Briefing

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Can collective intellectual property rights preserve culture and biodiversity?

Policy pointers

More investment is needed to support biocultural trade, broadening and diversifying market opportunities for forest and farm producers that protect biocultural heritage.

National and international regulatory bodies should help balance the costs and benefits of geographical indication (GI) systems, presenting it as a market opportunity in support of biocultural heritage preservation.

Government agencies should ensure promotion and technical assistance to forest and farm producer organisations (FFPOs) is maintained post GI registration to increase market uptake and competitiveness of these products.

National land-use planning agencies, GI regulatory bodies and FFPO federations should collaborate to link GI registrations to natural resource management and the distribution of benefits to the place of origin.

Millions of unique smallholder producers and artisans make a huge contribution to the world economy but few can compete in globalised markets. Their high per unit production costs, lack of uniformity and constraints on scale make it difficult for their collective business models to compete against industrial scale monocultures. While their cultures and environments are rich in diversity, they are increasingly challenging to preserve. There is an urgent need to shift market and trade preferences towards production systems that can both boost producers' incomes and sustain the interlinked biodiversity and cultural (biocultural) heritage of their landscapes. One approach is to use place-based intellectual property rights — known as geographical indications (GIs). These are increasingly being used by producers seeking competitive advantage. This briefing highlights the advantages and challenges they can face in doing so, and ways forward.

The escalation in global production of food, fuel and fibre over the past 50 years has come at a high cost to biodiversity and ecosystem services. Humanity's material wealth and wellbeing are now at risk.[1] Local varieties of domesticated plants and livestock breeds are fast disappearing, leading to greater uniformity and less variety in species. Global trade and the disconnect between the products' place of origin and place of consumption, exacerbates such trends. In this system, economic fortunes are made by the few, but the many have narrower opportunities and less biological and cultural diversity to benefit from.[2]

For the world's estimated 1.5 billion smallholder forest and farm producers, these trends are weakening the resilience of their local agroecosystems and communities. Despite managing 90% of all farms and 30% of forest lands in the global south, and despite producing 70% of the world's food using only 25% of its agricultural inputs, smallholder producers and artisans struggle to compete with industrial-scale monocultures.

Despite an overall reduction in poverty, rural communities are still the poorest and most undernourished.[3] A shift in market and trade preferences towards production systems that can both boost producers' incomes and sustain the interlinked biodiversity and cultural (biocultural) heritage of their landscapes is desperately needed.[4] Through their ability to reach and inspire collective action among large numbers of producers, forest and farm producer organisations (FFPOs) are in a unique position to advance this transformation. The challenge for many farming and indigenous people's

communities is knowing how to best engage with markets through biocultural trade. In most low- and middle-income countries these markets are embryonic or non-existent.

Smallholders produce 70% of the world's food using only 25% of its agricultural inputs, but struggle to compete with industrial-scale monocultures

This briefing explores how markets could preserve rather than eliminate biocultural heritage through an instrument known as geographical indication (GI) systems. This is a form of collective right registered by a community of producers of a particular good, and linked to a biocultural territory that has a given quality, reputation or other characteristics that can be attributable to that place of origin.[5] Some well known examples include Café de Colombia (Colombia), Tequila (Mexico) and Darjeeling tea (India). They offer an alternative to dominant free trade regimes by using their place of production, the people involved and the production methods employed as a means to compete, not just price, and thereby better valorising local resources.[6] Focusing on reconnecting the consumer with the producer in the location of origin, through place-based intellectual property rights and labels, could spread the distribution of trade power more evenly and towards preserving biocultural heritage.

Box 1. Revitalising biocultural diversity in Indonesia

In 2017 the "Tenun Ikat Sikka GI 'Protection Association"' was registered by 122 weavers' groups representing 2,014 weavers in Sikka Regency, Flores island in Indonesia. Their product, a hand-woven and tie-dyed textile known as Tenun Ikat, has a rich biocultural heritage captured through intrinsic motifs and storytelling.

One of the association members, Na'Ni House, is actively preserving local weaving motifs, their meaning and the natural dye process used. Na'Ni House provides technical, marketing and financial services to 20 women weavers groups. Its business model focuses on three interrelated pillars: culture, the environment and community economy.

