



TRIPS AND GIs: ECONOMIC SIGNIFICANCE AND RATIONALE FOR PROTECTION

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uniformity amongst the laws in different nations.

In India, the Patent Act, 1970 was amended in 2005 and the Copyright Act was amended in 2010 and enforced in 2012 to accommodate the provisions of TRIPS.

1. INTRODUCTION 1.1. TRIPS

The World Trade Organization or WTO is an international organization governing the trade relations between nations. It was formed in 1995 by replacing the General Agreement on Trade and Tariff (GATT). It focuses on trade in goods, services and intellectual property between governments along with the trade mechanism, dispute resolution and negotiations and enforcement of trade agreements. It also provides technical assistance to developing countries and promotes cooperation between states. The need for a better protection to the intellectual property rights gave birth to the TRIPS agreement. The WTO believed that intellectual property is a trade related asset and the requirement of a similar law across nations was present. The TRIPS agreement came into effect on 1 January 1995. Before this, World Intellectual Property Organization (WIPO) was dealing with intellectual property.

All the member countries of WTO were required to create legislations for the intellectual properties based on the provisions of TRIPS. This led to the creation and amendment of various statutes such as the Copyright Act, Patent Act, etc. in different countries. This has led to more

TRIPS covers various intellectual properties such as copyright, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and undisclosed information including trade secrets. It is a minimum standards agreement and the members can provide for more protection if they deem fit.

The agreement lays down certain standards of protection that have to be provided by the member states. Each of the main elements of protection is defined, namely the subject-matter to be protected, the rights to be conferred and permissible exceptions to those rights, and the minimum duration of protection. The Agreement sets these standards by requiring, first, that the substantive obligations of the main conventions of the WIPO, the Paris Convention for the Protection of Industrial Property (Paris Convention) and the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) in their most recent versions, must be complied with.¹ Except for the provisions of the Berne Convention on moral rights, all the provisions have been made a part of the TRIPS agreement. This agreement may be

¹ At https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm#top (last accessed on 8th April, 2018).



called as the Berne and Paris-plus agreement.

The agreement also provides for the enforcement procedures and remedies to be provided by the members along with dispute settlement mechanism that will fall under WTO's settlement procedure. It provides for the national and most favoured-nation treatment. While the national treatment clause forbids discrimination between a Member's own nationals and the nationals of other Members, the most-favoured nation treatment clause forbids discrimination between the nationals of other Members.²

The Preamble of the Agreement contains its goals, which include the reduction of distortions and impediments to international trade, promotion of effective and adequate protection of intellectual property rights, and ensuring that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade. This has to read along with Article 7 (Objectives) which promotes technological innovation, transfer and dissemination of technology and mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations. Article 8, entitled "Principles", recognizes the rights of Members to adopt measures for public health and other public interest reasons and to prevent the abuse of intellectual property rights, provided that such measures are consistent with the provisions of the TRIPS Agreement.³

²*ibid.*

³*ibid.*

1.2. Geographical Indications

GIs have been defined under Article 22.1 of the TRIPS Agreement:

"Geographical indications are 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." GIs are the names of places with which a product can be identified with and has certain specific characteristics. These features can be due to environmental factors, processing methods, or manufacturing skills specific to the region from where they originate.⁴

The essentials of a GI are:

- It must be with respect to a good or service.
- GI should originate from a certain territory.
- It must be a sign or registrable indication.⁵ It can be a mark or a combination of word and mark. Some countries allow GI registration for services as well
- Goods may include agricultural products and manufactured goods.
- There must be a clear linkage between the quality or reputation of the goods and its geographical origin, for example climatic condition.

⁴ At

https://www.bc.edu/content/dam/files/schools/law/lawreviews/journals/bcicl/28_1/06_TXT.htm (last accessed on 8th April, 2018).

⁵*ibid.*



The term period given for protection to a GI is fixed by the states and usually does not allow for renewal. In India in cases where renewal is allowed, the term is around 10 years. It is possible that the GIs may be revoked if it is not used or the standards are not maintained.

The need for GIs arose when producers started to exploit their monopoly over a product and a balance between the rights of consumers and producers was required. It protects the consumers from being deceived or confusing an imitation and an original product.

