.

As far as the examination is concerned, it is important to distinguish between the specific requirements for the GI registration (related to the product's specific quality) and those requirements that are compulsory for operators irrespectively of the registration. For example, food safety regulations must be adhered to by any operator putting food on the market (see [Box 10](#)), and there is therefore no need to include requirements imposed by food safety legislation within the GI specifications. Usually, the description of the traditional production process in the specifications contributes to the food safety of the product. Recommendations and guidance in this respect can be provided to applicants during the preparation or examination of the request.

In addition to being responsible for the examination of GI applications, the national GI committee may also be charged with formulating policy recommendations to promote the development of efficient GI systems and bolster rural development. This often challenging task touches upon a wide range issues related to agriculture, agribusiness, extension services, the environment, food safety, tourism, etc. Here, it is important to adopt a comprehensive approach to exploit synergies and address trade-offs between policies, strategies and regulations, and thus maximize benefits. The committee can act as a national



Box 10

The distinction between specific quality requirements and food safety regulations

There is frequent confusion between compliance with food safety standards and compliance with GI specifications (or any types of specific quality standards). GI specifications are voluntary standards that operators can apply to their product to protect the name and related reputation. Meanwhile, food safety standards are minimum standards that all products must comply with in order to be marketable.

In certain cases, GI producers may not be able to comply with all legislative requirements

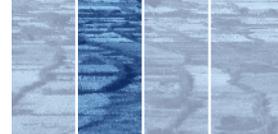
related to food safety, due to the limited size of production or the use of traditional production methods (e.g. the use of wooden material for processing, or the impossibility of carrying out weekly laboratory analyses of the final product). As long as these limitations do not jeopardize food safety, national food safety laws and regulations can provide some flexibility: case by case, the authorities review the GI specifications, and if they guarantee food safety, a derogation can be granted (see also [Section 3.1.5](#)).



Source: Authors' own elaboration.

platform to facilitate interministerial discussions regarding at least the following interconnected policies:

- 🔍 food safety standards, with flexibility for small-scale production and traditional methods (see [Box 9](#));
- 🔍 other regulations to enter the formal market;
- 🔍 the protection of the environment and biodiversity;
- 🔍 financial support and funding;
- 🔍 market awareness and the promotion of official seals/certifications;
- 🔍 links with subsector development strategies and policies;
- 🔍 links with tourism and gastronomy to promote the GI concept as part of the local heritage;
- 🔍 land tenure; and
- 🔍 research and education.



2.3. Consequences for legislators: elements to consider in legislation on geographical indications

Considering the recommendations formulated in [Section 2.2](#), lawmakers are advised to review and, if necessary, adapt certain elements of the existing legal framework for GI protection to a changing context.

At the national level, experiences regarding the assessment of GI applications may highlight certain gaps that need to be addressed. For example, applications may start to cover new types of products (e.g. while existing GI regulations were formulated for food and agricultural products, handicrafts have become an important category, too). At the international level, multilateral or bilateral agreements on IP or trade may necessitate changes in regulations. For example, as a result of the Geneva Act of the Lisbon Agreement, a GI registered in one signatory country is automatically proposed for multilateral protection, and this may require countries to adapt certain rules of their current national legislation.

It is important to consider the following elements when establishing or reviewing the legal framework (laws and regulations), as they have a direct impact on the work of the examiners:

- 🔍 **the objective of the legislation.** The legal framework may impose a double role upon examiners: verifying the link between a GI's quality, characteristics or reputation and its origin, but also checking that the GI system contributes to sustainable rural development and any related objectives that may be pursued by the national authority (e.g. the preservation of local culture and heritage, improving food security and nutrition, etc.), as well as encourage applicants to consider these objectives.
- 🔍 **The scope of application of the legislation.** GI legislation generally covers goods (see [Box 2](#) on the TRIPS Agreement), and in some countries, laws and regulations only concern agricultural and food products. However, GI legislation increasingly concerns industrial products and handicrafts too, and even services. It is important to clearly define the scope of legislation, for example by using national or international nomenclatures to refer to types of products.
- 🔍 **The type of label.** If applicable, the legislation must clearly define the two types of labels (geographical indications and appellations of origin).
- 🔍 **The legal form of applicants.** GI legislation should make a clear choice regarding the legal form of applicants (and promoters) of GIs. A collective approach, with applications filed by groups of producers, is generally the preferred option; in exceptional cases, a natural person can also be accepted as applicant (see [Box 11](#) for an example). In certain countries, public authorities can also submit applications for GI registration. Whatever the choice, it is important to ensure that the use of the GI is not limited to the original applicant(s), but open to any operator complying with the specifications. In some case, GI users, while complying with the GI specifications, do not wish to be part of the GI association (the applicant), and the legal framework should allow for such a situation. The legislation should also state whether the collective group has to be registered according to national laws.





Box 11

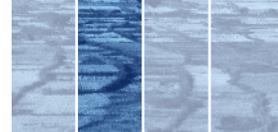
Collective groups as applicants for GI registration

EU legislation requires applications to be presented by collective groups. However, Article 49 of EU Regulation 1151/2012 states that ***a single natural or legal person may be treated as a group where it is shown that both of the following conditions are fulfilled: (a) the person concerned is the only producer willing to submit an application;***

(b) with regard to protected designations of origin and protected geographical indications, the defined geographical area possesses characteristics which differ appreciably from those of neighbouring areas or the characteristics of the product are different from those produced in neighbouring areas.

Source: European Union. 2012. Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs. Official Journal of the European Union, L343: 1–29.





- ◉ **the registration procedure, and specifically the examination.** Taking into consideration the double level of examination (formal and substantial or technical), GI laws should provide for the creation of an examination committee (or commission) to carry out technical examinations collectively, and lay down its core duties; specific regulations should detail the committee's roles and composition. These regulations can also define operating rules and a manual of procedures (which can include an examination form) for the examiners.
- ◉ **the content of the application** (including corresponding forms), and especially the content of the **specifications**. The rationale of the specifications is twofold:
 - ◉ to serve as the “identity card” of the GI product and indicate with precision which practices must be respected in a given area to use the GI name on a product. Here, the specifications are of particular use to the producers.
 - ◉ to serve as justification for the geographical anchorage of the product, which is the rationale for reserving the name.

Practice shows that the content of the specifications is usually the following:

- the name of the product;
 - the type of product;
 - the description of the product;
 - the method of production;
 - the geographical area concerned by the GI;
 - the link to the origin;
 - evidence that the product originates the area; and
 - the label.
- ◉ **grounds to modify the registration** (minor or major modifications, quick procedures for specific causes) and the corresponding forms.
 - ◉ **transitional provisions:** GI laws can specify time periods for the enforcement of the registered GI, under certain conditions. For certain requirements, the specifications can foresee a transitional period to allow GI users to become fully compliant. This allows vulnerable producers more time to undertake necessary investments, while continuing to use the GI in the meantime.





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3. Guidelines for the technical examination of GI requests

Section 3 provides concepts and criteria to guide the technical examination of requests for GI protection (i.e. the substantial assessment that comes after the formal check that the GI is not yet registered). The section first looks at the criteria that directly concern the right for protection according to international and national regulations. It includes elements related to the legitimacy of applicants (depending on the national context, this aspect may also be checked during the formal assessment of the acceptability of the request). The section then provides recommendations to help examiners assist GI applicants with a view to strengthening the sustainability of GI systems.

Finally, the section provides guiding questions that the examiners and experts involved in the examination can use to formulate their recommendation for acceptance or non-acceptance by the authority.

It is important to note that certain criteria are easier to assess than others. For example, the criteria to assess the link to origin are rather objective (based on the local resources used, which are described in the specifications), while the actions and the representativity of the association can be more difficult to assess without interacting with local actors (field visits are then important). The market strategy of the GI group can be better understood by collecting information from value chain actors (through field visits or by using questionnaires), to complete the information submitted upon application.

3.1. Legal criteria determining the right to registration

These criteria are directly linked to the definition of the GI and its right to be protected. They are therefore the causes for acceptation or rejection of the application.

Examiners should consider various elements related to the legal definition of the GI when analysing the application. To do so, they should refer to the applicable national legislation. The below sections provide some general guidelines for the structured examination of the following aspects:

- 📍 the GI name and associated indicators;
- 📍 the applicant as a representative of the GI operators;
- 📍 the link to origin; and
- 📍 the controllability of the requirements.

