

# ***Geographical Indications ....its evolving contours***

**Professor Prabuddha Ganguli  
CEO**

**“VISION-IPR”**

***101-201 Sun View Heights,***

***Plot 262 Sher-e-Punjab,***

***Andheri East, Mumbai 400 093***

***Tel: 91-22-28264348; Fax: 28264344***

***e-mail: [pgang@mtnl.net.in](mailto:pgang@mtnl.net.in)***

WIPO Workshop “Train the Trainers” NIMSME, Hyderabad 13-17 August 2007

# What exactly is a Geographical Indication (GI)?

- A GI is the name of a region or locality and designates a product which originates in that region or locality.
- The GI, linked as it is to traditional practices, enjoys a high reputation.
- A GI cannot be created – it can only be recognised. It confirms the value of products which already exist.

	Certification Marks	Trademarks
1.	Owner does not use the mark because the owner does not produce the goods or perform the services in connection with which the mark is used.	Owner uses the mark
2.	Any entity, which meets the certifying standards, is entitled to use the certification mark and no distinctions are made.	Trademark cannot be used by anyone else except the owner of the mark.

# GIs: added value for producers - examples

- Added value in price terms: all cheeses covered by GIs - on average euros 2 more per kilo.
- Comté cheese: 10% more paid for milk to producers.
- Bresse chicken: sells at a price 4 times higher than ordinary chicken.
- In Italy, Italian “Toscano” oil is sold at a premium of 20% since it has been registered as a GI in 1998.

# Case Study : Consumer Awareness

Two Italian surveys carried out to determine purchasing habits regarding two types of products sold under a GI label (“**Parmigiano-Reggiano**” cheese and “**Parma**” ham) showed that the majority of consumers (about 70%) predominantly look for the GI label when purchasing those products and they do so two to three times as much as they look for a trademark.

# Case Study : Product Premium

**Example:** A 1999 EU consumer survey showed that 40% of consumers are willing to pay a higher price (on the average 10% higher) for a product sold under a GI label than for a generic product. **Example:** other studies confirm these results. □ **“Jamaican Blue Mountain”** coffee has been shown to sell at a premium of \$14.50 per kilo. □ French chicken **“Poulet de Bresse”** has a market price 4x higher than regular French chicken. □ Italian **“Toscano”** oil has sold at a 20% premium since it was registered as a GI in 1998.

# **GI Guarantor of Quality**

**The positive impact of GI's on price means that Geographical Indications can play an important role as a guarantor of quality for consumers.**

The profitability of using GI's acts as an incentive for producers to maintain the high quality and reputation of the GI products for which consumers are willing to pay premium prices.

# G.I Employment Generation

**Geographical indications can have a positive impact on the local labor market.**

**Example:** A study carried out by the French Ministry of Agriculture regarding “**Compté**” cheese showed that Compté cheese production has increased at a rate of 3% per year in the last 10 years, whereas the local production of Emmental cheese (not protected as a GI) has dropped. This steady increase in demand and production has created new employment and limited rural exodus from the region.



## **Geographical Indications can also have Indirect Economic Benefits for Related Sectors.**

**Example:** The same study carried out by the French Ministry of Agriculture on “**Compté**” cheese has shown economic benefits extending beyond the cheese industry: (i) profitability of milk farms in the Compté region increased and the volatility of milk prices decreased; (ii) the reputation of Compté cheese has created an interest in the region and thereby had a positive impact on tourism and on the local food and hotel sectors. (The same experience was reported in the region of Parma where Parma ham is produced, and we are all familiar with the tourist attraction of the famous GI wine regions in France.)

# GI & Environmental Impact

**Geographical indications, to the extent that they preserve traditional knowledge and production methods, can have a positive environmental impact.**

**Example:** The French Ministry of Agriculture study showed that the traditional production methods and production limitations imposed by the GI quality standards for **Compté**cheese lead to less intensive production practices and a reduced use of fertilizers and herbicides and therefore proved more environmentally friendly in terms of preserving the grasslands and the biodiversity in the region.

# GI Regional Prosperity

The benefits generated by a geographical indication stay in the region because the industry linked to the GI cannot be relocated. It is intrinsically and necessarily tied to the geographical place under whose name the product is sold.

