

The London School of Economics and Political Science

Empirical analysis of geographical indications in France and
Vietnam: opportunities and constraints

Barbara Pick

A thesis submitted to the Department of Law of the London School of
Economics and Political Science for the degree of Doctor of Philosophy,
London, September 2018

Declaration

I certify that the thesis I have presented for examination for the MPhil/PhD degree of the London School of Economics and Political Science is solely my own work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it).

The copyright of this thesis rests with the author. Quotation from it is permitted, provided that full acknowledgement is made. This thesis may not be reproduced without my prior written consent.

I warrant that this authorisation does not, to the best of my belief, infringe the rights of any third party.

I declare that my thesis consists of 99,976 words.

Abstract

Looking beyond formal legal protection for geographical indications (GIs), this research project empirically explores the opportunities and constraints which influence whether regional product branding initiatives are successful. The legal protection of GIs is characterised by a variety of legal approaches which translates the many meanings and objectives attached to them. These range from protection of the consumers and producers' interests against unfair competition practices, to territorial development, to preservation of cultural heritage and natural resources.

This research seeks to understand the relationships between the type of legal protection, the operation of GI initiatives, their economic and non-economic effects, and the opportunities and constraints that affect such effects. To this aim, it draws upon empirical data collected from twelve GI initiatives involving different means of protection (trade mark and *sui generis* systems) in France and Vietnam that both associate GIs with economic and non-economic objectives. In doing so, this thesis identifies the factors that impact on the collective dynamics involved in the GI initiatives; those that influence the use and value of GIs on the market; those that hinder their use on the market; and those that contribute to the ability of GIs to create effects outside the market.

This thesis argues that the significance of the distinction between the two types of legal protection varies greatly depending on the institutional context in which the GI initiatives are embedded and that the differences between the *sui generis* and trade mark approaches can be reduced in practice. Further, the type of legal protection is often not enough to bring about economic and non-economic effects. This research suggests that a wide range of organisational, institutional, marketing, socio-economic and cultural factors influence both the use and value of GIs, and the benefits derived from them.

Acknowledgements

I gratefully acknowledge the funding I received towards my PhD from the Economic and Social Research Council and the London School of Economics and Political Science. Without their generous financial support, and the help from Rose Harris and Evelyne Little in the process, I would not have been able to pursue my doctoral research.

I am sincerely thankful to my supervisors, Margot Salomon, Alain Pottage and Dev Gangjee for their encouragement, support and guidance. Dev has been an amazing source of knowledge on GIs and critical thinking. Alain's flexibility, generosity and availability, as well as his extensive and thoughtful comments, have benefited my work immensely.

I am especially grateful for the support and assistance of CIRAD and CASRAD for hosting my field research in Vietnam within the research consortium MALICA, and for Dao The Anh and Guy Faure for making this scientific collaboration agreement possible.

I wholeheartedly thank Delphine Marie-Vivien who, although not a 'formal' supervisor, has been tremendously helpful, supporting and full of knowledgeable advice throughout the PhD process. My fieldwork in Vietnam would simply not have been possible without her.

My work has greatly benefited from the generous comments made by Linda Mulcahy on my methodology. I also want to thank Linda for creating a stimulating, warm and friendly environment for all PhD students at the LSE.

I would like to thank Rachel Yarham for her invaluable administrative assistance and for smoothing the road from upgrade to completion.

Special thanks go to Nguyen Thi Tham, my Vietnamese interpreter, who accompanied me everywhere during my fieldwork in Vietnam, shared the same room as me for weeks in many different types of places, and has continued to work for me and translate interviews even after I left Vietnam.

I am greatly indebted to all my interviewees in France and Vietnam who generously provided their time and expertise. Their contributions enabled me to gather invaluable empirical material that are the very basis of my PhD thesis. It is impossible for me to cite them all here, but I want

to express my gratitude to those on whom I have called many times during my research: Dong Bui Kim, Hoang Xuan Truong, Pham Cong Nghiep, Tuan Le Anh, Quynhtho Nguyen, Mr Hai, Xuan Bach, Bernard Demeure, Jean-Baptiste Jaussaud, Cécile Podeur, Eric Hodbert, Marie-Luce Salardaine, Cécile Taillandier and Florian Portier. To them all: Cảm ơn and merci!

My gratitude goes to my parents who supported me throughout the PhD process and who politely refrained from telling me that I was mad leaving the FAO to start a doctoral research.

Last but certainly not least, I want to thank my husband Josh for proof-reading and editing my whole thesis, for keeping his unparalleled sense of humour when I had lost mine, for being a constant source of love and support, and for introducing me to the highs and lows of Tottenham Hotspur.

At the very time of writing these lines, our son Sacha was reading a story to a bunch of snails he gathered in the garden, and our daughter Hannah was kicking hard in my belly. She was to be born five days after my viva on, what one might call, a busy week.