3.1.1. The name of the geographical indication and associated indicators

Name or designation of the GI

The GI name or designation (which includes symbols, logos, specific packaging, etc.) is the first crucial element in the assessment of a GI's right to be protected. A protected GI name is considered representative of the reputation, quality or other characteristics linked to origin; its use is reserved to those producers who comply with the GI specifications.

Examiners must verify whether the name is actually being used, and whether the product is well known under this name.³ This examination can be based on various types of proofs, including labels, contracts, articles in newspapers and other media, etc.

The name proposed for the GI must not mislead or confuse the consumer as to the origin of the product. In some rare cases, different variants of a name can coexist (e.g. in different local languages or dialects); however, the application should be clear on the specific GI names that are being registered, and their justification. The name and definition of the product must be meaningful to all actors in the value chain, and there should be no differences among them in this regard when the application is submitted.

Examiners must investigate whether the GI name is representative of the geographical area, although the delimited area does not necessarily have to coincide fully with the area from which the name is derived. For example, certain IG products bear the name of a city, while their actual production area is much broader than the area of that city.

Most often the GI name includes or consists of the geographical name of a country, region or microregion and expresses the connection between a product and its place of origin or *terroir*.⁴ Generally speaking, there is a name that has made the product “known”: it is the basis on which the product's reputation was built and is used by local stakeholders. This geographical reference can be associated to the generic name for the product category (e.g. Colombian coffee, Manchego cheese) or used without it (e.g. Champagne, Tequila, Pisco). Others are not geographical names as such, but are nevertheless identified with the place of origin (e.g. Feta cheese, Ouzo liquor and Tetilla cheese): although there is no geographical place with these names, the consumer immediately links these products with a country (Greece for Feta and Ouzo, Spain for Tetilla cheese). Another example is Grappa, the name of an alcoholic beverage produced exclusively in Italy.

³ For example, GI regulations can stipulate that applicants must demonstrate that the name has been in use for a certain number of years (e.g. 10 or 15).

⁴ A *terroir* is a delimited geographical space in which a human community has built up a collective intellectual or tacit production know-how in the course of history, based on a system of interactions between a physical and biological environment and a set of human factors, in which the sociotechnical trajectories brought into play reveal an originality, confer a typicity and engender a reputation for a product that originates in that *terroir* (FAO, 2010).



Applicants may need to demonstrate the non-generic nature of the GI name and the link made by consumers between the name and the geographic origin of the product, especially in cases where third parties have expressed objections to the registration of the name. In such cases, the assessors (during the formal or the substantial examination, depending on the legislation) must examine the case in light of the country's legislation. To verify whether a name is generic, a survey may be carried out on consumers' perceptions of the association between the name and the geographical origin of the product. If the genericity is confirmed, then the generic name can be associated with a geographic name (city or region), as in the French case of *Camembert de Normandie*, where the name camembert (which comes from a city in Normandy) has become generic.

Existence of a reputation

The reputation of products that are well known in the market must be demonstrated based on technical criteria. The reputation of a GI product is built on a specific quality that is associated with the area of origin; it results from a historical presence of the product on the market, rather than some ad hoc communication strategy (which would generate fame, not reputation). It is important for the reputation to be linked to the localized GI product of today, and not to an old version of the product that created the reputation of the name but no longer exists.

3.1.2. The applicant, the group of operators and the wider community

Representativity of applicants

National legislation determines who can apply for the registration of GIs: groups of producers, public authorities and/or single producers (although cases involving a single producer are exceptional). For GIs to be effective and work as a driver for local development, applications should be supported by collective action of all value chain actors with a legitimate interest in the GI (in line with the country's legislation). It is therefore important to analyse how representative the stakeholders who submit the application are. Importantly, representativity is understood in terms of the typology of actors, not in terms of their number. New initiatives are commonly driven by a nucleus of stakeholders representing only a small share of the producers in the territory; once the GI system has shown its benefits, they may be joined by many others. A limited number of producers involved in the initial phase of a GI process (the preparation of the application and specifications) should not form an obstacle to registration, as long as no barriers to entry in the GI system are created in the specifications.

It is good practice to request applicants (GI committees or associations) to inform all local actors in the value chain about the GI initiative and ask them if they are interested in participating.

Local communities' perception of the GI product

It is important to take due account of the local community's identification with the definition of the GI product in the specifications. Local products constitute reference points for a community's identity, and it is therefore important to consider the degree to which the product as defined by the GI association is recognized by the local community as its own (e.g. based on the product's prominence in local cuisine or at local festivals).

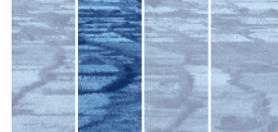
Producers developing GI specifications should therefore consider the impact the GI specifications may have on production and on the perceptions of the product by the local community. The product's profile should allow consumers to keep identifying and distinguishing it from other, similar products. At the same time, the specifications should not impose too many restrictions on variations in quantity and quality (within the product type) due to variations in the quality of raw materials and in production practices.

In cases where a more modern or industrial version of the product has been developed, it is important to observe the degree to which the local community identifies with this product. In many cases, these modern or industrial products enjoy the same reputation as the more traditional products; since they are produced on a larger scale, they may have helped boost the reputation of the product in distant markets. However, when both the end product and the practices used in each type of production vary considerably, and if these practices are essential for typicality, a careful analysis must be made of whether the modern variation corresponds to what the community and the consumers consider to be the local GI product. If the two versions are perceived by consumers as the same GI product but the divergences between the traditional and industrial products are too great to define common specifications, applicants may consider the definition of subcategories. These subcategories should form an exception concerning a limited number of non-essential aspects, and should not create confusion for consumers (the labelling of the products and consumer information must be clear as to the types and their differences). The creation of subcategories can be suggested by examiners if the specifications are confusing. For example, in the case of Gruyère cheese from Switzerland, Gruyère d'Alpage specifically refers to Gruyère made in the highest zones, using more traditional and time-consuming practices than those used in lower zones.

Inclusion/exclusion of local producers

The definition of the practices, tools, machinery, facilities and raw materials of the GI system determines which local producers are included in or excluded from the system. This aspect should be considered from the start of the project, as the initial exclusion of certain producers may lead to the development of specifications that exclude them from the possibility of legitimizing their products through the GI.

Two distinct levels of exclusion/inclusion must be considered. As in any process of differentiation, GI specifications create a *technical* exclusion based on the link to origin. Producers who do not comply with the specifications' definition of this link to origin are excluded from the right to use the GI. Meanwhile, the *social* exclusion of legitimate but vulnerable producers based on their size, age or gender should be avoided.



Indeed, examiners must consider the consequences of the specifications in terms of the social exclusion of stakeholders. Requirements that are technically unjustified i.e. unnecessary to guarantee the link to origin or product quality may discriminate against, for example, smallholders or women. Such specifications should be revised to ensure the GI systems' social inclusiveness, without jeopardizing the product's specific characteristics and identity. Examiners can provide recommendations to applicants in this respect.

There are cases where local stakeholders with limited negotiating power were excluded from a GI system (see also [Section 3.2.2](#)), and others where stakeholders were excluded because they were unable to comply with food safety requirements. While the social exclusion of vulnerable stakeholders must be avoided, GI specifications should not allow any type of production practice either, as this may put the product's specific quality at risk.

Sometimes, producers may be unable to bring their facilities or hygiene practices in line with national legislation, without this affecting the product's safety. In such cases, it may be useful to formulate gradual requirements that give producers more time to achieve compliance.

In sum, the degree to which a GI association represents all types of stakeholders in the area is a crucial determinant of social inclusiveness. Operators can be organized in subdivisions in the association according to their position along the value chain, with each subdivision having the same weight in the association's decision-making processes. This can ensure a right balance between the interests of stakeholders at each stage in the value chain. Decision-making processes should be based on democratic principles.

3.1.3. The link to origin

The link between quality and reputation, and the area of origin

The link between a product's quality and its origin is central to the recognition of a GI. The recognition of a product as a GI guarantees that the product has certain specific characteristics that are due to its origin, and that the product comes from that area of origin. If there is no evidence of a specific quality or of a reputation linked to local factors, the product is not eligible for protection through a GI. It can, however, be differentiated by an indication of its source (its area of production, where it can be traced locally), without any particular link between its quality and that source. This is usually the case, for example, for the indication "Made in".

The evidence provided by GI applicants must be backed up by objective technical and social analysis. In other words, the application must contain credible information, preferably confirmed by objective studies, on the aspects on which the differentiation of the product is based. The causal relationship between territorial factors and the specific quality or reputation of a product must be clearly demonstrated, whatever the type of information provided (there is no need for sophisticated studies).