# Agreements

- Paris *Convention for Protection of Industrial Property*
- Madrid *Agreement for the Repression of False or Deceptive Indications of Source on Goods,*
- Lisbon *Agreement on the Protection of Appellations of Origin and their Registration,*
- Stresa *International Convention for the Use of Appellations of Origin and Designations of Cheeses,*
- WTO *Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).*

# Paris Convention

- An ‘indication of source’ is the geographical place or country of origin of a product.
- Hence, a typical infringement of an ‘indication of source’ would be to produce it in a place other than what is stated in the name.
- Article 9 provides the remedies available in the event of infringement : *seizure*, or *import prohibition*.
- A finding of infringement relies heavily on the consumer’s perception of deception or deception.
- Convention’s limited Impact on protection.
  - despite its many signatories 169 (2005) no national law to implement.

# Madrid Agreement

- The *Madrid Agreement* states its purpose in its title: the “repression of false or deceptive indications of sources on goods.”
- Article 1(i): Remedies: seizure and import prohibition.
- Article 4: that GIs of wines shall never be used as generic terms.

# Madrid Agreement

- This agreement is therefore stronger than the *Paris Agreement* regarding the extent of protection it gives to geographical indications on wines.
- In fact, its very existence arose from the dissatisfaction with the *Paris Agreement*.
- As of April 2005, the agreement had 34 contracting parties.
- It has also not attained a high degree of popularity ... perception that its provisions on GIs protection are too exacting.

# Lisbon Agreement

- This agreement offers the strongest protection for GIs.
- It is influenced to a large extent by the *French code de la consommation*.
- Article L.115-1, the *Code de la consommation* defines the *Appellation d'origine controlee* as “the designation of a country, a region, or a locality that serves to indicate the origin and owes its quality or characteristics to its geographical surroundings, ... natural and human factors.”
- It should be noted that the definition includes both “human factors” and “natural factors.”



# Lisbon Agreement

- It requires that an AO must first be protected under national law, and then notified to WIPO.
- It is then WIPO's duty to publish and notify this protection to all the other members of the *Lisbon Agreement*.
- All participating countries must oblige with their own protection of the appellation of origin upon notification unless they object within the period of one year.

# Lisbon Agreement

- Article 6 is strong in the extent of protection...says an AO can never become generic.
- 2-year phase-out period for AOs that conflict with TMs in cases where the TM was registered prior to the AO in violation of the “first in time first in right” rule.
- In sum, the *Lisbon Agreement* gives the greatest protection to appellations of origin, and considers them superior to TMs.
- However, relatively few countries, 23 in total, are parties to the agreement.

# Stresa Convention, 1951

- Article 2.1, the *Convention* is reserved for products derived from coagulated milk or cream.
- Art. 3: only “cheese manufactured or matured in traditional regions, by virtue of *local, loyal and uninterrupted usages*” may benefit from protection based on designations of origin governed by national legislation.
- For example, “Gorgonzola (Italy)” is listed as a designation of origin under the convention.
- Article 1 of the convention prohibits the use of any names which conflict with protection granted under the convention.

# GI in TRIPS

- **GI protection is only for *goods*. (No services).**
  - “good” can mean any good, including all kinds of agricultural products and foodstuffs, (but Art. 23 is only for wines and spirits).
  - **criteria for eligibility:**
    - Quality
    - Reputation
    - or other characteristics alone
    - **link between the product and its origin.**

# The WTO TRIPs Agreement

- . Article 22.1, defines GIs 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” (emphasis added).

# GI in TRIPS

- Art. 23: higher level of protection for GIs of wines and spirits,: “Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question....”
- Art. 23 extends protection for GIs of wines and spirits beyond what is contained in Article 22.3 which does not prohibit incorrect GIs if they are not misleading to the public.