Examples of GIs include- Darjeeling Tea, Agra's petha, Kancheepuram sarees, and the like.

The GIs were given protection since the 18th century but there was no proper international agreement dealing with it. The TRIPS agreement is the first agreement dealing with GIs and also with wines and spirits.

Prior to the TRIPS agreement, there were various international treaties dealing with protection of indications. The Paris Convention, signed in 1883, was the first international treaty dealing with protection for indications of source and appellations of origin.

Next was the Madrid agreement, adopted in 1891, which provided how seizures could take place and what was the competent authority to carry it out. It also empowered the courts of a state to decide which indications of source fell within the agreement. Later, the Lisbon agreement was signed in 1958 and any member of the Paris Convention could become a party to it. It

stated two basic requirements for an appellation of origin to be protected, in accordance with the terms of this Agreement: (a) the appellation of origin should be protected in its country of origin; and (b) the appellation of origin should be registered in the International Register of WIPO.

1.3. GIs and TRIPS

Article 22 of the TRIPS agreement puts forth a standard level of protection and this should be done to avoid misleading the public and to prevent unfair competition.⁶

Article 23 provides for a higher level of protection for wines and spirits with certain exceptions.

Article 24 provides for exceptions, i.e. where GIs need not be protected or can be given limited protection.

The concept of GIs and protection granted to it began in various parts of Europe and gradually spread throughout the world. It disallows any monopolistic behavior in the society but at the same time, gives the producers all the essential rights.

2. TRIPS AND GEOGRAPHICAL INDICATIONS

Section 3 of Part II of the TRIPs agreement provides for the protection of GIs and

⁶ At https://www.wto.org/english/tratop_e/trips_e/gi_backgound_e.htm(last accessed on 8th April, 2018).



Articles 22,23 and 24 of the agreement relate to it.

2.1. Article 22

This article states a definition indicating the subject matter and the standards for protecting GIs. It is derived from Article 2 of the Lisbon Agreement but the new definition is wider as it includes reputation along with quality and characteristics.

An indication is entitled for protection only if it (i) identifies the good and its area of geographical origin, (ii) possesses a given quality, reputation or other characteristics, which (iii) is essentially attributable to its area of geographical origin. Article 22.1, however, does not propose any criteria to test for what is considered ‘essentially attributable’.⁷

This Article provides for the scope of protection:

- protection against the use of indications that mislead the public (paragraph 2(a)) or is deceptive (paragraph 4).
- protection against the use of indications in a manner that constitute acts of unfair competition (paragraph 2(b)).
- refusal or invalidation of trademarks that contain or consist of indications, in a manner that misleads the public (paragraph 3).⁸

⁷ Rajnish Kumar Rai, “The TRIPS Article 23 Extension Stalemate Continues: A Way Ahead for the Developing Countries,” *Journal of Intellectual Property Rights*, Vol. 4, September 2009, p. 405-422.

⁸ Dr. Dwijen Rangnekar, “Geographical Indications: A Review of Proposals at the TRIPS Council: Extending Article 23 to Products other than Wines and Spirits,” *UNCTAD-ICTSD Project on IPRs and*

Article 22.2(a) enjoins two conditions for determining an infringement/violation of GI i.e., a description on a good referring to its origin, and this reference being false, deceptive or misleading. Though Article 22.2(a) does not categorically ban the use of GIs with descriptive or illustrative explanations, such use may be disallowed if it creates deception or public confusion.⁹

The member states are allowed to implement laws to protect GIs according to their wisdom. Article 41 of the agreement states that the countries have to create enforcement mechanisms and procedures to protect infringement of any intellectual property including GIs.

2.2. Article 23

This article provides for protection for GI for wines and spirits which has been taken from the Madrid Agreement. Article 23(1) states that laws must be enacted by states to prevent use of GI for the same when they do “not originate in the place indicated by the geographical indication” even when “the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as ‘kind,’ ‘type,’ ‘style,’ ‘imitation’ or the like.”¹⁰ Protection is given to wines and spirits regardless of the fact that it may

Sustainable Development, Issue Paper No. 4, June 2003.

⁹ Rajnish Kumar Rai, “The TRIPS Article 23 Extension Stalemate Continues: A Way Ahead for the Developing Countries,” *Journal of Intellectual Property Rights*, Vol. 4, September 2009, p. 405-422.