I thank both of them, and Josh again, for continuously reminding me what matters most in life. This thesis is for them.

Table of contents

Declaration.....	2
Abstract.....	3
Acknowledgements	4
Abbreviations	14
Chapter 1 - Introduction	18
1.1 Theoretical background	20
1.1.1 Why protect GIs?	20
1.1.2 The legal and institutional framework for GIs.....	22
1.1.2.1 International framework.....	22
1.1.2.2 Overview of the national and regional systems of protection.....	24
1.1.3 The politicisation of GIs	27
1.2 Research questions and methodology	30
1.2.1 Research questions and hypotheses	30
1.2.2 Comparative case study approach.....	34
1.2.3 Methods of data collection and analysis	39
1.3 General context in France	41
1.4 General context in Vietnam	42
1.5 Structure of the thesis	44
Chapter 2 - Legal framework for the protection of GIs in France	46
2.1 <i>Sui generis</i> protection of GIs	47
2.1.1 Link to the geographical area of origin.....	50
2.1.2 Choice of the name	53
2.1.3 Collective action	54
2.1.4 Codes of practice.....	58
2.1.5 Quality controls.....	59
2.1.6 Right to use	62
2.1.7 Public dimension.....	63
2.1.8 Absolute protection.....	67

2.2 Trade mark protection of GIs	68
2.2.1 Distinctiveness of geographical names	70
2.2.2 Ownership	72
2.2.3 Users' regulations	73
2.2.4 Quality controls.....	74
2.2.5 Right to use	75
2.2.6 Non-transferability	76
2.2.7 Relative protection.....	76
Conclusion	78
Chapter 3 - Legal framework for the protection of GIs in Vietnam.....	80
3.1 A rigid interpretation of the law	82
3.1.1 The use of the French <i>terroir</i> approach to Vietnamese <i>sui generis</i> GIs	83
3.1.2 The convergence of trade marks and GIs	86
3.2 State-driven, top-down management system	89
3.2.1 Policy intervention for the identification of GIs.....	89
3.2.2 The state's direct control over <i>sui generis</i> GIs	94
3.2.2.1 The right to own.....	94
3.2.2.2 The right to register.....	94
3.2.2.3 The right to manage	95
3.2.2.4 The right to use	97
3.2.2.5 The prohibited uses	98
3.2.3 The state's indirect control over trade marks.....	99
3.2.3.1 The right to register.....	99
3.2.3.2 The right to own.....	101
3.2.3.3 The right to manage	101
3.2.3.4 The right to use	102
3.2.3.5 The prohibited uses	102
3.3 Limitations of the system	102
3.3.1 Arbitrariness in the choice of the means of protection	103
3.3.2 Lack of transparent and efficient quality controls	104
3.3.3 Institutional quality and non-transparent practices	108
Conclusion	110
Chapter 4 - Actors' strategies and collective dynamics.....	112
4.1 Actors' strategies for initiating the GI protection process	114
4.1.1 Legal and economic protection.....	115

4.1.1.1 Marginalisation of the areas of origin and misuse of the name	115
4.1.1.2 International competition and loss of production	118
4.1.1.3 Modernisation of ways of life and loss of market.....	121
4.1.2 Marketing and product development	124
4.1.2.1 Revitalisation of the production.....	126
4.1.2.2 Rural industrialisation policy.....	128
4.1.2.3 Livelihoods approach.....	130
4.1.2.4 Product development	133
4.1.2.5 Fight against misuse of the name.....	135
4.2 Creation of GI collectives	136
4.2.1 Process	136
4.2.1.1 Participatory	137
4.2.1.2 Technocratic.....	138
4.2.2 Method.....	141
4.2.2.1 Negotiations	142
4.2.2.2 Consultations	146
4.2.3 Objectives	149
4.2.3.1 Defence of the appellation	149
4.2.3.2 Market development	150
4.3 Operation of GI collectives	151
4.3.1 Organisational models	152
4.3.1.1 Professional associations	152
4.3.1.2 Inter-professional associations.....	153
4.3.1.3 Cooperatives	155
4.3.2 Governance	159
4.3.2.1 Local control	160
4.3.2.2 State control	162
Conclusion	165
Chapter 5 - Factors influencing the value of GIs on the market.....	168
5.1 Product reputation	170
5.1.1 Reputation <i>ante</i> labelling process	171
5.1.2 Reputation <i>post</i> labelling process	173
5.1.3 Advertising and promotion	175
5.2 Consumer demand and production capacity	177
5.2.1 Strategies to increase production capacity.....	178
5.2.2 Constraints to increasing production capacity	181
5.2.3 Mechanisms to stimulate demand and increase production.....	184