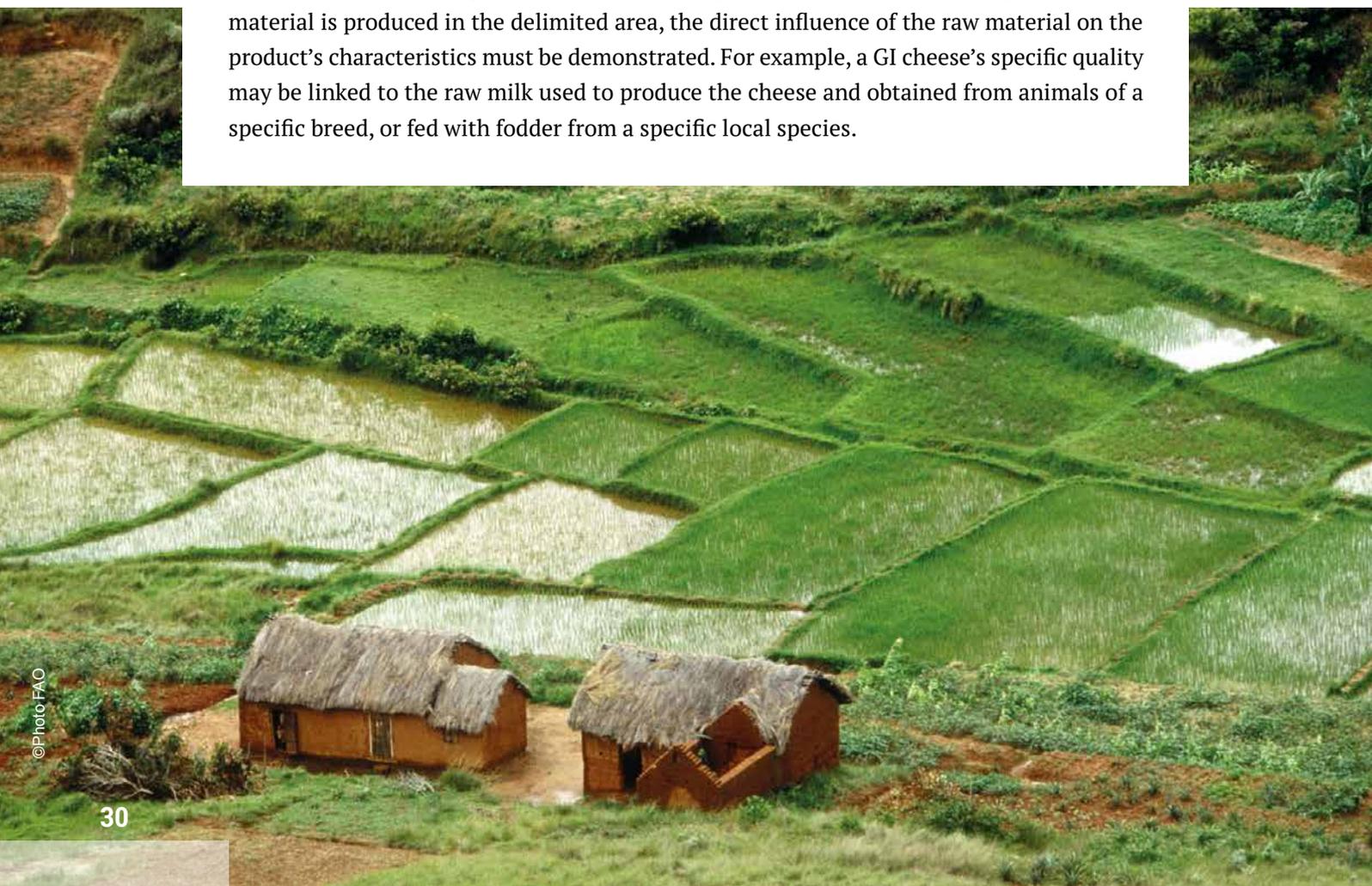
Importantly, it is not enough to demonstrate a product's cultural anchoring (its historical presence in the territory), the presence of specific local production, processing, distribution and/or consumption practices, or particular natural conditions. What must be demonstrated is the presence of a specific quality linked to the local factors referred to in the specifications.

A central element in any application are the *human* factors that give a product a specific quality, irrespectively of the product's reputation or other characteristics linked to its origin. Human factors refer to the processes – and related knowledge and traditions – used by local stakeholders involved in extraction, production and/or processing to obtain a product with a specific quality. Local knowledge transmitted through generations guarantee the continued presence of the specific quality, despite possible changes in factors related to the climate, local environment, quality of raw materials, etc. Based on the human factors, it can be expected that the quality offered will correspond to the quality described in the application in both the medium and long term.

As far as *natural* factors are concerned, two types of link to the specific quality of the product must be demonstrated:

- ◉ in all cases: the influence of the natural environment at each stage of the production process; and
- ◉ in cases where the raw material is produced in the delimited area: the influence of the raw material on the final product's quality.

The natural environmental conditions (temperature and moisture) of places where processes such as the ageing of cheeses, cured meat products or wines take place (e.g. cellars, caves or ripening chambers) influence a product's qualities. Where a product's raw material is produced in the delimited area, the direct influence of the raw material on the product's characteristics must be demonstrated. For example, a GI cheese's specific quality may be linked to the raw milk used to produce the cheese and obtained from animals of a specific breed, or fed with fodder from a specific local species.





Whether a product's raw material is produced in the delimited area or not will determine the type of GI, depending on the national legislation. For example, under the Protected Designation of Origin (PDO) scheme of the European Union, every stage of the production, processing and preparation process must take place in the delimited region; if this condition is not fulfilled, the product can still be protected, but as a Protected Geographical Indication (PGI). Where national legislation defines two types of GIs, examiners must carefully consider which type is most suited to a specific application. Importantly, even in cases where the raw material is produced outside of the delimited area, the GI specifications should define the requirements regarding this raw material, to guarantee the final product's specific quality.

Description of the final product

The examiners must check the correspondence between the GI product, its name and the production stages described in the specifications. This check must be carried out for each stage of the value chain covered by the GI system, each subject to certain requirements and monitoring. For example, in the case of a cheese made with milk produced and processed in the area, all production steps, through to maturing, will be covered by the GI system, and all operators in the chain must comply with the corresponding requirements. Meanwhile, in the case of unprocessed products that are not intended directly for the consumer (e.g. green coffee), the processing takes place outside the growing area and is not included in the specifications.

The description of the end product must demonstrate what its specific quality consists of; in other words, the quality that distinguishes it from products of the same type produced in other geographical areas, or in the same area but involving other practices or resources.

Delimitation of the production area

The delimitation of the production area is a key aspect of GI registration, as it is one of the factors governing the inclusion or exclusion of producers; examiners must pay special attention to it.

The production zone is the area from which the product to be differentiated derives its specific quality. However, the boundaries of this area are often unclear and can be disputed, as the specific quality is a result of complex interaction between the natural environment and human factors. The GI association proposes a delimitation of the production area, based on criteria it has agreed upon. Territorial aspects such as production methods used and the contribution of local resources (which can play a determining role in terms of the specific quality of the product) are to be taken into account when delimiting the production area. Four fundamental criteria must be taken into account when delimiting the area (see also FAO, 2010):

- 🔹 physical criteria (for example soil, climate, terrain, exposure and water availability);
- 🔹 local practices (for example cropping conditions, the use of specific varieties and breeds, harvesting and processing);
- 🔹 local history and reputation of the GI; and
- 🔹 location of the producers (current and potential).

Table 1 provides an analytical grid that can be used to delimit the geographical area.

Table 1
Criteria to be taken into account when delimiting the geographical area

Criteria	Characteristics evaluated	Example of methods
Environmental setting	Agricultural and physical conditions in the area: can they guarantee the anticipated quality of the product?	Environmental map, soil analysis, study of the landscape.
Know-how, specific practices and traditions	Technical practices that differentiate the product's quality. Local knowledge with a direct impact on the specific quality.	Inventory of know-how through interviews with producers.
History of production	The production area with its maximum and minimum extension, depending on the moment in history. How many generations have produced the product? Has the area always been the same, or has it expanded/shrunk, or has its location changed?	Research through interviews and compilation of documents (references to the geographical name in cookbooks, novels, treaties, etc.).
Production stages and economic situation	The main production and processing areas' potential for expansion. The location of producers. Do all stages in the production chain take place in the area? Or do the raw materials come from another area?	Discussions and interviews carried out within the production chain. Cross-referenced maps of the area as seen by various interested parties.
Social network	The GI association must be cohesive, incorporate all producers with a legitimate interest, and have the capacity to adopt and enforce collective decisions.	Participatory meetings.
Current land use zoning	Existing zoning (e.g. geographic or administrative boundaries) can be taken into account when developing a definitive description of the area; it should, however, not influence the delimitation process, which should be based on the concept of <i>terroir</i> .	List of administrative units, communities, natural limits or other boundaries with a name, to describe the content of the area.