¹⁰ Irene Calboli, “TRIPS and GI,” *Marquette Intellectual Property Law Review*, Special Issue 2006, p. 182-203.



mislead the public or is representing an act of unfair competition.

Hence, Article 23 strictly proscribes usages of indications like ‘California Chablis,’ ‘American Champagne,’ ‘Antarctica Merlot’ and a sparkling wine ‘type Champagne’ even if they are truthful statements and not considered as misleading.¹¹ This makes the protection accorded as a higher level protection.

A nation has to refuse or invalidate any trademark registrations that contain GI which identifies with wines or spirits as per Article 23(2). Article 23(3) provides for specific arrangements for homonymous GI, such as “Rioja” from Spain and “Rioja” from Argentina.¹² The agreement allows for co-existence of both the names and gives to protection to both. The states have to differentiate between such GI and provide equitable treatment and ensure that the public is not misled as well.

Article 23(4) provides for future negotiations to establish a multilateral system of notification and registration of GI for wines and spirits.¹³ This provision was created for enforcement of the protection mechanism but has not come into force till now.

If it is found that the GI can be misleading for the consumers, it upon the plaintiff to establish that the consumers have been misled or there has been an act of unfair competition in order to defend the GI.

2.3. Article 24

This article provides for future negotiations on GI protection and states certain exceptions to Articles 23 and 24 which can be invoked by nations while implementing the laws. It also states that a country cannot refuse to conduct negotiations and cannot use any exception to delay or avoid these negotiations.

Article 24(2) empowers the TRIPs Council to supervise the protection of GI.

Specifically, to accommodate those countries that were not traditionally in favor of GI protection, Article 24(4) grants a grandfather clause and exempts member countries from having "to prevent continued and similar use of a particular [GI] of another Member identifying wines or spirits in connection with goods and services [where the GI has been used] in a continuous manner with regard to the same or related goods or services in the territory of that Member" for at least ten years prior to April 15, 1994, or where this continuous use has been in good faith.¹⁴

Likewise, Article 24(5) provides a similar clause with respect to trademarks that have been acquired or registered in good faith before the date of the application of TRIPs

¹¹ Rajnish Kumar Rai, “The TRIPs Article 23 Extension Stalemate Continues: A Way Ahead for the Developing Countries,” *Journal of Intellectual Property Rights*, Vol. 4, September 2009, p. 405-422.

¹² Irene Calboli, “TRIPs and GI,” *Marquette Intellectual Property Law Review*, Special Issue 2006, p. 182-203.

¹³ *ibid.*

¹⁴ *ibid.*



in the member country where the mark is registered, or before the GI was protected in its country of origin.¹⁵

A clear compromise between “old” and “new” worlds, Article 24(6) finally provides that TRIPS countries do not need to protect GI “with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services,” thereby exempting GI that are generic terms in some countries from being protected under their laws.¹⁶

Articles 24.4 to 24.9 provide for certain exceptions to balance the rights of the consumers and the GI holders. Article 24.4 states an exception to Article 23 to ensure that any previous development in the field is not disturbed. It also provides for ‘continued and similar use’ of a GI for wines and spirits in a particular territory in a continuous manner for a minimum of 10 years from 15 April 1994 or in good faith before this date. The case of ‘Budweiser beer’ is regarded as an example here. The region of Budweis, Bohemia has been brewing beer since the thirteenth century and named its beer accordingly. Budweiser, however, has also been the name of a well-known American beer since the nineteenth century.¹⁷ The agreement allows for co-existence of names and parties can fight for it.

Article 24.6 is designated for generic GIs with respect to all goods or services including application of the provisions to

¹⁵*ibid.*

¹⁶*ibid.*

¹⁷ Rajnish Kumar Rai, “The TRIPS Article 23 Extension Stalemate Continues: A Way Ahead for the Developing Countries,” *Journal of Intellectual Property Rights*, Vol. 4, September 2009, p. 405-422.

‘products of the vine.’ Nations can be exempted from following Section 3 if the term is ‘customary in common language’ and it is the common name for such goods or services in the territory of that Member, e.g., ‘china’ for porcelain.¹⁸

Article 24.8 recognizes the use of patronymic geographical names that permits a person to use his name or of his predecessor in business but such name should not mislead the public.

