

your mark in every country where you will be using it.

•A protected geographical indication does not enable the holder to prevent someone from making a product using the same techniques as those set out in the standards for that indication.

Remember ...

A registered Geographical Indicator:

- helps to create brand identity for your products and services
- fosters customer loyalty
- facilitates expansion of business through the licensing of rights
- enables a swift response to unfair competition
- conveys information about the origin-bound characteristics of a product.
- functions as product differentiators on the market
- is a key element in developing brands for quality-bound-to-origin products.

Forms and Fees

The following forms are prescribed under the Fourth Schedule to the Companies Regulations, 1996 for use by persons making corporate filings:

- Application for registration of geographical indication [sections 8(1) and 9; regulation 9] Form 1
- Request to refuse or to invalidate registration of a misleading mark [section 17; regulation 19(1)] Form 4
- Request to refuse or to invalidate the registration of a mark which conflicts with a geographical indication for wines and spirits [section 18; regulation 20(1)] Form 5

Fees

Prescribed fees by persons making geographical indication filings:

- Application for registration of geographical indication..... \$250.00
- Request for hearing \$50.00
- Request to the Registrar to state in writing grounds of decision to refuse application or to accept it subject to conditions.....\$25.00
- Publication fee.....\$25.00 plus fee payable to publisher
- Notice of opposition to registration of geographical indication.....\$50.00
- Counter-statement to notice of opposition..... \$50.00
- Registration fee.....\$1,000.00
- Request to refuse or to invalidate registration of a misleading mark.....\$100.00
- Request to refuse or to invalidate the registration of a mark which conflicts with a geographical indication for wines and spirits.....\$100.00
- Consultation of Registrar (for every quart of an hour or part thereof\$10.00
- Request for certified copies of extracts from Register or for copies of documents (per page)..... \$5.00 per Printed page and \$10.00 to certify
- Request for correction of error.....\$10.00
- Request for extension of time.....\$75.00

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What you need to know about



Geographical Indications



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This brochure offers guidance on seeking registration of a geographical indication. The Geographical Indications Act CAP 147 of the Revised Laws of St. Vincent 2009, entered into force in St. Vincent and the Grenadines on 30th November 2004. This brochure is not intended to serve as a definitive guide and should be read together with the applicable legislation.

Q. What is a geographical indication (GI)?

A. A GI is an indication which identifies a good as originating in the territory of a country, 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.

In order to function as a GI, a sign must identify a product as originating in a given place. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.

Q. What type of goods can be protected under the Geographical Indications Act?

- A.
- Natural or agricultural product
 - any product of handicraft or industry

Q. Are any goods excluded from this protection?

- A. Yes.
- Indications which do not correspond to the definition above;
 - Indications which are contrary to public order or morality;
 - Indications which are not or cease to be protected in their country of origin or which have fallen into disuse in that country.

Q. What is the function of a geographical indication?

A. A GI serves to gain market recognition for a particular product or service. As marketing tools, the use of a GI may act as a certification that the product possesses certain qualities, is made according to traditional methods, or enjoys a certain reputation, due to its geographical origin.

GIs enable consumers to distinguish between products with geographical origin-based characteristics and others without those characteristics. Geographical indications can thus be a key element in developing brands for quality-bound-to-origin products.

Examples of GIs are:

- Sparkling wine from the Champagne

- region of France;
- tobacco from Cuba – Cuban Cigars;
- brandy from the French region around the town of Cognac
- coffee from the Blue Mountains of Jamaica – Blue Mountain coffee,
- Tequila from Mexico.
- Darjeeling tea from India

Q. How are geographical indications rights protected?

Protection for a geographical indication is usually obtained by acquiring a right over the sign that constitutes the indication.

Where a geographical indication meets the statutory criteria, it will be accepted for registration and its acceptance advertised on payment of a publication fee. Other persons will then have a period of 3 months from the date of advertisement to file notice of opposition to the registration of the mark..

Where there is no opposition or where opposition proceedings are determined in favour of the applicant, a further fee will be payable for the preparation of a *Certificate of Registration*.

Protection

•No person shall in the designation or presentation of goods, by any means, indicate or suggest that the goods originate in a geographical area other than the true place of origin in such a manner as would mislead the public as to the geographical origin of the goods.

•No person shall use a geographical indication identifying wines for wines not originating in the place indicated or identifying spirits for spirits not originating in the place indicated, even where possess the quality, reputation or other characteristic specified in the Register.

•No person shall engage in conduct which constitutes an act of unfair competition, including acts which create confusion, false allegations in the course of trade and misleading indications or allegations.

•Any person who contravenes is liable on conviction to a fine not exceeding Ten Thousand Eastern Caribbean Dollars (XCD 10,000.00) or to imprisonment for 2 years or to both fine and imprisonment.

Further,

- Any interested person may institute proceedings in the Court to prevent any of the acts mentioned above
- The Court may in addition to granting an injunction award damages and grant any other remedy or relief the Court thinks fit

Q. Will I need an Attorney-at-law?

A. Because professional know-how is particularly valuable in preparing and if necessary, defending an opposed application, it is a requirement of the Geographical Indications Act, that an agent being an attorney-at-law who is admitted to the local Bar is appointed by the applicant.

Q. Who can make an application for registration of a GI?

- A.
- Persons carrying on an activity as a producer in the geographical area specified in the application, with respect to the goods specified in the application, as well as groups of such persons;
 - Groups of consumers
 - Any marketing organisation incorporated under the Companies Act or established under any other enactment; and
 - Any competent authority.

Q. How long does statutory protection last?

A. Registration for a GI is not subject to a specific period of validity. Hence, protection for a registered GI will remain valid unless the registration is cancelled.

Q. Who can use the GI?

- A. Only producers carrying on their activity in the geographical area. Only producers carrying on their activity in the geographical area specified in the register shall have the right to use a registered GI in the course of trade, with respect to products specified in the Register, provided that such products

What other important points should I bear in mind?

- Registration of a geographical indicator in St. Vincent and the Grenadines only gives it protection within the jurisdiction of St. Vincent and the Grenadines. Local registration would nonetheless be useful abroad. However, you should register

Why not go ahead and REGISTER YOUR GEOGRAPHICAL INDICATOR TODAY?

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