Source: FAO. 2010. *Linking people, places and products. A guide for promoting quality linked to geographical origin and sustainable geographical indications. Second edition.* Rome. <https://www.fao.org/documents/card/en/c/debde43-9d99-5c74-a440-e8db347941ac>

Depending on the national legislation, the specifications of one GI product may determine various geographical areas, for different production stages (FAO, 2010). For example, a broader area may be established for the supply of the raw material and another, more limited area for the processing of this material into the end product.

As the delimitation of the GI area is based on the definition of production practices and local resources used, it is subsequent to the formulation of the GI requirements in the specifications.



The transposition of technical criteria into spatial limits may require advice from specialists who study the territory. Experts from universities or research centres are usually called upon.

As mentioned in Section 2.2.3, it is recommended to organize a local public consultation on the proposed geographic delimitation. The comments obtained through such consultations can be used to fine-tune the boundaries of the area before their insertion in the specifications, and thus avoid future opposition.

Description of production processes

The specifications must clearly define the elements required to ensure a specific quality, at every stage of the production process. These elements must be measurable and objective, so that they can be checked. Positive lists (of what is authorized, and nothing else) and negative lists (of what is prohibited) are useful formulations of requirements, and easy to control. Precise descriptions of the methods of production and the succession of activities can prevent the use of unwanted techniques. Importantly, the required elements must reflect traditional and current usages. Accepted variations with regard to production practices, tools, machinery, facilities, the type and quality of raw materials, etc. must be clearly defined.

3.1.4. The verification system and controllability

The components of the verification system

To ensure the protection of both producers and consumers, a system to verify whether products comply with the GI specifications must be set up. The set-up of such a verification system depends on the principles and rules established by the national legislation. Under a public approach to GI regulation, the public authority is responsible for the verification system, including controls and certification, but can delegate some actions (audits, certifications) to private inspection and certification bodies. The GI association (applicant) can also play a role in this system by carrying out certain controls through an internal control system, while public or private certifiers perform the external controls necessary for the certification of the product. The verification system encompasses all the mechanisms put in place in order to ensure respect for the rules (control) and the related information to consumers (certification). As stated in FAO's 2010 guide on GIs, verification of product conformity is based on three main components:

- 🔍 raw material and processes, as defined in the [specifications];
- 🔍 traceability, to ensure the product originates from the GI delimited area; and
- 🔍 final product, as presented to consumers (labelling, aspect, taste, etc.) (FAO, 2010, p. 71).

Depending on the national legislation, applications for GI protection may be required to demonstrate the controllability of the system by laying out a detailed control plan (defining “who does what, and how”). This control plan builds directly upon the specifications by associating each of the requirements with a specific type of control (defining the value that is to be controlled, by whom and how, and the consequences in case of non-compliance).

As a minimum, applicants should provide a description of the applicability and efficiency of the proposed guarantee mechanisms (which can be defined in collaboration with the certifier, public or private, identified for future control and certification). The analysis should consider:

- ▶ the relevance and controllability of the proposed requirements;
- ▶ the traceability system to be adopted by operators; and
- ▶ a review of the organization of tasks between internal and external controls.

Relevance and controllability of the requirements in the specifications

The requirements provided in the specifications must be relevant to the specific origin-linked quality of the product, and controllable (meaning the controls must be feasible, also in financial terms). FAO guidelines provide detailed recommendations for the establishment of rules and their related control plan (FAO, 2010, Section 2.4). It is important to stress that:

- ▶ In any specifications, the useful requirements are those that can be verified.
- ▶ In the control plan, the degree of compliance must be defined for each requirement, together with the point or moment of control, the manner of control, the frequency of controls and who carries out the controls.
- ▶ Useful controls are those that carry a sanction based on the degree of non-compliance.

It is important to establish a minimum level of control that is economically viable and ensures a level of compliance commensurate with the level of risk. It is always useful to seek synergies with existing product quality control systems. It is further recommendable to consider the results of existing research when developing specifications for raw materials and/or production processes, and verification systems.

Traceability

GI applicants are required to develop a system for traceability or proof of origin (which constitutes the basis of the control system), and examiners must review this system. Traceability is essential to ensure the true origin of GI products. It prevents the marketing of imitation or fraudulent products; in cases of non-compliance with the specifications or of contamination of food products, it also allows the identification of the raw materials or production conditions that caused the problem.

The registration of detailed information on the origin of each raw material used and on the processing of each product or batch of products must be integrated into routine production practices. Each actor in the value chain of the GI product should keep a log of the production steps and conditions, in line with the GI specifications (a simple paper register may suffice). Tracking systems should be tailored to the actual situation of the often very diverse actors involved in the production and processing stages of a GI product.



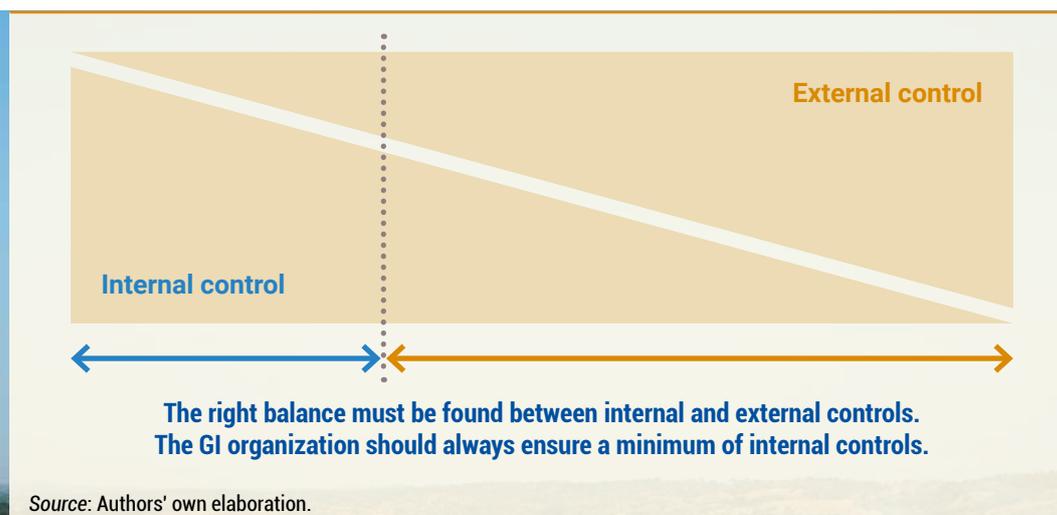
Division of tasks between internal and external control systems

Where national legislation requires GI applicants to include a control plan to assess conformity to the specifications in the GI application, examiners will have to review this plan. The control plan usually defines:

- 🔍 the critical point(s) to be controlled for each requirement (what);
- 🔍 which methods to use (visual, document analysis, etc.), and when;
- 🔍 the documents that attest to the controls (especially for self-control and traceability);
- 🔍 the sanctions, depending on the seriousness of non-compliance;
- 🔍 the frequency of controls and their coverage (all producers, or a sample of producers); and
- 🔍 who is controlling: internal and external controls.

The division of roles between the GI association (internal control) and the public or private external body (external control and certification) is important: it determines both the empowerment of the GI association and its producers for quality management, and the guarantees provided to consumers by a third and impartial body. Figure 1 represents the balance between internal and external controls. The cursor can move between the extreme of 100 percent external controls and 0 percent internal controls, and the other extreme of 100 percent internal controls and 0 percent external controls. The position of the cursor depends on the capacity of the GI association to manage internal controls and on the national GI legislation. It is always recommendable to ensure a minimum of internal controls, which rely on the self-controls that must be implemented by every actor involved in the GI production process.