5.3 Marketing channels and value of origin labels	186
5.3.1 Highly local marketing channels	187
5.3.1.1 Proximity with consumers as a means to promote the origin label	188
5.3.1.2 Proximity with consumers as an impediment to using the origin label	193
5.3.2 Spatially extended marketing channels.....	196
5.3.2.1 The importance of mass retailers to the organisation of supply chains	198
5.3.2.2 The impact of mass retailers on prices and distribution of the premiums	199
5.3.2.3 Strategies to increase prices	202
5.3.3 Physically-dependent marketing channels.....	203
5.3.4 Sustainability-oriented value chain.....	204
Conclusion	206
Chapter 6 - Factors hindering the use of GIs on the market.....	211
6.1 The lack of distinctiveness of the name	212
6.1.1 Iconic or local product?	213
6.1.2 Concept or genuine product?	217
6.2 The lack of economic incentives	221
6.3 The impact of marketing channels	225
6.3.1 Sub-contracting	225
6.3.2 Cross-border traffic	236
6.3.3 Pressure from importers	242
Conclusion	250
Chapter 7 - Mapping the effects of GIs outside the market.....	255
7.1 Dynamics of territorial development	257
7.1.1 Maintaining and increasing the workforce	257
7.1.1.1 Market success and social awareness as keys to job creation.....	259
7.1.1.2 Challenges in creating employment opportunities.....	261
7.1.2 Development of new economic activities	265
7.1.3 Training, innovation and exchange of good practices	267
7.1.4 Representative capacity and influence.....	270
7.2 Preservation of cultural heritage	272
7.3 Biodiversity conversation	277
Conclusion	282

General conclusion.....	285
Bibliography	296
Annex 1 - List and codification of interviews conducted in Vietnam.....	317
Annex 2 - List and codification of interviews conducted in France	327
Annex 3 - Interview guides.....	333
Annex 4 - List of protected <i>sui generis</i> GIs in Vietnam.....	344

List of Figures

Figure 2.1: Registration procedure of PDOs and PGIs

Figure 4.1: Bottom-up versus top-down process

Figure 6.1: Estimated price breakdown of cinnamon, sold in supermarkets in Europe

List of Graphs

Graph 5.1: Trends in the production of the Pélardon cheese sold with the GI label

Graph 5.2: Selling price of fried calamari from different places in Quang Ninh Province

Graph 5.3: Evolution of the average annual income of GI producers (in US\$)

Graph 8.1: Evolution in the number of PDO Pélardon producers

List of Maps

Map 1.1: Location of the French case studies

Map 1.2: Location of the Vietnamese case studies

Map 5.1: Places where to buy PDO bouchot mussels from Mt-St-Michel Bay

Map 5.2: Network of buildings constructed with the certified wood from the Alps

List of Tables

Table 1.1: List of product case studies with year of protection

Table 3.1: Funding sources of the GIs under study

Table 4.1: Organisational models

Table 4.2: Management systems in the Vietnamese case studies

List of Pictures

Picture 2.1: Logos of the different signs of quality and origin in use in France

Picture 2.2: Examples of complex marks with geographical names

Picture 2.3 The EU collective marks ‘Savon de Marseille’ and ‘Bois des Alpes’

Picture 3.1: Logos of the Vietnamese collective and certification marks under study

Picture 3.2: Logos of the Vietnamese *sui generis* GIs under study

Picture 3.3: The use of the GI logo ‘Lạng Sơn’ for star anise on the cinnamon product

Picture 4.1: Cauldron room of a soap factory in Marseille

Picture 4.2: The pentagon mark of the Marseille soap

Picture 4.3: Advertising billboards for the Marseille soap at the beginning of the 20th Century

Picture 4.4: Soldiers wearing conical hats

Picture 4.5: The traditional pottery from Đông Triều

Picture 4.6: Old labels with the name ‘Mont-St-Michel’

Picture 5.1: Example of promotional panel for green lentils from Berry

Picture 5.2: Examples of public buildings using the certified wood from the Alps

Picture 5.3: The sale of fried calamari on Hạ Long I market for immediate consumption

Picture 5.4: The sale of fried calamari for take-out or to restaurants in Hạ Long City

Picture 5.5: The sale of fried calamari in vacuum-sealed labelled packages

Picture 5.6: The GI logo on the front of the producers’ market stalls

Picture 5.7: The GI logo on a large banner in the centre of the market

Picture 6.1: The use of conical hats on the cover of foreign tourist guides

Picture 6.2: Festival of conical hats in Huế

Picture 6.3: Examples of different shapes of conical hats found in Vietnam

Picture 6.4: The traditional Marseille soap

Picture 6.5: The coloured and perfumed soaps sold as ‘savon de Marseille’

Picture 6.6: Example of promotional panel for the sticky rice from Đông Triều

Picture 6.7: The traditional pottery from Đông Triều

Picture 6.8: Modern products made in Đông Triều

Picture 6.9: The label ‘Be Home’