While the business's main thrust is promoting and teaching modern designs for the Jakarta market, it also carries out research and educates weavers and youth about traditional designs, commissioning traditional pieces as part of a culture revitalisation project. By establishing plant nurseries to create natural dyes, and capacity building to revive natural dye techniques, Na'Ni House is helping weavers switch from harmful chemical dyes. It is also helping weavers to boost their incomes: introduction of a quality assurance system increased buyer confidence and resulted in longer-term commitments. Weavers' incomes have at least doubled, increasing the number of weavers implementing the system and boosting local motivation for using natural dyes (part of the quality criteria and key to local environmental sustainability and health).

Biocultural trade for resilience

In a recent survey carried out by the Forest and Farm Facility (FFF) together with 41 FFPOs in Africa, Asia and Latin America, respondents prioritised the need to know how to use their culture to market their products. Most of the survey participants engage in mixed agroforestry production systems, as a strategy to reduce economic and climate risk and increase resilience. With few ways of reaching the uniformity or scales to compete on cost, more and more are turning to certification and labelling schemes to (a) distinguish themselves in otherwise competitive market contexts, and (b) to reduce their exposure to long term price decreases and fluctuations in commodity markets.

Why GI systems are important

One of the main arguments for GIs is their potential contribution to public goods and sustainable development. For example, through the preservation of indigenous species and methods of land use such as terraced cultivation and diverse agroforestry systems (eg the chakra systems practised in the Amazon basin), traditional knowledge and biodiversity is preserved. But also through their emphasis on a specific type of business models (eg locally controlled producer organisations), workers (eg smallholder farmers or women) and area (eg boosting rural economies).[7] Importantly, like other certification and labelling schemes focusing on the biocultural heritage of specific landscapes and their communities, GIs enable producers to connect with consumers, through labelling and traceability systems that tell a story about the product and its origin, while also establishing systems for ensuring quality. Other motivations for GI registration include gaining access to niche markets, the potential for securing premium prices and legal protection. The intellectual property rights (IPRs) can be important to producer communities wanting to affirm, and have legal backing for, their role in the creation of a specific reputation and market value. Unlike other IPRs such as trademarks, the GI can only be owned by the producer community itself and can only be applied to goods coming from the specified area. In contrast to other organic or fair trade standards created in the North, in most countries it is the producers themselves who define the rules and quality standards, which gives them more agency and control in the value chain.

How GI systems work

The emphasis on collective action is both one of the main strengths and challenges of the GI

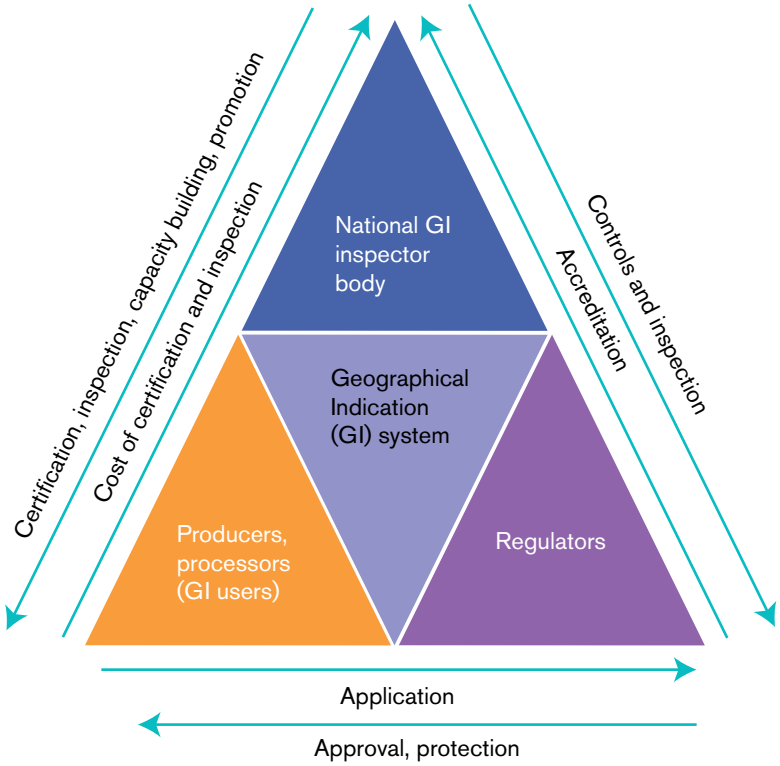
system. Although legal frameworks and protection tools for GIs vary greatly between countries, many recognise the collective history and effort behind creating the GI product. For this reason, the collective right of the GI are often registered to a collective entity (eg a 'GI Protection Association') whose role it is to protect and enhance the value of the GI label and product. Members of the GI Protection Association typically include different actors in the value chain (eg producers, regulators, processers and buyers) who can be considered as protectors (see case study in Box 1).