Article 24.9 exempts states from ‘protecting geographical indications that are not or cease to be protected in their country of origin, which have fallen into disuse in that country’. Hence, if a particular indication is not protected nationally, allegations of its misappropriation and embezzlement would legally be untenable and invalid.¹⁹

3. RATIONALE FOR PROTECTION OF GIs

GIs are protected to protect the producers’ and consumers’ interests.

3.1. Arguments

Moral Argument

The Holy Bible says, ‘Thou shall not steal.’ GI is the property (intangible) of another as is goodwill and reputation. No other person is allowed to tamper with it or misappropriate it.

¹⁸*ibid.*

¹⁹*ibid.*



Cultural Arguments

GIs may have been brought into existence by a culture or tradition. It can be said to be a part of cultural patrimony which has been travelling across generations. Protection for the reputation and quality of goods is necessary which also safeguards the interests of the country.

Social Arguments

It is said that other forms of intellectual property belongs to the rich and GI usually belongs to the poor. GI is considered as the property of the community as a whole and can contribute in the development of rural areas. It is a collective property and cannot be any person's private monopoly.

Any producer should not mislead the public.

[Article 22.2 (a)]

Protection must be given otherwise, the amount of unfair competition will augment.

[Article 22.2 (b)]

There should not be any deceptive indications. (Article 22.4)

3.2. Need for Protection

There is a need to protect GIs as:

- It can be misrepresented by some commercial industry.
- Any unauthorized party can use it falsely.
- This will lead to deception and confusion in the public.
- The actual producer will also incur loss. The GI may become of generic or common use, i.e. the GI will be identified with an entire type of goods or has become the

'colloquial description' for a particular class of goods.²⁰

3.3. Method of Protection

The GIs have to be protected in accordance with the laws of the state. Example- the USA has included GI within the ambit of trademarks while in India, there is a separate legislation for GIs. Article 22.2 of the TRIPS agreement provides for creation of a statute to ensure protection and use sanctions such as fines and injunctions to prevent any misuse.

4. ECONOMIC SIGNIFICANCE

The economic rationale behind the protection of GIs is that a good is associated with a particular place as its place of origin and the resources of that place are used in the creation or manufacturing of that good. These resources enhance the worth of the good and may vary from place to place such as environment, climate, culture, production methods and the like.

Due to these resources, the good from that particular territory possesses better qualities than the same good from other region without the specific resources. This allows the producers of such a good to create collective monopolies and improve their marketing sphere. It enhances the market access of the producers and working collectively acts as a great strategy to protect the geographical indications.

²⁰ Lisa P. Lukose, "Rationale and Prospects of the Protection of Geographical Indication: An Enquiry," Journal of Intellectual Property Rights, Vol. 12, March 2007, p. 212-223.



The collective nature of geographical indications as a quality signal means that use of the sign is not limited to a single producer but to all producers within the designation which adhere to the code of practice. Product reputation is thus the result of the actions of different agents active in the same area of production and is projected through tradition over a period of time.²¹ Thus GIs protect the quality levels as well as the reputation of the good and producers.

GIs also contribute in the development of the rural sector as quite a few of the goods are created in the rural areas and the protection acts as an incentive to them. This in turn is an important factor for the growth of under-developed and developing nations.

A new issue with regard to the extension of GIs under Article 23 and its potential costs is emerging. The member states, especially the developing nations, wish to extend the protection to other products as has been given to wines and spirits. However, this will cost the government along with the producers and consumers a heavy amount.

The potential cost of this includes the cost incurred by the government for implementation and administration of the new law but this would later reduce the cost concerned with the goods that will be given protection.

The consumer will also have to pay some costs as the extension to all goods will reduce competition, increase monopoly and increase prices of the products. This will however lead to confusion amongst the consumers as GI-extension requires

renaming of products and the label used to identify with the original product will vanish.