Pictures 6.10: The production of the same item for different companies

Picture 6.11: Price in Euro and Vietnamese Dong of the same item

Picture 6.12: The same item found in a factory of Đông Triều and in Galeries Lafayette, Paris

Pictures 6.13: The working conditions in the factory of the Quang Vinh company

Pictures 6.14: Currency exchange on the black market at the border

Pictures 6.15: The sale of live cattle on Tra Linh market

Picture 6.16: The sale of beef cuts on the local market

Picture 6.17: The sale of the labelled H’mong beef in Big C supermarkets

Picture 6.18: The border post in Lạng Sơn

Picture 6.19: The bulk packaging of star anise in Chinese bags on Aforex’s premises

Picture 6.20: Steenberg’s packaging of star anise sold in Whole Foods Market

Picture 6.21: Bart's packaging of star anise sold in Waitrose

Picture 6.22: Sainsbury's packaging of star anise

Picture 6.23: Exhibition stand of the star anise from Lạng Sơn

Picture 7.1: Chefs promoting green lentils from Berry

All photographs by the author except the following pictures:

Picture 4.2: licensed under CC BY 2.0

Picture 4.4: licensed by Peter Suciu, Military Sun Helmets

Picture 5.2: licensed by the association 'Bois des Alpes'

Picture 6.1: licensed by Hachette Livres and Rough Guides

Picture 6.4: licensed under CC BY 2.0

Picture 6.5: licensed under CC BY 2.0

Picture 7.1: licensed by Ms Taillandier, Cibèle

Abbreviations

AFD	Agence Française de Développement
AFSM	Association des Fabricants du Savon de Marseille
ANILS	Association nationale interprofessionnelle des légumes secs
AO	Appellation of Origin
AOC	Appellation d’Origine Contrôlée
ASDMF	Association Savon de Marseille France
ASEAN	Association of Southeast Asian Nations
CAP	Common Agricultural Policy
CASRAD	Vietnamese Centre for Agrarian Systems Research and Development
Cibèle	Compagnie interprofessionnelle du Berry pour la lentille
CIRAD	Centre International de Recherche Agronomique pour le Développement
CJEU	Court of Justice of the European Union
COFRAC	Comité Français d’Accréditation
CoP	Code of Practice
CPV	Communist Party of Vietnam
DARD	Department of Agriculture and Rural Development
DOOR	Database of Origin and Registration
DOST	Department of Science and Technology
EC	European Commission
ECAP	EC-ASEAN Intellectual Property Rights Co-operation Programme
ECJ	European Court of Justice

ERFD	European Regional Development Fund
EU	European Union
EUTMR	Regulation on the European Union Trade Mark
FAO	Food and Agriculture Organisation of the United Nations
FTA	Free Trade Agreement
GI	Geographical Indication
ICTSD	International Centre on Trade and Sustainable Development
IFAD	International Fund for Agricultural Development
IGPIA	Indication Géographique pour les Produits Industriels et Artisanaux
INAO	Institut National des Appellations d'Origine (now National Institute of Origin and Quality)
INPI	Institut National de la Propriété Industrielle
Inter-GI	International training on Geographical Indications
IP	Intellectual Property
IPR	Intellectual Property Right
IPSRAD	Institute of Policy and Strategy for Agriculture and Rural Development
MALICA	Markets and Agriculture Linkages for Cities in Asia
MAF	Ministry of Agriculture and Food
MARD	Ministry of Agriculture and Rural Development of Vietnam
MoU	Memorandum of Understanding
MOST	Ministry of Science and Technology of Vietnam
MUTRAP	Multilateral Trade Assistance Project
NGO	Non-Governmental Organisation
NOIP	National Office of Intellectual Property of Vietnam

OAPI	Organisation Africaine de la Propriété Intellectuelle
ODG	Organisme de Défense et de Gestion
OECD	Organisation for Economic Co-operation and Development
OJEU	Official Journal of the European Union
PAMPIG	Projet d'Appui à la Mise en Place d'Indications Géographiques
PDO	Protected Designation of Origin
PEFC	Programme for the Endorsement of Forest Certification Scheme
PGI	Protected Geographical Indication
PMD	Public Maritime Domain
SDC	Swiss Agency for Development and Cooperation
SNV	Netherlands Development Organisation
STAMEQ	Directorate for Standards, Metrology and Quality
SVIP	Swiss-Vietnamese Intellectual Property Project
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TSG	Traditional Specialty Guaranteed
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Center for Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UPSM	Union des Professionnels du Savon de Marseille
USA	United States of America
VND	Vietnamese Dong

WIPO World Intellectual Property Organization

WTO World Trade Organization

1

Introduction

The man unable to separate false from true,
Will suffer no less certain or heart-felt a loss,
Than he who lacks the skill to distinguish fleeces
Soaked in Aquinum's dye, from Sidonian purple.