Generally, the Association's role in protecting the GIs is based on three main pillars: written common rules (listed in the product specification[8]), a control system monitoring compliance to these rules and an enforcement system.[9] Technical assistance and marketing also require substantial collective efforts, which ideally should be spread among the GI 'system actors' (Figure 1). However, this depends on resource capacity. Once registration is achieved, all users of the GI label ('GI users') need to be brought to the same level of quality standards, requiring the collective effort of, and engagement with, several value chain actors.

This is also one of the main challenges of the GI registration process. It involves significant transaction costs that need to be financed, ideally by the GI Association itself. Where federations of FFPOs already exist, they are the natural choice for taking such a role, as they can coordinate amongst value chain actors and generate surplus income to finance services. If no such institutional structure exists, the GI process might, through both necessity and opportunity, help create them. But public sector support also plays an important role in helping balance costs and benefits and supporting collective efforts to develop a market for GI products. In general, the combination of well organised FFPOs and the technical and legal support of local public authorities can be critical for the GI registration to be a success. But, in the absence of such support, robust federations of FFPOs can compensate for this through their ability to contract technical expertise, negotiate and coordinate widely in the value chain.[9]

One good example of this is the Federación Nacional de Cafeteros de Colombia, which registered the 'Café de Colombia' GI under Colombian and EU legislation in 2005 and 2007, respectively. The federation represents more than 500,000 smallholder coffee producers and played a key role in negotiating the inclusion of international roasters and brand owners in the GI Protection Association. This was a strategic move: it improved the competitiveness of the

Figure 1. The Geographical Indication system



Adapted from: Hayes, DJ, Lence, SH and Stoppa, A (2003) Farmer Owned Brands? Briefing Paper 02- BP 39. Center for Agricultural and Rural Development, Iowa State University.

'Café de Colombia' product, created wider eco-tourism benefits to Colombia's coffee growing regions and enhanced relationships between value chain actors.[6] However, a wider uptake of the GI label and the ability to attain a premium price remains a challenge for producers, which is common for GIs in low- and middle-income countries.

Challenges with GI systems

There have been challenges with GI systems. For example, in some countries the narrow focus of the product specification along with increased market demand have led to both reduction in plant diversity and an overharvesting of GI specified plants (eg the agave plant and tequila in Mexico).[10] Others have noted challenges for indigenous and local communities in registering and enforcing the GI because of the bureaucratic hurdles involved.[11,12] Even if the GI registration has been a success, it risks reinforcing rather than redistributing existing power inequalities in the value chain; producers that have little de-facto control over production and trade may not be able to capture the value created through GI product upgrades and status.

In terms of enhanced product protection and market access, there is limited evidence of either in countries where GI governance systems are

relatively recent. Protection benefits only tend to materialise if there are enough resources available to do monitoring and take legal action.[13] As for market access, this tends to work best where markets for GI and biocultural products have already been established. Without this, the GI users need to be both able to offer a strong product and communicate this to consumers. Their ability to negotiate with buyers to use the GI label, and pay a premium price for it, will be strongly influenced by the availability of the market.[14] However, the importance of investing in marketing, monitoring and enforcement are often underestimated. Unsurprisingly, many of the challenges stem from systemic power inequalities[12] but many have also been linked to the weak institutional capacity of GI Associations. In particular to (a) implement, monitor and regulate compliance with quality assurance requirements, and (b) to meaningfully engage with the priorities of downstream buyers (which are often linked to the former).[14] Few GI registered products include the contribution towards public goods or sustainable development within their products specifications, which makes these impacts more difficult to monitor, communicate and evaluate.

Ways forward

There are four key ways that GI systems could be supported to promote biocultural trade.