# WTO definition of GIs

## Art 23:

- Higher protection for wine and spirit
- No use of misleading expressions (kind,type,etc.) or translations
- Obligation to refuse or to invalidate a mark consisting of GI
- Homonymous GIs “coexistence” under certain conditions
- Negotiation /multilateral system of notification and registration of GIs for wines

# WTO definition of GIs

## Art 24:

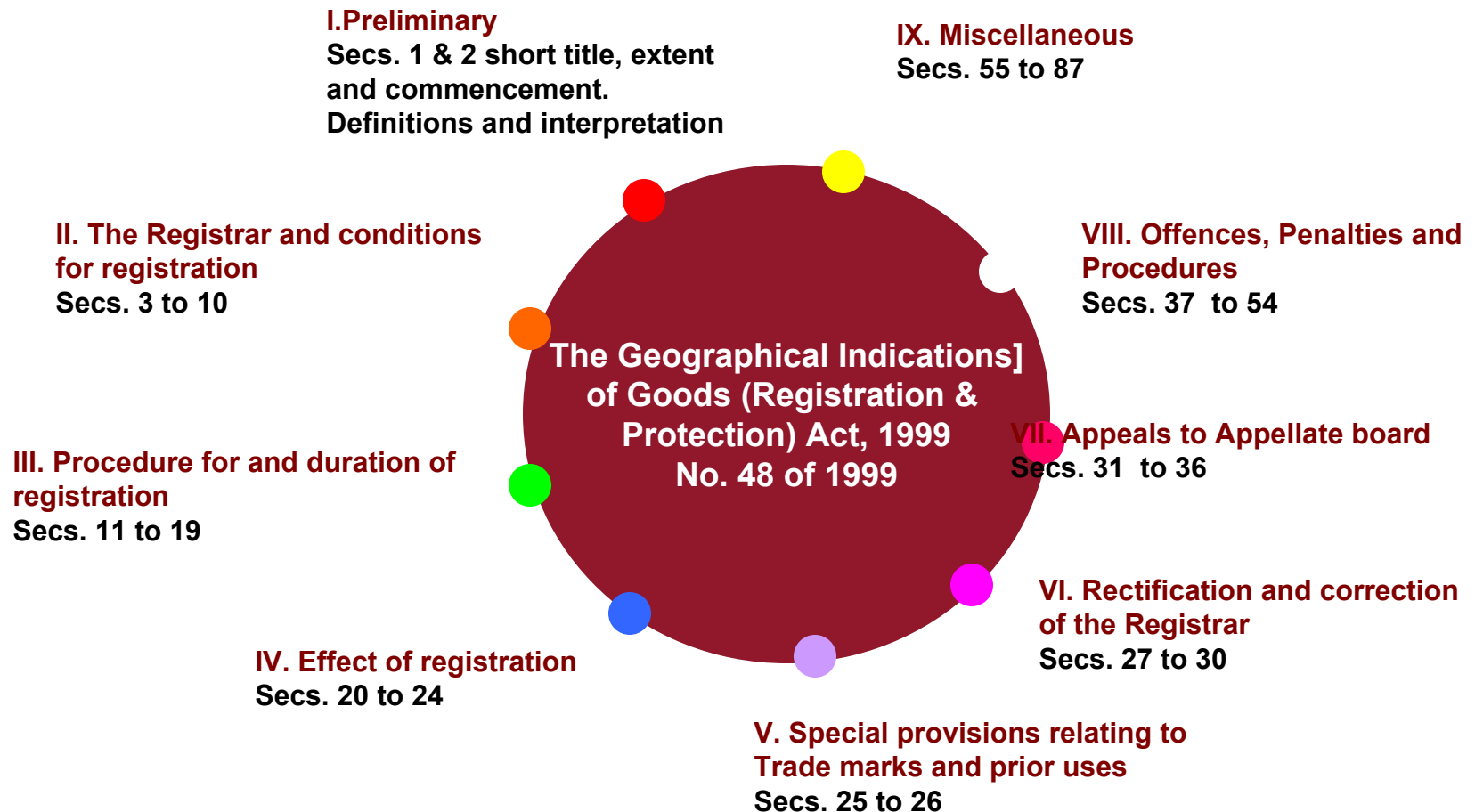
- Grand-fathering clause; use before date of signature of WTO Agreement (04/1994) for 10 years or use in good faith before that date
- Coexistence with prior trademarks (registration or use) before the date of application of the TRIPs Agreement (transition periods) or before the GI is protected in the country of origin
- Generics, grape variety
- Protection in the country of origin