The costs have to be paid by the producers also in case extension is granted as they have to pay to suddenly stop using the GI that was being used. This is because, GI extension may restrict the future investment and expansion plans of producers who have been using indications which are not confusing or deceptive but are similar to authentic and valid GIs, and might even compel closure of certain emerging markets.²²

This debate is emerging as a conflict between the north and the south. The developing nations along with the under developed nations want to use their traditional knowledge, especially of the local and indigenous communities to exploit the TRIPS agreement to the fullest. This will promote the handicraft and cottage industries and reduce the fear of counterfeit products. Moreover, many developing nations economy are based on agriculture and they can produce sufficient goods for circulation in the market and gain profits out of it. This would also increase investment and allow such countries to enter into the market and gain dominance. In addition to this, the knowledge that a good is created only in a specific area may increase the tourism of that area as well contributing to the growth in the economy.

²¹*ibid.*

²² Rajnish Kumar Rai, "The TRIPS Article 23 Extension Stalemate Continues: A Way Ahead for the Developing Countries," *Journal of Intellectual Property Rights*, Vol. 4, September 2009, p. 405-422.



The developed countries however, are not in support of such an extension as they might lose control over the market and such extension will debar them from imitating the product in their own region. Also, the implementation cost of the same is quite high and many countries may not be able to afford it.

Therefore, there is an economic significance behind the protection given to GIs. There are also various costs that will be incurred by people in case the GI protection is extended to other goods as well.

5. OTHER AGREEMENTS TO PROTECT GIS

5.1. OAPI Agreement

It is also known as the African Intellectual Property Organization. It was signed in Bangui on 2nd March 1977 and came into force in February 2002. African countries such as Chad, Congo, etc. are a party to it who are party to the Paris Convention and TRIPS agreement. This agreement enforces and applies respective state laws on each member state besides incorporating the provision to protect GIs in free trade agreements.

5.2. EC agreements

The European Community, now European Union, has entered into various agreements with different countries such as Australia in January 1994 which provides a definition for GIs and to protect a GI, both the parties have to recognize it as one by their law; with

Canada in 2003; with Mexico in 1997 granting protection to certain mentioned spirits such as Whisky, Cognac, etc. and with Chile, South Africa and the like.

5.3. An Overview of the Legislative Framework in India

India, being a member of the TRIPS agreement enacted a legislation in 1999, i.e. the Geographical Indications of Goods (Registration and Protection) Act, 1999. It provides registration and protection of GIs excluding unauthorized persons from using it. It contains nine chapters dealing with definition, procedure of registration, its effect and duration, etc.

Section 2(e) of the Act defines 'geographical indications' in relation to goods as "An indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in. For the purpose of the aforesaid, any name, which is not the name of country, region or locality of that country, shall also be considered as the geographical indications if it relates to a specific geographical area and is used upon or in relation to particular goods originating from that country, region or locality, as the



case may be”.²³

The Act also defines ‘goods’ which includes any:

- Agricultural goods
- Natural goods
- Manufacturing goods
- Goods of handicraft and foodstuff.²⁴

This definition is not exhaustive but merely illustrative.

The word ‘indications’ has also been defined to include: (i) any name (including abbreviation of a name); (ii) geographical or figurative representation; or (iii) any combination or suggest the geographical origin or goods to which it applies.²⁵

The Act provides for registration by any producer, association of persons or organization established by law which is representing the producers’ interests. The application must be made to the Registrar of Geographical Indications who is also the Controller- General of Patents, Designs and Trade Marks where the GI originates or is created. The application also provides for the procedure of registration that includes the withdrawal of acceptance, opposition to application, advertisement of application, certification of registration, etc.

The duration of registration of a GI under this statute is ten years or for a period till the date on which the registration of geographical indication in respect of which the authorized users is registered expires, whichever is earlier.²⁶ It also provides for remedies and punishment in case of an infringement.

5.4. Cases

There have been numerous instances where the conflicts between the North and the South have become imminent. The cases below show the conflict between India and other nations with regard to the GIs of certain products.

Neem Tree Case

Neem tree (*Azadirachta indica*) is native to India but now grows in many parts of the world, such as, Australia, Africa, Fiji, Central America, South America, Puerto Rico, and Hawaii.²⁷ Neem and its extracts has been used by Indians as a medicine, pesticide and fertilizer. W R Grace, a US Corporation, developed the technology to extract the active ingredient in the neem tree seed in a stable solution and patented the stabilization process and the stabilized form of the ingredient with the USPTO.²⁸ The EPO also granted patent to them in 1994 for the method to control fungi on plants thereby depriving India of its legal rights over neem.