Figure 1
Division of tasks between internal and external controls

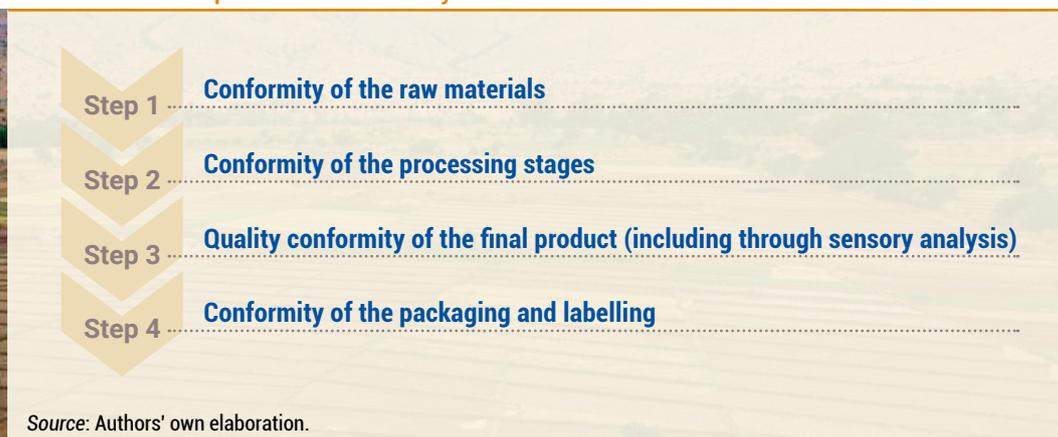


To stimulate local development and promote producers' empowerment (which improves the efficiency of GI systems), examiners can provide recommendations to GI association (applicant) for the management of internal control systems. Managing internal controls is important for the GI association for many reasons:

- Delivering the expected quality product to the consumer is the GI association's prime responsibility. Non-conformity can have a crucial impact on reputation: one producer delivering a substandard product can jeopardize consumers' confidence in the entire group.
- An internal control system allows producers to verify compliance with the specifications at each stage of the production process.
- Involvement in internal controls provides the association with important knowledge about its members' production practices and circumstances, allowing it to develop appropriate common strategies to address any potential issues.
- Carrying out certain controls internally reduces the control and certification costs that must be paid to an external controller. The more efficient these internal controls, the less burdensome – and therefore less expensive – the external control and certification process will be. This is particularly important for new GI systems, or for GI systems that do not yet generate sufficient economic returns.

Figure 2 lists all necessary controls on operations and on the final product in a chronological manner.

Figure 2
The different steps of GI conformity control





3.1.5. Correspondence with public regulations

(Non-)conformity with public regulations

During the examination process, the public authority must check whether the GI specifications are in line with public regulations, especially those that concern the commercialization of the GI product. In case of a non-conformity, a way forward should be developed in collaboration with the GI operators and/or relevant administration.

Instances of non-conformity with public regulations can concern:

- 🔍 individual producers, as a result of their specific situation: in such cases, the GI specifications should be formulated in such a way as to support the inclusion of small-scale or vulnerable operators.
- 🔍 the entire GI group (e.g. if the requirements in the specifications are not in line with sectoral or food safety regulations): in this case, specific flexibility or exceptions can be granted to GI products.

Compliance with general food safety standards

Any food product that is to be marketed for human consumption must comply with the food safety standards laid down in each country's legislation.

National food safety standards are often developed with large-scale, industrial production units in mind. However, the origin-linked nature of GI products means that in certain cases, the traditional methods and materials used to produce a GI product do not comply with these standards. If the non-compliant methods or materials do not determine the quality of the GI product (both objective and subjective), alternative techniques can be considered. If they are, however, crucial to the product's typicity, the authorities may grant flexibility or derogations to the GI product, as long as food safety is not jeopardized (for example, because production volumes are limited or specific monitoring practices are being implemented). In such cases, the requirements detailed in the specifications must serve (together with food safety guidelines for producers, if needed) to guarantee food safety, and should be considered as essential elements by food safety inspectors. Specific laws and regulations are required to provide the necessary legal basis for such flexibility (see [Section 2.2.4](#) and [Box 9](#) on the example of Montenegro).

The specifications can play an important role in ensuring food safety, even where practices essential to the specific quality do not comply with the general legislation. The description of all practices along the chain (including production, processing and packaging), together with traceability and related controls, enable the establishment of a controlled risk prevention system for food safety at every stage in the chain. Thus, certain waivers for artisanal products permit practices that do not comply with the general legislation yet do not pose any food safety risks within a specific production system, which is described and monitored based on the specifications. For example, there are many cases of artisanal cheeses made with raw milk, when legislation generally requires milk to be pasteurized.

In general, the specifications do not need to repeat the requirements laid down by the law; it is sufficient to indicate that operators must comply with the relevant national (and, in the case of internationally traded goods, international) legislation concerning quality and safety, as well as with the rest of the legal framework concerning agrifood production.

Regulations concerning the product category

Certain product categories may be subject to specific production or marketing regulations that concern aspects related to processing, quality, product presentation, etc. (e.g. generic quality standards). Examples include dairy products, fruits and vegetables, coffee and cocoa, and wines and spirits. It is important to check whether GI specifications do not contradict such regulations. If they do, modalities should be found, in collaboration with the relevant authorities, to allow the coexistence of the generic regulations and the GI specifications, insofar as possible.

The national committee can check the rules that apply to the product category if the relevant administration is represented in the committee. If not, the committee can send a specific and prior request for assistance to the relevant administration (which may be governed by the same authority).

3.2. Additional elements for sustainability

This section discusses a number of elements that should be considered during the substantial examination of GI applications, to help applicants improve the overall sustainability of the GI system. These elements should not be used as grounds to reject applications, but rather as building blocks for the advice given to applicants during the back-and-forth communication process between examiners and applicants, as well as for the revision of existing registered GI systems. In addition, the elements provided can help authorities evaluate the possible future economic, social and environmental impacts of a GI system on its territory. Based on this evaluation, recommendations can be formulated to help GI operators, and possibly other public actors, improve the sustainability of the GI system.

3.2.1. Economic and social impacts

The impacts of GI processes on the economic and social dimensions of sustainability are generally well recognized in the literature. Some of these impacts are intrinsically linked (such as the creation of jobs, the development of tourism and income growth) and therefore often considered together.

The foremost impacts of GI processes on the social dimension of sustainability concern the preservation of the local heritage, including food culture, specific know-how and folklore. The prestige given to a product through GI protection also boosts producers' self-esteem.

The elements discussed in this section are intrinsically related to the criteria dealt with in Section 3.1 concerning a product's specific quality, the related know-how and community



identity. This section focuses on additional elements that may be considered by examiners with a view to improving sustainability.

Power relations within the value chain

In a human system, power can be defined as the capacity of each player to dominate a specific zone of uncertainty. In agrifood systems, power relations in the value chain are frequently structured around uncertainties such as products' price and quality, demand, etc.; the precise nature of these uncertainties varies depending on the country, product, trade channel and so on. Product differentiation based on a GI can change the balance of power in favour of upstream operators (the producers) because of their major contribution to the specific quality of the GI product.

The authority assisting GI applicants or assessing GI applications should take due account of aspects related to operators' power, to ensure that the GI system reduces any imbalances in power relations and in the distribution of economic benefits. Geographical indications systems can be tools for the improvement of the market placement of small-scale producers, as long as these systems are based upon local collective projects.

Primary producers and processors can gain power if they have a voice in the GI association that allows them to exercise control over the practices or methods (detailed in the specifications) that concern their operations. To ensure primary operators' control over these elements, the examiners can propose *inter alia* the translation of legal requirements into local languages, or the instauration of a dialogue between public and private (producer organizations) actors. Such methods promote the active participation of producers in the development of the specifications, which in turn helps identify ways to reduce costs to a minimum.

Economic cost–benefit analysis of GI systems

It is suggested that examiners conduct a cost–benefit analysis of the GI system, to help the operators optimize the system's economic impacts on the local community.

Three types of costs can be identified, depending on the case:

- 🔸 costs of constructing the GI: the costs of studies and analyses, if required, or of efforts to boost the participation of operators in the value chain (e.g. the time costs of organizing such efforts).
- 🔸 costs of compliance: the costs for producers who have to improve their practices to comply with the GI specifications (for food safety or quality reasons); and
- 🔸 costs of control and certification: the time and organizational costs (for controls and certification carried out by the producers or buyers themselves), or the financial costs (for controls and certification carried out by a third party).