# The Geographical Indications of Goods (Registration & Protection) Act, 1999

Chapters 9

Sections 87



# Examples of Geographical Indication

Solapur Chaddar & Terry Towel



Applicant Name : Textile Development Foundation

# Aranmula Kannadi



## Kangra Tea



Applicant Name : H.P Patent Information Centre



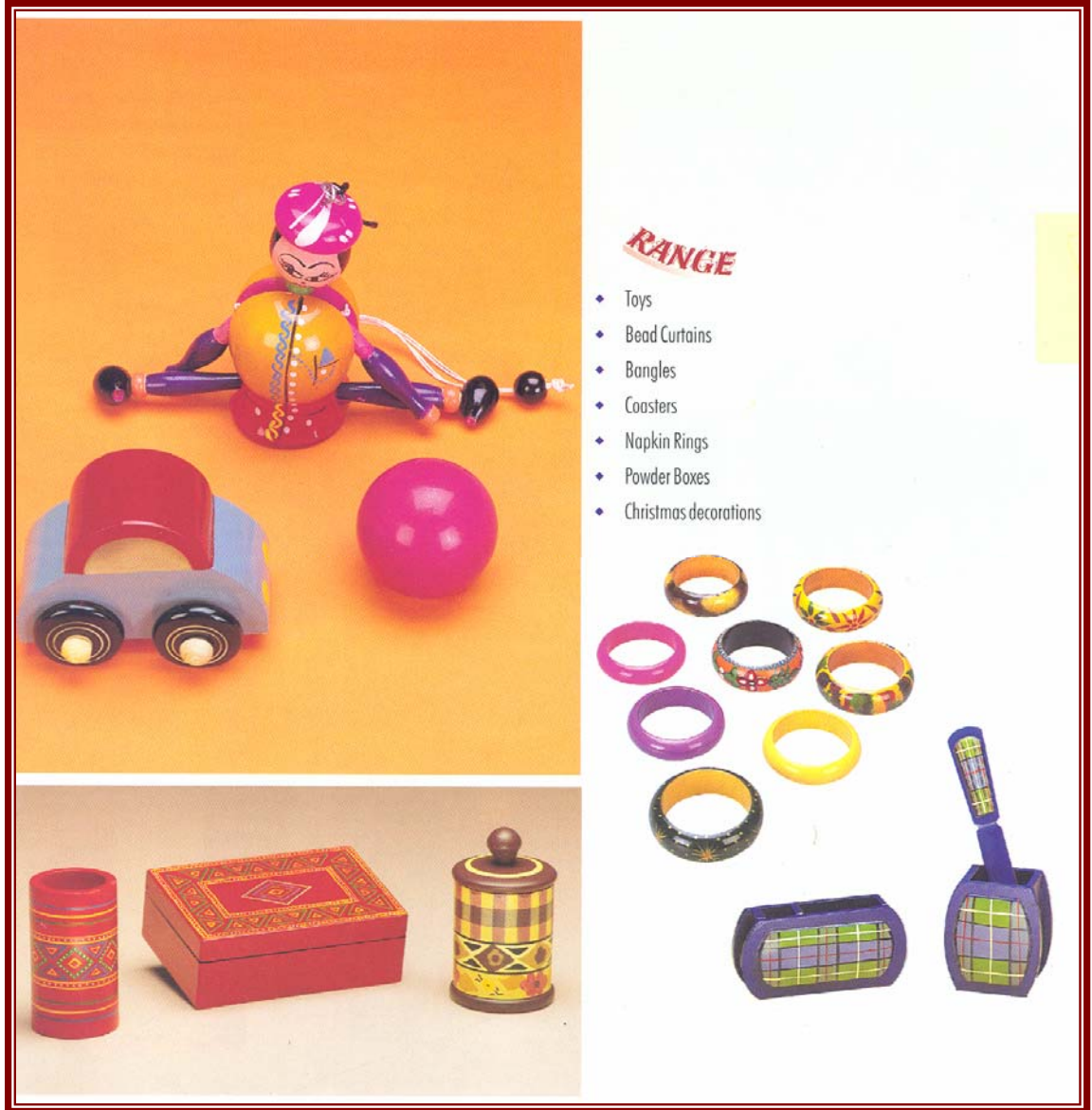
# Channapatna Toys and Dolls

## LACQUERWARE

Lacquerware in Karnataka dates back to the beginning of the century and is native to Channapatna, a small town near Bangalore. Lacquerware is made from a light wood which is soft and well suited to the turning machine. The wood is turned on the lathe to different shapes. While the wood is rotating on the lathe, lac in the form of sticks in a variety of colours is held against the turning wood. The heat generated by the friction melts the lac and helps to apply the colour uniformly. Thereafter palm leaf is used to give a glossy polish.