First, national governments and donors should see GI systems as an important long-term investment in the public good associated with maintaining biocultural diversity. The aim should be to generate profit for rural populations through trade that reinforces their biocultural distinctions. Such investments should focus not just on the phase leading up to registration but also afterwards when technical assistance, financial services to de-risk investments and strategic marketing are critically needed.

Second, the only guarantee against misappropriation of market power is to ensure that it is spread. To capture a greater share of the GI value for producers in the value chain, FFPOs need to participate in relevant trade associations. For example, producers of globally traded commodities such as coffee, cacao and vanilla need to engage directly with buyers at national and international levels to bring them on-board with using GI labels. Many buyers are likely to already have their own labels, story-telling and trademarks. Convincing them to embrace new producer-owned ones will require tactical negotiations.

Third, supporters of GI systems should work with federations of FFPOs to bring down GI transaction costs and ensure that benefits accrue to those conserving biocultural heritage. By using the GI registration as a business tool, they can identify opportunity and risk at an early stage and incorporate it into a marketing strategy for the entire GI producer community. However, such a strategy would need to carefully balance market with biocultural preservation interests (see case study example in Box 1).

Finally, national government and regional GI regulation agencies should consider putting more emphasis on linking the GI registration with the sustainability of the natural resource, such as protection or regeneration efforts. This is already a priority for many FFPOs, as it underpins their overall sustainability, but GI registration could help mobilise public support in favour of their role in preserving biocultural heritage (eg through emphasis in the design of product specifications and regulations). It could also help foster collaboration between FFPOs and government agencies designing GI regulation to enhance sustainability and the distribution of benefits at a territorial level.

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Notes

[1] IPBES (2019): Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. IPBES secretariat, Bonn: https://ipbes.net/sites/default/files/2020-02/ipbes_global_assessment_report_summary_for_policymakers_en.pdf / [2] see note 1, p.13. / [3] FAO and INRA (2018) Constructing markets for agroecology: an analysis of diverse options for marketing products from agroecology. Rome. FAO: www.fao.org/3/I8605EN/i8605en.pdf / [4] Swiderska, K, Argumedo, A and Dutfield, G (2019). Building a global biocultural brand to support indigenous landscapes. IIED, London. pubs.iied.org/17707IIED / [5] World International Property Organisation (2018) Geographical Indications: an introduction. www.wipo.int/edocs/pubdocs/en/geographical/952/wipo_pub_952.pdf / [6] Quiñones-Ruiz, X, Penker, M, Vogl, C and Samper-Gartner, L (2015) Can origin labels re-shape relationships along international supply chains? –The case of Café de Colombia. *International Journal of the Commons* 9(1). / [7] Belletti, G, Marescotti, A and Touzard, JM (2017) Geographical indications, public goods, and sustainable development: The roles of actors' strategies and public policies. *World Development*, 98, pp.45–57. / [8] Also known as book of requirements or code of conduct. / [9] See Quinones-Ruiz, XF, Penker, M, Belletti, G, Marescotti, A, Scaramuzzi, S, Barzini, E, Pircher, M, Leitgeb, F and Samper-Gartner, LF (2016) Insights into the black box of collective efforts for the registration of geographical indications. *Land Use Policy*, 57, pp.103-116. / [10] See Dutfield, G (2011) Intellectual Property Tools for Products Based on Biocultural Heritage: A legal review of geographical indications, trademarks and protection from unfair competition. IIED, London. pubs.iied.org/16506IIED / [11] Argumedo, A (2013) Collective trademarks and biocultural heritage: towards new indications of distinction for indigenous peoples in the Potato Park, Peru. IIED, London. pubs.iied.org/16528IIED / [12] Pant, R (2015) Protecting and promoting traditional knowledge in India: what role for geographical indications? IIED, London. pubs.iied.org/16576IIED / [13] Coombe, R, Ives, S and Huizenga, D (2014) Geographical Indications: The Promise, Perils and Politics of Protecting Place-Based Products. In: David, M and Halbert, D (eds) *Sage Handbook on Intellectual Property.* Thousand Oaks: Sage Publications. 207-223. / [14] Neilson, J, Wright, J and Aklimawati, L (2018) Geographical indications and value capture in the Indonesia coffee sector. *Journal of Rural Studies*, 59, pp.35-48.

Knowledge Products

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