Examiners could help operators identify all possible costs and benefits of their GI system, and understand how these can be influenced by how the system is implemented (e.g. through various marketing channels and strategies). The potential benefits of GI protection

include the price premium commanded by GI certified products, the recovery of markets in the fight against the misappropriation of a GI name, access to new markets, etc. Producers must be made aware of the need to invest in the promotion of their GI product, in order to achieve sustainability. It is recommendable for operators to invest in a wide-ranging and effective internal control system, to reduce the costs of interventions by external private controllers and certifiers.

Food diversity and nutrition

As far as the social dimension of sustainability is concerned, it is important to consider the potential impacts of GI systems on health through the consumption of the GI food, food diversity and the improvement of access to minimally or non-processed foods, all of which are recognized as solutions to global health challenges (FAO and World Health Organization, 2019; Monteiro *et al.*, 2019; FAO, 2021).

Although the potential of GI foods in terms of nutrition and health is a rather recent topic, a number of studies have shown that certain GI foods have a higher nutritional profile than their non-GI counterparts (FAO, 2021). Important mechanisms through which GI products contribute to healthy diets include the low-processed nature of these foods, the link to local resources (biodiversity, soils and climatic conditions), the traditional processing methods that preserve or enrich the food matrix, etc. Fermented products, which are numerous among GIs (e.g. cheese, teas, tofu, etc.), are particularly interesting for their contribution to health, due to the presence of microbiota.

Examiners can help optimize the nutrition and health potential of the food product concerned by sensitizing the applicants, and more specifically the producers, about such mechanisms. Often, studies into the specific quality of the product generate important data on the GI product's nutritional profile, which is often linked to the better organoleptic qualities of the GI product as compared to its non-GI counterpart.

3.2.2. Environmental impacts

Possible impacts on biodiversity

When analysing an application for recognition, it is important to consider the impact that the GI process could have on biodiversity. GI products concern two types of biological diversity. The first is the genetic diversity of domesticated breeds and varieties involved in the production process of the product to be registered. Given the influence of the local culture on the selection of local breeds and varieties, this type of biodiversity is called cultural biodiversity. The second type of biodiversity is the genetic diversity of undomesticated local species, for example the plant species that form the natural herbaceous layers.

It is important to determine whether the implementation of the GI specifications would reduce local biodiversity, for example by excluding indigenous and local varieties that are being used by certain producers from the system, or by increasing the pressure of grazing on indigenous species. If so, applicants should consider alternative requirements.



Contrarily, GI specifications can also be an important tool to preserve or even restore local biodiversity, for example by requiring the use of indigenous, ancient or endangered breeds or varieties. Another example is the preservation of open pastureland through grazing, which prevents encroachment by woody species.

Other environmental impacts

The evaluation of the environmental impacts of a GI system may need to look into multiple stages within the value chain.

For example, in the case of dairy products, the production of milk may lead to the accumulation of manure in milking areas, while processing activities may generate effluents that require treatment. While GI specifications cannot foresee all potential negative environmental impacts at all levels, they can highlight the need for operators to pay due attention to the preservation of the environment. For example, IG requirements can emphasize the preservation of the landscape (which is a typical result of traditional production systems) or only authorize environmentally friendly agricultural practices.

Negative impacts on the environment, in the form of damages to natural resources and the prevention of their reproduction, affect the medium- and long-term productive and economic viability of GI systems. Moreover, any negative environmental impacts may affect consumers' perception of the quality of the product, which again undermines the viability of the GI system.

3.3. The examination of GI applications – guiding questions

The following section provides a number of questions that can guide the analysis of the various components of GI applications. They are in no way exhaustive, but simply constitute an initial point of reference.

3.3.1. The applicant (GI organization)

The initiative

- 👉 Who is presenting the application?
- 👉 Does the legislation allow them to present an application?
- 👉 Is the interest of producers in implementing the GI demonstrated?
- 👉 Who are the other parties participating in the preparation of the specifications?

The GI organization

- 👉 Has the GI association been formally established?
- 👉 Does it meet the formal conditions required by the legislation?



- 🔍 Is its constitution representative of the range of stakeholders concerned by the GI and present in the area (number and types of stakeholders, stages in the chain)?
- 🔍 Are all the stages in the value chain represented?
- 🔍 Which operators play a determining role in the definition of the specific quality of the GI product? Are they properly represented in the association? And are these factors properly considered in the specifications?

The value chain

- 🔍 Have all the operators involved in the value chain taken part in the definition of the specifications?
- 🔍 Is it possible to establish who holds most transaction power within the chain?
- 🔍 Are those with less power properly represented?
- 🔍 Does the GI help reduce imbalances of power? Or does it rather exacerbate them?

Exclusion

- 🔍 Are there any risks of unjustified exclusion (for example requirements that are not essential to the specific quality and that only certain producers can meet)?
- 🔍 Does the proposed delimited area cover the whole potential area of production of the GI product?

Collective action and inclusion of all stakeholders with a legitimate interest

- 🔍 What proportion of producers in the delimited area took part in the formulation of the specifications and/or can use the GI?
- 🔍 Why are other operators not participating (e.g. lack of interest, exclusion based on technical criteria in the specifications that are different or too demanding, lack of financial resources, lack of knowledge or awareness, etc.)?
- 🔍 Are all operators concerned (farmers, processors, etc.) represented?
- 🔍 What is the role of middlemen, buyers, etc.?



3.3.2. The product

- ◉ What quantity of products is produced each year or season?
- ◉ Have the supply and demand for this product been identified and defined (e.g. through a survey)?
- ◉ What general regulations are applicable? Are the specifications in line with them?
- ◉ Which processing stages are covered by the specifications? Is the production of the raw material covered? Is the packaging of the end product covered?

3.3.3. The relation between the specific quality and the GI area

- ◉ The product's unique quality linked to its geographical origin:
 - ◉ What is the product's unique origin-linked quality?
 - ◉ What is the evidence for the objective quality on which the product's reputation is built?
 - ◉ How many varieties of the product exist, and which of these are the object of the GI?
- ◉ Territorial factors that confer the specific quality:
 - ◉ What are the natural local conditions that influence the raw material and/or processing aspects? Are they all described?
 - ◉ What are the human and cultural factors (specific knowledge, techniques) that influence the production process?
 - ◉ Are there any specific genetic factors at play?
 - ◉ Are there any possible impacts on local biodiversity (e.g. through the use of specific varieties)?
 - ◉ Can the specifications be written in a way that improves their positive impacts, or minimizes their negative impacts, on biodiversity?
 - ◉ Are the interactions among these various factors described?
 - ◉ Are these factors mentioned in the specifications in a way that promotes their preservation?
 - ◉ Do the specifications have a harmful impact upon the environment? Can they be written in a way that promotes the conservation of natural resources?
- ◉ Reputation of the GI product:
 - ◉ Identifying name: where/by whom is the GI known?
 - ◉ Is there any misappropriation of the name by other operators (counterfeiting)? Is there any room for consumer confusion? What is the genericity of the name?
 - ◉ Where does the product have a reputation? Where is it marketed?



3.3.4. The cultural anchoring of the product in the area

- ◉ Historical anchoring:
 - ◉ To what extent do the product and its production form a part of local culture?
 - ◉ Does the local population recognize the product as a point of reference for its identity?
- ◉ Identification of the community with the product:
 - ◉ Are the specifications developed by the members of the GI association in line with the local community's perceptions of product? Does the local population legitimize them?
 - ◉ Do any innovations incorporated in the specifications respect local traditions and the local community's perceptions of product?
 - ◉ To what extent do the specifications restrict variations in practices, know-how and qualities?
 - ◉ Do the specifications allow all traditional methods, or do they exclude some?

3.3.5. The delimited production area

- ◉ Does the delimited area correspond with the area where the local factors underlying the specific quality are found?
- ◉ Does the area include all those who produce the product or are capable of producing it?
- ◉ Does the production area of the raw material (if applicable) correspond to the processing area? Or is it larger? Or is it not known? In this case, do the specifications contain criteria to ensure the quality of the raw material?
- ◉ Does the GI name adequately reflect the production area (is it not misleading)?

3.3.6. The control system

- ◉ Is the traceability of the product ensured, at each stage of the value chain?
- ◉ Is there a good balance between internal and external controls? Does this balance ensure that costs for producers are minimized, and certification is reliable?
- ◉ Are the GI association and its producers capable of implementing the internal control system?



4. Conclusions and way forward

In many cases (but not all), the preservation and promotion of GI products has been demonstrated to contribute to sustainable development and diversified diets in their territories. The way in which a GI system is established and managed locally crucially determines the generation of positive impacts on the social, economic and environmental dimensions of sustainable development.