# Channapatna Toys and Dolls





KONDAPALLY TOYS





## Rose Wood Inlay of Mysore





# Mysore Paintings

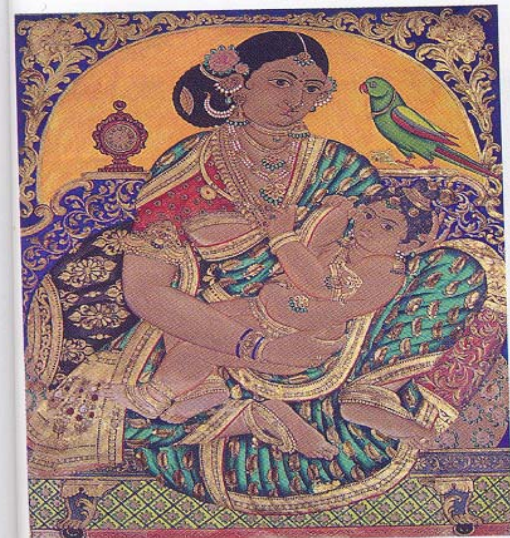
## MYSORE TRADITIONAL PAINTINGS

The Mysore style of traditional painting, which had its origins in Ajaṅṭa and Badāmi caves (early centuries A.D.) was crystallized in Vijayanagar (1347-1746). It acquired its unique character in Mysore under the patronage of Wodeyar rulers, especially Krishṇarāja Wodeyar III (1794-1868).

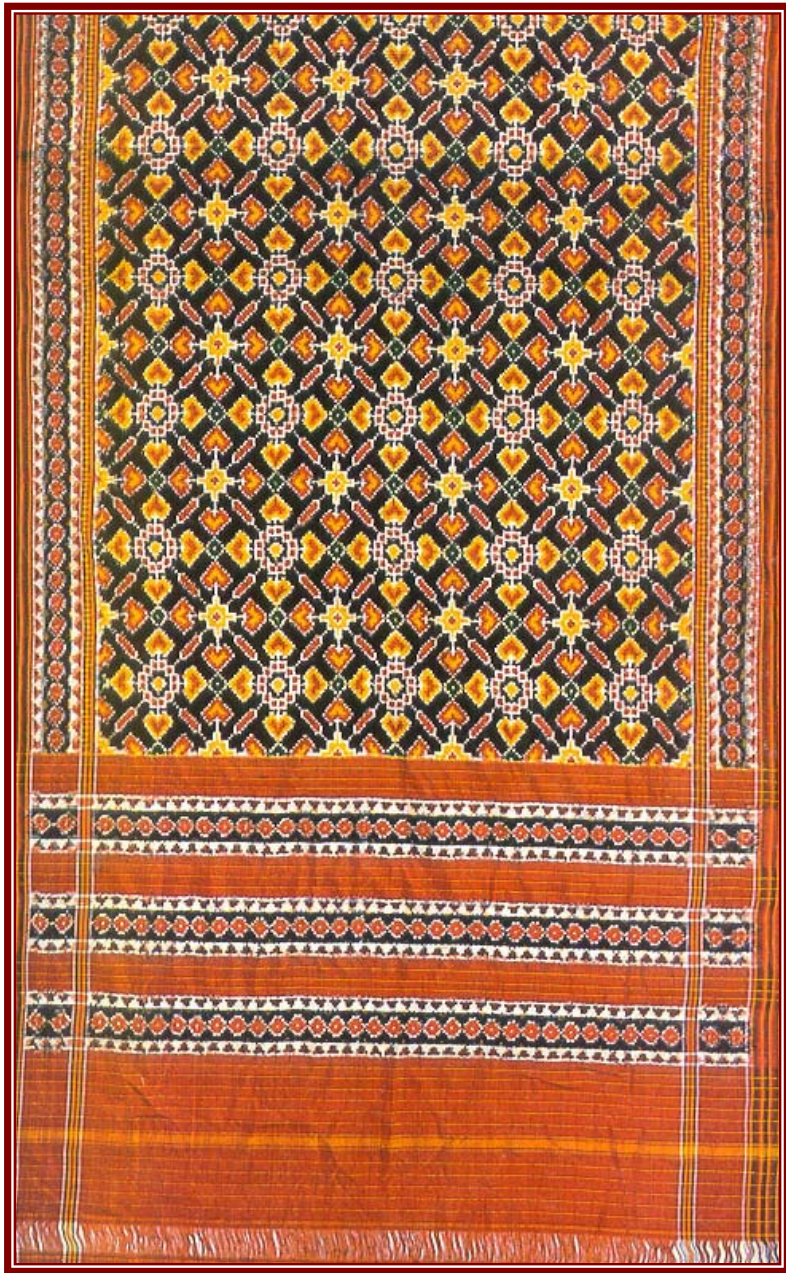
The themes, mostly drawn from epics and mythical lore, are of popular interest, especially the iconographic and narrative paintings. They adorned palace pavilions and wealthy homes and also Bhajana-mandiras where common people gathered.