Horace, the Epistles, Book I, Epistle X: 26

In Ancient Egypt, pyramid builders commonly used geographical signs to indicate the durability of bricks and stones as derived from their origin.¹ The ancient Greeks also relied on geographical signs as proxies for the quality of Corinthian bronze, Phrygian marble or wine from Rhodes. These are only few examples of the many designations linking places, products and people² that have enjoyed great commercial success long before their formal definition as geographical indications (GIs) by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereafter, TRIPS).³

Today, there are estimated to be over 10,000 protected GIs in the world, of which 90% come from OECD countries and with a trade value of more than US\$50 billion.⁴ Some well-known GI products include Darjeeling tea, Parma ham, Champagne wine and Café de Colombia. In mobilizing local resources and traditions, GIs 'convey the cultural identity of a nation, region or specific area'⁵ and, in doing so, de-fetishise goods by reminding us that their value is

1 B. O'Connor, *The Law of Geographical Indications* (Cameron May, 2004) 21.

2 E. Vandecastelaere and others, 'Linking people, places and products: A guide for promoting quality linked to geographical origin and sustainable Geographical Indications' (FAO and SINGER-GI, 2009).

3 Agreement on Trade Related Aspects of Intellectual Property Rights, 15 April 1994, Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization.

4 D. Giovannucci and others, *Guide to Geographical Indications: Linking Products and Their Origins* (International Trade Centre, 2009) vii.

5 F. Addor and A. Grazioli, 'Geographical Indications beyond Wines and Spirits: A Roadmap for a Better Protection for Geographical Indications in the WTO/TRIPS Agreement' (2002) 5 JWIP 865, 865.

attributable to human labour.⁶ Driven in part by the demands of the so-called ‘green consumerism’⁷ that stands in contrast to the ‘Macdonalisation’ of products,⁸ regional product branding aligns with the development of quality, safety and traceability standards,⁹ including fair trade, organic and biologic certification labels.¹⁰

From a legal perspective, the protection of GIs is characterised by a variety of approaches that translate the many meanings and objectives attached to them. These range from market-based approaches targeting unfair competition practices, to approaches directed at non-market objectives, including territorial development, and preservation of cultural heritage and natural resources.

The general objective of this research is to explore the creation process, the operation and the likely effects of GI initiatives. More specifically, this research *seeks to analyse the relationships between the type of legal protection, the functioning of GI initiatives, their ability to achieve economic and non-economic effects, and the factors that affect such effects*. To this aim, it draws upon empirical data collected from twelve GI initiatives in two countries, France and Vietnam, which associate GIs with market and non-market objectives.

The first section of this introduction highlights the theoretical background within which this research project is situated, including the rationale for protecting GIs, the legal and institutional framework for GIs and the politicisation of GIs. Section 1.2 presents the research questions and the methodology. Sections 1.3 and 1.4 provide an overview of the French and Vietnamese contexts in which GI initiatives have been developing. Section 1.5 concludes with an outline of the thesis chapters.

6 R.J. Coombe, S. Schnoor & M. Ahmed, ‘Bearing Cultural Distinction: Informational Capitalism and New Expectations for Intellectual Property’ (2007) 40 University of California-Davis Law Review 891.

7 D. Goodman and M. Redclift, *Refashioning nature: Food, ecology and culture* (Routledge, 1991) 240-241.

8 P. Zylberg, ‘Geographical Indications v. Trademarks: The Lisbon Agreement: A Violation of TRIPs?’ (2002-2003) 62(11) University of Baltimore Intellectual Property Law Journal 1, 61.

9 Giovannucci and others (n4).

10 G. Allaire and B. Sylvander, ‘Globalization and Geographical Indications’, in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 106, 107.

1.1 Theoretical background

1.1.1 Why protect GIs?

The protection of GIs is traditionally justified on an informational efficiency basis.¹¹ These geographical signs are situated within an economic framework that seeks to align law with ‘the dictates of economic efficiency’.¹² Although the ‘underlying philosophy of the distinctiveness of local and regional products’¹³ upon which GIs rest clearly differentiates them from trade marks, both trade marks and GIs signal the ‘(commercial or geographical) origin of goods in the marketplace’.¹⁴ Misleading or otherwise distorting unauthorised uses by third parties lead to market failure caused by information asymmetries in the context of experience or credence goods.¹⁵ By correcting this through legal protection, both regimes meet an important social need in enhancing product information to consumers, thus saving their search costs in making choices.¹⁶ Consequently, their protection derives from the imperfect information theory, as developed by Stiglitz¹⁷ and Tirole,¹⁸ or from Shapiro’s model of reputation, which is concerned with ‘the decision of a firm regarding the quality of products to produce with a view to maximising profits, assuming perfect competition but imperfect consumer information’.¹⁹ In fact, the producers’ goodwill and the brand’s reputation constitute the underlying ‘valuable intangible that is being protected’²⁰ against free-rider competitors. Referred to by Belletti as the ‘institutionalisation of reputation’,²¹ GIs protect consumers and producers’ interests against

11 OECD, ‘Appellations of Origin and Geographical Indications in OECD Member Countries: Economic and Legal Implications’ (COM/AGR/APM/TD/WP(2000)15/FINAL); A. Conrad, ‘The protection of geographical indications in the TRIPs Agreement’ (1996) 86(1) *The Trademark Reporter* 11.

