

Questions proposed by Israel

Examples of Possible Survey Questions for the WIPO Standing Committee on Trademarks, Industrial Designs, and Geographical Indications Regarding Geographical Indication Examination Practices and Procedures in SCT Member States

EXAMINATION AUTHORITY

Does your country maintain a register for Geographical Indications (as that term is understood under the TRIPS Agreement)? If so, is registration contingent upon compliance with a domestic examination for formal and substantive eligibility? Is registration made pursuant to a classification system (if so please specify which classification system)?

Does your country maintain a register for Appellations of Origin (as that term is understood under the Lisbon Agreement)? If so, is registration contingent upon compliance with a domestic examination for formal and substantive eligibility? Is registration made pursuant to a classification system (if so please specify which classification system)?

Does your country recognize Geographical Indications as an unregistered right?

ELIGIBLE SUBJECT MATTER

Is there any limitation on the size of the production area to which a geographic designation can refer? By what criteria, if any, are production area boundaries set? Are such boundaries subject to an examination or other review process? Can a third party request the reduction or expansion of a production area?

Can the production area exceed the geographic boundaries of the place identified by the geographic designation? If so, would your authorities substantiate the grant of the GI based on the fact that the reputation of the GI covers a larger area than the modern day administrative boundaries of the geographic name? After production area boundaries have been established, can they subsequently be expanded? If so, is there any criteria that must be fulfilled as a condition to such expansion?

Where a GI is composite of a place name and a common product name or other common elements, such as "Camembert de Normandie" what is the scope of the protection deriving from the composite GI? Is protection for such common elements disclaimed? How may the public understand the scope of the protection?

Where such a composite GI exists with regard to a particular product category (such as cheese), is there any prohibition on developing and protecting a subsequent GI from that same area with regard to a different product within that same category (such as a different type of cheese) or with respect to a different product type (such as fruit)? If so, could the development of such a subsequent GI be achieved without being deemed as a form of dilution?

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In your country are there circumstances under which similar trademarks and GIs can co-exist? Or are they mutually exclusive rights? If they are mutually exclusive how is priority of right determined as between them?

APPLICATION

Once a Geographical Indication has been established, is that GI open to all producers of the registered product from that same region regardless of whether those producers began production subsequent to the creation of the Geographical Indication?

Are domestic GIs required to demonstrate reputation as a GI as a condition for obtaining protection? Foreign GIs? Is reputation described in your relevant legislation as an element linked to the geographical origin of the good or service? If so, where must that reputation exist for the foreign GIs?

What evidence, if any, is required to establish a link between the product bearing the GI and a given quality or characteristic of such product that is essentially attributable to its geographic origin?

ENFORCEMENT

Does your law recognize a defense to infringement based on acquiescence following a prolonged period of non-enforcement of a Geographical Indication or on the basis that the term has de facto become customary in the common language of the territory? If so, under what conditions?

Is a civil infringement action available to right holders or authorized users to address GI infringement? If so, what remedies are available in such action?