Thus, public authorities have an important responsibility when deciding whether to recognize and protect a GI: they must ensure that the GI system, including the specifications, contribute to sustainable development. Examining GI applications is a particularly complex task. Indeed, a combination of different competencies and capacities (from legal to technical) is required to understand the challenges of the GI territory and the economic and social relations within the value chain of the GI product.

These guidelines aim to help public authorities and experts involved in this difficult task by providing key concepts, references and examples. It is important to consider and apply these guidelines in view of the specific national context (the policy vision, the legal and institutional framework, the national food and handcraft heritage, the economy and the importance of different industries, etc.).

The recommendations provided in this document are only tools to be integrated into what constitutes the best guidance for examiners: their own, and their predecessors', experience in assessing GI requests, which should be capitalized upon in the form a manual of procedures that can be transferred to newcomers.

It is hoped that these guidelines will provide a starting point for public authorities and experts to develop their own recommendations and rules, and to discuss and share lessons learned with all stakeholders involved.





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Glossary

Artisanal vs industrial

In some cases, discussions may arise because the GI product encompasses both artisanal and more industrial versions of the product, as a result of differences in processing methods. There is no definite legal or regulatory definition of what constitutes an artisanal product; the concept is usually expressed as the opposite of “industrial” products. What usually defines the artisanal process is the fact that it builds on the know-how of a specific artisan producer; this producer carries out the various production stages in a particular manner that is reflected in the final product. Meanwhile, industrial production is based on task specialization: each worker carries out a separate, standardized action within the production chain, without impacting upon the final product’s characteristics. As long as the specific quality defined in the GI specifications is preserved in the industrial version of the product, these products can be included in the GI system. More important than the distinction between artisanal or industrial is whether the product conserves the typical quality associated with the area (the origin-linked quality). Indeed, even though consumers often associate typical products with artisanal production methods, typical products may also be produced under conditions that might be termed industrial (for example in view of the large volumes produced), in the same area as their artisanal counterparts. If the two versions of the GI product have different production costs, or a different image among consumers, the specifications can define two different product subcategories.

Examiner

The person in charge of analysing applications for GI registration, to verify whether the application is in conformity with GI legislation, from both a formal and a substantial point of view.

Geographic(al) indication (GI)

Article 22.1 of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, signed in 1994 by the members of the World Trade Organization (WTO), states that:

Geographical indications [...] identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

All WTO member countries have to establish basic provisions for the protection of GIs. The term GI can be used to identify a product’s origin and its link with particular characteristics and a reputation related to that origin. When GIs are legally registered they take a specific form depending on the categories defined in national legislations, and become enforceable. The TRIPS Agreement does not stipulate a specific legal system of the protection of GIs, leaving this task to member countries. If a member country has established a formal registration process to recognize GIs within its territory, then a product registered according to this process is considered a protected GI. However, a GI may also exist without protection (unless the name is considered generic). In certain situations, a collective mark or certification mark is the most effective legal protection for a GI.

GI product

A product identified on the market by means of a geographical name (geographical indication).

GI producers

For the purposes of these guidelines, GI producers are all operators who contribute to the production of the GI good, including farmers, processors and other actors involved in the supply chain of the GI product (as applicable).

GI system

A system including all stakeholders, resources and activities that contribute to the production of the GI product. A GI system thus includes the GI producers and the other stakeholders involved directly or indirectly in the value chain of the GI product, including but not limited to public authorities, NGOs, research institutions, extension services and other institutions directly linked to the GI product (for example tourism activities in the production area). It includes not only the GI stakeholders in the territory but also the natural and cultural conditions that make possible to produce and commercialize the GI product.

GI initiative

An initiative by local communities of producers aimed at regulating and valorizing the production of a typical product by defining a set of underlying rules (specifications) for the use of its geographical indication and setting up an associated control and guarantee system.

Geographical origin and *terroir*

The *geographical origin* of a product is being referred to when its quality (objective and subjective) is directly linked to territorial factors (human and natural factors). It is different from the provenance of a product, which refers to its place of origin without a link between this origin and its quality (e.g. the indication “made in ...”).

In a number of countries, GI legislation distinguishes between two categories of GIs, depending on the importance of the geographical origin. For example, European regulations distinguish between Protected Geographical Indications (PGI) and Protected Designations of Origin (PDO), based on the strength of the link between a product’s origin (through human and natural factors) and its specific quality. PGIs are essentially based on a reputation that can be linked to certain production stages, while PDOs are based on natural and human factors that are at play at all stages of production in the delimited area. In the latter case, the definition of *terroir* (a French term lacking a direct equivalent in English) applies well:

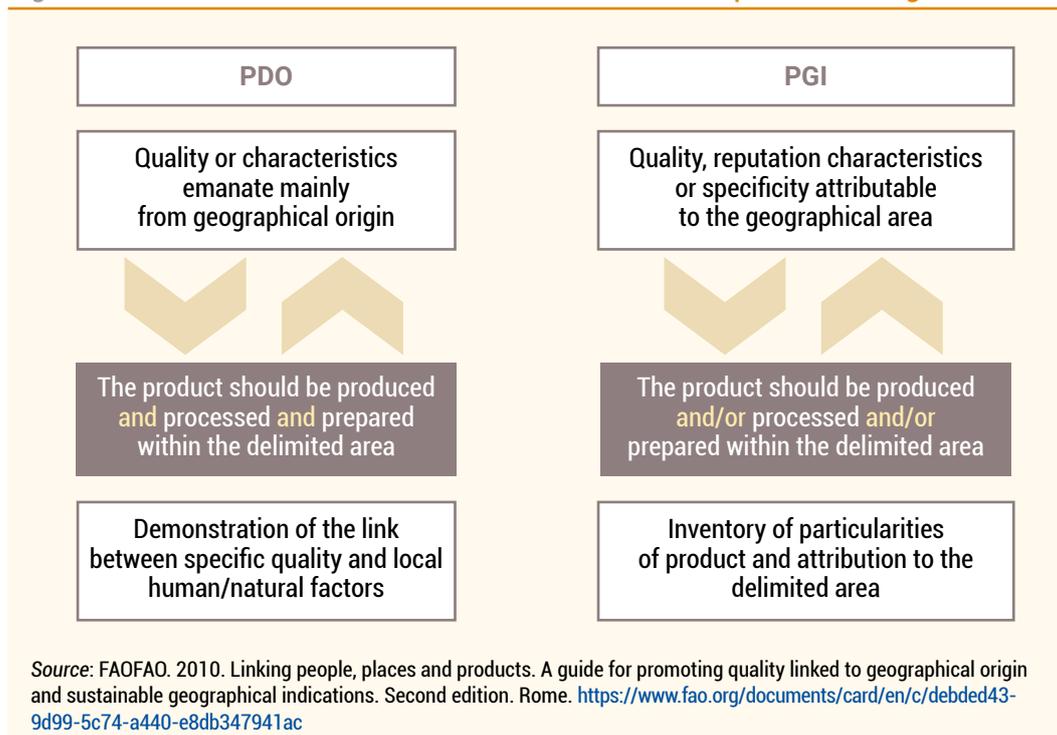
A delimited geographical area where a human community has developed, over the course of history, a collective production method and know-how. A terroir is based on a system of interactions between physical and biological milieu and a set of human factors involved to convey an originality, confer typicity and engender a reputation for a product (Casabianca et al., 2005; FAO, 2010).

In the case of a *terroir* product, the quality results from a complex interplay of natural and human factors that have shaped one another throughout history. The genetics of local animal breeds, plant species or micro-organisms are often part of this multidimensional interaction between the factors that govern quality. In the other cases, a product’s specificity

and quality is still the result of the interaction between human and natural factors, but the link is weaker. Here, the GI may be based predominantly on local knowledge and know-how, with little influence from natural factors (which may influence only the processing stage).

The figure below illustrates the difference between DO and GI, based on the definition of PDO and PGI under EU legislation.⁵

Figure: The difference between PDOs and PGIs under European Union legislation



In any case, applicants for GI recognition must demonstrate the relationship, however strong or weak, between the geographical origin and the specific quality of the product, that is, to show the causal relationship between the specific quality of the product and the territorial factors that confer it.

On this basis and for the purposes of the present guidelines, the concepts of products with territorial typicity and products linked to geographical origin are deemed equivalent.

Governance

Concept referring to the complex systems covering mechanisms, processes, relationships and institutions through which individuals and groups articulate their interests, exercise their rights and obligations, and mediate their differences.