12 W. Landes and R. Posner, *The Economic Structure of Intellectual Property Law* (The Belknap Press of Harvard University Press, 2003) 4.

13 W. Moran, ‘Rural Space as Intellectual Property’ (1993) 12(3) *Political Geography* 263, 265.

14 D. Gangjee, *Relocating the Law of Geographical Indications* (CUP, 2012) 2.

15 According to Nelson, goods can be classified in three categories: (1) search goods, for which consumers can ascertain quality prior to purchase; (2) experience goods, for which consumers can ascertain quality after buying and using them; and (3) credence goods, for which consumers cannot ascertain quality even after using them. P. Nelson, ‘Information and Consumer Behaviour’ (1970) 78 *Journal of Political Economy* 311.

16 Landes and Posner (n12).

17 J.E. Stiglitz, ‘Imperfect Information in the Product Market’ in R. Schmalensee and R.D. Willig (eds.), *Handbook of Industrial Organization* (Elsevier Science Publishers, 1989).

18 J. Tirole, *The Theory of Industrial Organization* (MIT Press, 1988).

19 OECD (n11) 8.

20 Gangjee, *Relocating the Law of Geographical Indications* (n14) 145.

21 G. Belletti, ‘Origin labelled products, reputation, and heterogeneity of firms’ in B. Sylvander, D. Barjolle and F. Arfini (eds.), *The socio-economics of origin labelled products in agrifood supply chains: spatial, institutional and co-ordination aspects* (INRA, Actes et Communications 17(1), 2000) 239, 239.

fraud and unfair competition practices by preventing name usurpation and diversion of income.²² The role of GIs in preventing name usurpation has become increasingly important considering the growing number of instances of misappropriation of origin names. To take two examples, it is estimated that that the usurpation of the name ‘Karoo lamb’ (from South Africa) is commonplace,²³ and that about forty million kilograms of tea are sold worldwide as Darjeeling tea every year, while the production of genuine Darjeeling tea is only ten million kilograms.²⁴ As Das explains, unfair business practices, which stem from the commercial success of origin names in relation to market access and possible price premiums, result in loss of revenue for the genuine producers while misleading consumers in their purchasing decisions.²⁵

Once established, the brand’s reputation enhances the business value of the signs themselves by securing consumer loyalty and allowing producers to capture a rent based on the product differentiation,²⁶ and hence a return on their initial investments.²⁷ GIs can therefore become valuable economic assets and useful marketing tools to increase market access.²⁸ They provide producers with incentives to make investments for establishing and maintaining the qualities and reputation of the good designed by the sign.²⁹

22 C. Bramley, E. Biénabe and J. Kirsten, ‘The economics of geographical indications: towards a conceptual framework for geographical indication research in developing countries’ in *The Economics of Intellectual Property: Suggestions for Further Research in Developing Countries and Countries with Economies in Transition* (WIPO, 2009) 109.

23 E. Biénabe and others, ‘Linking Farmers to Markets through Valorisation of Local Resources: The Case for Intellectual Property Rights of Indigenous Resources’ (IPR DURAS Project Scientific Report, April 2011) 32.

24 K. Das, ‘International Protection of India’s Geographical Indications with Special Reference to ‘Darjeeling’ Tea’ (2006) 9(5) JWIP 459, 480.

25 K. Das, ‘Socio-economic implications of protecting geographical indications in India’ (2009) Centre for WTO Studies, 3
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1587352> accessed 03/09/2018.

26 Addor and Grazioli (n5) 870.

27 Bramley, Biénabe and Kirsten (n22) 115.

28 *ibid.*

29 Landes and Posner (n12).

1.1.2 The legal and institutional framework for GIs

1.1.2.1 International framework

As ‘relative newcomers to the field of international intellectual property’,³⁰ TRIPS is the first international agreement to introduce the term ‘geographical indications’,³¹ which has become the most widely used terminology. Previously, three WIPO multilateral agreements, the Paris Convention for the Protection of Industrial Property of 1883,³² the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods,³³ and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration,³⁴ have sought to regulate origin marking with limited success. While the Paris Convention has broad membership, it imposes only modest protection obligation. By contrast, the more specialised Lisbon Agreement favours enhanced protection, which has greatly limited its appeal.³⁵ Unlike the WIPO Treaties, TRIPS has a large membership (164 members as of May 2019) and as such has been hailed as an ‘important step for the international recognition of (GIs)’.³⁶