²³Section 2(e) of the Geographical Indications of Goods (Registration and Protection) Act, 1999.

²⁴ Section 2(f) of the Geographical Indications of Goods (Registration and Protection) Act, 1999.

²⁵ Section 2(g) of the Geographical Indications of Goods (Registration and Protection) Act, 1999.

²⁶ Section 18(2) the Geographical Indications of Goods (Registration and Protection) Act, 1999.

²⁷ Rajnish Kumar Rai, “The TRIPS Article 23 Extension Stalemate Continues: A Way Ahead for the Developing Countries,” *Journal of Intellectual Property Rights*, Vol. 4, September 2009, p. 405-422.

²⁸*Ibid.*



This led to widespread protests in India and an opposition was filed in 1995 against the EPO's grant of patent. It was held that it lacked inventive step and novelty which are prerequisites for grant of patent. It was also established that its properties and use were 'prior art' years before the 'proprietors' applied for a patent.²⁹

India later succeeded in its legal battle against the US Corporation and the EPO completely revoked the grant of patent to the Corporation.

5.4.2 *Turmeric Case*

Turmeric (*Curcuma longa*) is a plant of the ginger family yielding saffron-yellow rhizomes. It is grown throughout India and Pakistan and is used as a spice in cooking.³⁰ Besides this, it has medicinal and cosmetic properties and can be used as a colour dye and as ant repellent.

Two expatriate Indians from the University of Mississippi Medical Centre, Jackson were granted patent by the USPTO for its use in wound healing and to treat acne. The ingredient of curcumin as being an essential of turmeric was discussed in the patent but no claim was made specifically for it.

The Council for Scientific and Industrial Research (CSIR) filed a case against USPTO claiming it to be prior art stating ancient literature which stated the use of turmeric. In 1998, the opposition was held as valid and the grant of patent was revoked as it was not novel in nature.

This case became an important one as traditional knowledge of a developing nation was used to successfully challenge the grant of patent.

Another case between India and USA related to the basmati rice which is native to India and Pakistan but a US Company, Rice Tec Inc. was granted patent by the USPTO. The Indian government was quick in challenging it as it was proving harmful to Indian exports. India also argued that Basmati was a non-generic name and its reputation was linked with the region of origin and could not be protected as a GI. The matter was resolved by the USPTO granting a narrower patent to the US Company so that India's exports were not hampered.

6. CONCLUSION

The intellectual property law is ever evolving. Countries have come together to create certain laws and regulations for the protection of intellectual property rights. One of the most prominent agreements is the TRIPS agreement which focuses on all major types of Intellectual properties such as geographical indications.

GIs are a relatively new concept and each member state of the TRIPS agreement must create a legislation for its protection. However, the countries do not have a uniform standard of protection of the GIs and the double standard protection adopted by TRIPS are posing uncertainties in the

²⁹*ibid.*

³⁰*ibid.*



international legal regime for the protection of GIs.³¹

More weightage is given to wines and spirits while other goods have been ignored by the TRIPS agreement. Separate protection for certain goods may be beneficial for the developed nations but not for the developing countries.

The developing countries are arguing for the extension of GI protection to other products as well otherwise it will not be fruitful for the growth of these countries economies. If this is implemented, India can give protection to Basmati rice, Darjeeling tea and many such products that are native to India. such an extension should neither effect the market, consumers or the rights acquired previously in good faith. However, this debate has reached a stalemate and international negotiations have failed to produce any result.

There should be a distinct international mechanism dealing with the protection of GIs and no discrimination should be made between wines, spirits and other products. The level of protection must be uniform to all the goods and for all the countries of origin. Article 23 of the TRIPS agreement is the point of contention at present and this matter needs to be resolved to give adequate protection to the goods along with the rights of the producers and consumers.

Efforts must be made by the nations in order to reach a conclusion. The economies of the countries should benefit the most out of this and no excessive costs must be borne by the states. GIs is an emerging issue and the rights of the actual producer should be taken care of and no infringement of the product must be allowed.

³¹ Lisa P. Lukose, "Rationale and Prospects of the Protection of Geographical Indication: An Enquiry," *Journal of Intellectual Property Rights*, Vol. 12, March 2007, p. 212-223.