Paintings are done on board, cloth and paper specially prepared; and colours, indigenously prepared from minerals, leaves and flowers.

Of particular interest is the expert and lavish use of gold (leaves, foil, powder, liquid) and gesso work in the paintings. The Mysore artists evolved their own techniques, different from what prevailed in Tanjore.







**TRADITIONALPOCHAMPALLY IKAT SILK SAREES**

# Darjeeling Tea Certificate

प्ररूप 0-2



बौद्धिक  
सम्पदा भारत



FORM 0-2



INTELLECTUAL  
PROPERTY INDIA



भारत सरकार  
GOVERNMENT OF INDIA

## भौगोलिक उपदर्शन रजिस्ट्री Geographical Indication Registry

वस्तुओं का भौगोलिक उपदर्शन (रजिस्ट्रीकरण तथा संरक्षण) अधिनियम, 1999  
Geographical Indication of goods (Registration and Protection) Act, 1999

धारा 16 (1) के अधीन भौगोलिक उपदर्शन अथवा धारा 17 (3) (ई) के अधीन प्राधिकृत उपयोक्ता के रजिस्ट्रीकरण का प्रमाणपत्र  
Certificate of Registration of Geographical Indication under section 16 (1) or of authorised user under section 17(3)(e)

भौगोलिक उपदर्शन संख्या:

Geographical Indication No.: 1

प्राधिकृत उपयोक्ता संख्या  
Authorised user No.:

दिनांक

Date: 27.10.2003

प्रमाणित किया जाता है कि भौगोलिक उपदर्शन (जिसकी समाकृति इसके साथ उपाबद्ध है) / प्राधिकृत उपयोक्ता  
टी बोर्ड, 14, बी.टी.एम. सरानी (ब्राबोर्न रोड)  
पी.ओ. बोक्स. सं. 2172, कलकत्ता - 700 001, भारत

के नाम से

30 वर्ग में

1 संख्या के अधीन

27.10.2003

दिनांक को

-याथ

के लिए रजिस्टर में रजिस्ट्रीकृत किया गया है।

Certified that the Geographical Indication (of which a representation is annexed hereto)/ authorised user has been registered in  
the register in the name of Tea Board, 14, B.T.M. Sarani (Brabourne Road) P.O.Box  
No.2172, Kolkatta - 700 001, India.

in class 30

under no. 1

as of the date 27.10.2003

in respect of Tea

आज दिनांक 29 अक्टूबर

माह

2004

को चेन्नई में मेरे निदेश पर मुद्रांकित किया गया।

Sealed at my direction this 29th day of October

2004. at Chennai.

रजिस्ट्रार, भौगोलिक उपदर्शन  
Registrar of Geographical Indication.