Article 22.1 of TRIPS 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’. This definition leads to three observations. First, the object of protection is an ‘indication’ that may consist of either a direct geographical name, such as Champagne wine or Parma ham, or an indirect sign, including a word, phrase or symbol,³⁷ for instance Blue Mountain coffee, Basmati rice or Feta cheese. Second, although the overwhelming majority of ‘goods’ are quality

30 C. Heath and A. Kamperman Sanders (eds), *New Frontiers of Intellectual Property Law : IP and Cultural Heritage - Geographical Indications - Enforcement – Overprotection* (Oxford Hart Publishing, 2005) Preface.

31 J. Watal, *Intellectual Property Rights in the WTO and Developing Countries* (Kluwer Law International, 2001) 244.

32 Paris Convention for the Protection of Industrial Property, 20 March 1883.

33 Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 14 April 1891.

34 Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 31 October 1958.

35 For more background on the historical process of the Lisbon Agreement and recent negotiations, see D.J. Gervais and M. Slider, ‘The Geneva Act of the Lisbon Agreement: Controversial Negotiations and Controversial Results’ in W. Van Caenegem and J. Cleary (eds), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice n°58, 2017) 15.

36 C. Correa, *Trade Related Aspects of Intellectual Property Rights. A Commentary on the TRIPS Agreement* (OUP, 2007) 209.

37 *ibid* 219.

agricultural products,³⁸ they can also include processed and unprocessed products from other sectors, such as textiles, jewellery and handicrafts. While services are excluded from the TRIPS definition, member states are free to recognise them under national laws. Third, TRIPS identifies three alternative criteria to establish the link between a product and its geographical origin. Each is an independently sufficient condition for protection, *ceterius paribus*.³⁹ While it is commonly agreed that the quality and characteristics of a product can be empirically and objectively measured,⁴⁰ the product's reputation, which refers to consumers' association of a good with a place,⁴¹ is the only subjective criteria, and hence the most difficult to measure.⁴² The quality of a product might involve its unique shape or taste due to the particular characteristics of the soil or climate of the area where it is grown,⁴³ whereas its characteristics may include chemical (e.g. acidity, sugar or fat content), physical (such as texture), microbiological (e.g. use of ferments and presence of germs) and organoleptic (such as flavour, texture, colour, or sensory profile) features.⁴⁴ They can also encompass a particular know-how such as specific breeding techniques or manufacturing processes.⁴⁵

Article 22.2 provides the standard protection for all GIs. In protecting consumers against misleading use, and producers against unfair competition by reference to Article 10 of the Paris Convention, this article aims to address issues arising from information asymmetry and free-riding on reputation. Under this provision, no presumption is made about misleading conduct and unfair competition. Consequently, the holder of the infringed indication bears the burden of proving the existence of acts of unfair competition and establishing consumer confusion in the relevant jurisdiction by demonstrating that the sign's reputation exists and the relevant public in that jurisdiction will make an association between the product and the place.⁴⁶

38 It is estimated that in 2001, 84,1% of the then 766 registrations in the Lisbon register corresponded to only four different categories of products: wines, spirits, cheese, tobacco and cigarettes: S. Escudero, 'International Protection of Geographical Indications and Developing Countries' (2001) South Centre, TRADE Working Paper No.10, 18.

39 O'Connor (n1) 24.

40 UNCTAD-ICTSD, *Resource Handbook on TRIPS and Development* (CUP, 2005) 270.

41 *ibid*.

42 D. Gangjee, 'From Geography to History: Geographical Indications and the Reputational Link' in I. Calboli and W.-L. Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture in the Asia-Pacific* (CUP, 2017) 36.

43 INAO, 'Guide du demandeur d'une appellation d'origine protégée (AOP) ou d'une indication géographique protégée (IGP) à l'exception des vins, boissons alcoolisées et boissons spiritueuses' (November 2017) 18.

44 *ibid* 15.

45 Gangjee, *Relocating the Law of Geographical Indications* (n14) 232.

46 UNCTAD-ICTSD (n42) 292; Correa (n36) 228.

A higher-level protection is afforded in Article 23.1 for wines and spirits only. Within this specific category of products, any use of the indication on goods that do not originate from the indicated place is strictly forbidden, whether or not consumers are deceived, ‘even where the true origin of the goods is indicated or the [GI] is used in translation or accompanied by expressions such as ‘kind’, ‘type’, ‘style’, ‘imitation’ or the like’.