⁵ See Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs. Official Journal of the European Union, L343: 1–29.

Objective quality and subjective quality

The quality of an agricultural or food product has two dimensions: *objective* quality and *subjective* quality. *Objective* quality refers to product characteristics that can be evaluated or measured based on sciences such as physics, chemistry and biology (e.g. genetics and microbiology). These characteristics include, for example, the proportion of saturated and unsaturated fatty acids in fat or the colour and tenderness of meat. Other examples are the concentration of minerals or the amount of soluble solids in fruit. Meanwhile, *subjective* quality refers to the symbolic values or representations associated with the production, preparation and consumption of the product; in other words, images strongly associated with the product but not physically part of it. For example, the maturing of Roquefort cheese in caves generates a different image than that conferred by maturation in industrial ageing chambers. In other cases, the product is associated with images of the production area, such as the typical landscape, the altitude or the climate. Whatever the specific case, the definition of the origin-linked product in the specifications must reflect the local community's perception of the product. The GI product has to preserve its local identity.

Products with generic names

Genericity is an important criterion in the analysis of a product's eligibility for GI registration. Practically all national legislations on GI and DO systems stipulate that a product name that has become generic cannot be registered as a GI. Some regulations (such as the Lisbon Agreement, signed by 27 countries and covering some 800 DOs) also stipulate that the names of products registered as DOs can no longer become generic names. Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs defines a name that has become generic as

The name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or marketed, has become the common name of an agricultural product or a foodstuff in the Community.

In other words, such names have lost their distinctive character, and products coming from different sources can no longer be distinguished, nor can their specific origin be indicated. Whether a product can be considered generic depends on the perception of consumers and the applicable legal framework.

When people feel that a geographical name no longer indicates the specific provenance of a product, but rather a class or commercial category of product (sale designation), the name may lose its eligibility for GI registration. The transformation of a geographical name into a generic term can occur in various countries and at various times.

A geographical name that has become generic can be *relocalized*, in other words an additional geographical qualifier, indicating the area of origin, can be attached to the generic name. The name *Camembert de Normandie*, registered as a PDO in the European Union, is a good example of relocalization. Camembert is a soft cheese that takes its name after a small town in Normandy, France; its production spread to many other regions and its name became a generic commercial designation for this type of cheese. However, with the addition of the name of the region, Normandy, the name was relocalized, allowing for a differentiation from generic camembert cheeses.

Reputation

Reputation is a concept that is crucially associated with GIs as defined in Article 22 of the TRIPS Agreement (which underlies GI recognition and protection systems in most countries):

Indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

It is also one of the concepts over which there may be disagreement as to its interpretation during the assessment of GI applications. It may indeed be useful to differentiate between fame and reputation: fame is a product's characteristic of being known, while reputation is related to the content that makes the product known. Thus, studies into a product's reputation should look into the reasons why a product is known.

Reputation may be one of the elements that justify the recognition of a GI, especially when the product in question is the object of imitation or misappropriation of its name by similar products.⁶ While some countries' legislation may be imprecise in this respect, it is important to demonstrate the basis (i.e. the specific quality of the product, associated with the area of origin) on which this reputation is built.

Specifications (or code of practice)

A document describing the specific attributes of a GI product in relation to its geographical origin. The specifications describe the product and its manner of production, and lay down requirements regarding not only methods of production but also processing, packaging, labelling, etc. (as applicable).

Specific quality

FAO's *Linking people, places and products guide* (2010) defines *specific quality* as "a set of characteristics associated with a good or service that is recognized as distinct from mainstream products." These distinctive characteristics are shared by the products from suppliers in a specified area. Reference is thus made to the presence of "one" particular quality; in other words, there is a certain uniqueness in the specific quality of this product. In the case of products with a specific origin-linked quality, there may be variations among products from different local suppliers; however, these differences should not prevent the products from bearing a "family resemblance" that distinguishes them from similar products originating elsewhere.⁷

Stakeholder (or actor)

Any person, group or organization with a direct or indirect stake in the outcome of a process of value creation for origin-linked products, inasmuch as they can affect or be affected by its results. Local producers and their associations, companies involved in the value chain

6 In certain countries, regulations allow for the interpretation that a product's reputation, associated with its origin, can justify its registration as a GI (see the definition of *indicación de procedencia* in Brazil, which is legally considered as a GI). However, reputation in itself does not necessarily ensure the origin-linked character of a product, which is the central element in the definition of a GI. Indeed, the GI definition implicitly contains the idea of product specificity.

7 Similar products can be produced in other zones, but also within the same zone as the GI product. Similar products have characteristics that are different from those of the typical product, for example as a result of the use of raw materials that are not typical, or of tools or methods that are different from those traditionally used.

(processors, distributors, suppliers of inputs, etc.), consumers, the government and any institution playing a part in the GI system are all key stakeholders.

Terroir

A *terroir* is a delimited geographical space in which a human community has built up a collective intellectual or tacit production know-how in the course of history, based on a system of interactions between a physical and biological environment and a set of human factors, in which the sociotechnical trajectories brought into play reveal an originality, confer a typicity and engender a reputation for a product that originates in that *terroir*.

Typicity

When a product's specific quality is linked to the population and the area that produces it, the concept of *typicity* arises. The typicity of an agricultural or food product is a characteristic belonging to a category of products that can be recognized by experts or connoisseurs on the basis of the specific attributes common to such products. Typicity expresses the possibility of distinguishing an origin-linked product from other similar or comparable products, and thus underlies the identity of the product. It includes a degree of internal variability within the category, but such variations do not compromise its identity. These properties of the category are described by a set of characteristics (technical, social, cultural) identified and defined by a human reference group, based on know-how distributed among the various stakeholders in the value chain: producers of raw materials, processors, regulators and consumers.

The various typicalities include territorial typicity, whereby the specific quality results from the sustained construction of interaction among various territorial factors (over a certain period of time). These factors encompass natural or environmental factors, local human factors (e.g. recipes, manufacturing methods, etc.),⁸ and in some cases genetic factors (including animal breeds, plant species and micro-organisms such as yeast or fungi that contribute to fermentation processes) that are associated with the area. The human factor is an important source of typicity, through the many elements of knowledge held by the actors living in the area of origin (the *terroir*).

It is important to point out that the territorial typicity of a product is a historical construct whose extension in time may vary. For example, certain products associated with immigrant cultures have spread and mingled, acquiring a specific quality within an area over several decades, while other products have acquired their typicity over one or more centuries.

It is often thought that just because a product originates from a certain place and has been produced there for a long time (territorial *anchoring*), it can be considered a product with territorial *typicity*. However, unless a product has a specific quality associated with the area it comes from, it is not eligible for recognition as a GI. Thus, products with territorial *typicity* are to be distinguished from those with territorial *anchoring*, the latter being characterized by their property of forming part of the mass of cultural elements (including productive activities) of the local community. The difference between products with territorial typicity and those with territorial anchoring thus lies in the presence or absence of a specific objective quality in the product. While both types of product are part of the local culture, only those with territorial typicity have a particular specific quality that can be communicated through a GI.

⁸ The local community may be made up of an indigenous population, an immigrant culture or, as in many cases, a blend of local and immigrant cultures.



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A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess characteristics or a reputation that are intrinsic to that origin. GIs can be registered as intellectual property rights (IPR) to ensure their protection. In countries where GIs are recognized under a public framework, public authorities can play an important role in the creation of favourable conditions for GIs to contribute to sustainable development and sustainable food systems. In particular, public authorities in charge of GI rights have an important responsibility when examining applications for protection, and the registration should ensure that GIs can function well.

The examination of applications not only serves to verify the legitimacy of the GI as an IPR in terms of the link to the origin, but can also influence the GI system's effectiveness and sustainability performance, in relation with key factors highlighted in the literature such as the clear definition of the specific quality linked to the geographical origin, the local governance, the appropriate marketing strategy.

The objective of these guidelines is to provide guidance to public authorities and experts that examine GI applications. These guidelines provide examples and recommendations related to the procedures for the examination of GI requests. They focus on the two types of criteria for the registration: 1) the legal criteria that determine the admissibility for registration (link to origin) and 2) additional criteria that can be considered to help improve the GI system's sustainability. Finally, the guidelines offer a list of questions to guide examiners along the examination process.

FAO thematic website:

www.fao.org/geographical-indications

Food and Agriculture Organization of the United Nations
Rome, Italy