Consequently, Article 22.2 requires proving consumer confusion or unfair competition within a specific context, while Article 23.1, in providing protection ‘*per se* or in absolute terms’⁴⁷ beyond misconception or unfair competition, treats GIs as ‘objects, regardless of their connotations in a specific context’.⁴⁸ This two-tiered system of regulation for GIs reflects the hard-fought compromise between the high-level protection sought by the then European Community and Switzerland, which have a long tradition of protecting GIs and where more than 85% of GIs relate to wine and spirit products,⁴⁹ and the lower protection sought by the United States of America (USA) and Australia, who initially opposed the creation of a new category of intellectual property right (IPR) for GIs and who consider a number of European GIs to be generic.⁵⁰

1.1.2.2 Overview of the national and regional systems of protection

Very few countries had enacted legislation for protecting GIs prior to the adoption of TRIPS.⁵¹ Laws governing the use of GIs have subsequently mushroomed around the world, but in the ‘most diverse and uncoordinated manner’,⁵² as a consequence of the obligation for the WTO Members to implement its provisions through the method of their choice.⁵³ Proof of this is found in the lack of common terminology in this area and the significant divergences in the modes of protection.⁵⁴ While many countries have inserted the TRIPS definition of GIs in their

47 Watal (n31) 268.

48 Gangjee, *Relocating the Law of Geographical Indications* (n14) 238.

49 Giovannucci and others (n4) 51.

50 Gangjee, *Relocating the Law of Geographical Indications* (n14).

51 WIPO, ‘The Definition of Geographical Indications’ October 2002 (SCT/9/4) 4.

52 Watal (n31) 264.

53 TRIPS, Article 1.1.

54 D. Vivas-Eugui and C. Spennemann, ‘The Treatment of Geographical Indications in Recent Regional and Bilateral Free Trade Agreements’ in M.P. Pugatch (ed.), *The Intellectual Property Debate: Perspectives from Law, Economics and Political Economy* (Edward Elgar, Cheltenham, 2006); M. Blakeney, ‘Proposal for the International Regulation of Geographical Indications’ (2001) 4 JWIP 629.

legislation,⁵⁵ the WTO identified no fewer than 23 distinct definitions of GIs at the national level.⁵⁶ Besides, considering the two-tiered system of regulation of TRIPS, some countries have decided to uniformly provide an absolute protection for all GIs, irrespective of the product sector, for instance India⁵⁷ and Brazil,⁵⁸ whereas others have translated these two levels of protection in their domestic system through special laws for wines and spirits, like the USA⁵⁹ and Australia.⁶⁰

Generally speaking, implementation approaches fall within four legal categories⁶¹: (1) regulations focusing on business practices, including unfair competition, consumer protection and passing off; (2) collective and certification marks; (3) *sui generis* registration systems that acknowledge GIs as a distinct category of right; and (4) administrative schemes, when GIs are used on goods which marketing is subject to an authorization procedure, such as for wines and spirits whose sale is regulated in many countries.

Among these approaches, the *sui generis* system, which is strongly promoted by the European Union (EU), and the common-law approach based on the trade mark system, which is at the heart of the US philosophy, have emerged as the two main institutional approaches to protect GIs.⁶² In 2009, among the 167 countries that actively protect GIs, 111 countries made use of *sui generis* systems, while 56 countries relied on the trade mark system.⁶³ These two approaches will be the focus of this research. The choice of one means of protection over another reflects different historical developments⁶⁴ as well as ‘divergent expectations about the communicative work these signs are supposed to do and the ensuing scope of protection’.⁶⁵ As seen above, source identification is a crucial communicative function of both regimes. This thesis will show how this function operates in various ways and through different circuits. Yet, various means of protection can coexist in the same country and apply to different categories

55 WIPO (n51) 4.

56 WTO, ‘Review under Article 24.2 of the Application of the Provisions of the Section of the TRIPS Agreement on Geographical Indications’ November 2003 (IP/C/W/253/Rev.1).

57 The Geographical Indications of Goods (Registration and Protection) Act, 1999, No 48, Chapter II, Section 9.

58 Law 9.279 of May 1996 (Industrial Property Law), Title IV.

59 Federal Alcohol Administration Act, 27 U.S.C. § 205.

60 Australian Wine and Brandy Corporation Amendment Act 2010, No. 98.

61 O’Connor (n1); UNCTAD-ICTSD (n42).

62 Bramley, Biénabe and Kirsten (n22) 111.

63 Giovannucci and others (n4).

64 O’Connor (n1) 67.

65 Gangjee, *Relocating the Law of Geographical Indications* (n14) 4.

of products. For example, in Australia, Canada and the USA, protection of GIs for all products is usually ensured through collective and certification marks. However, wines and spirits are protected under a *sui generis* system.⁶⁶ In the EU, *sui generis* legislation for the protection of GIs for agricultural products and foodstuffs,⁶⁷ wines,⁶⁸ and spirits⁶⁹, operates along the EU regulations on the European Union Trade Mark⁷⁰ and unfair business-to-consumer commercial practices in the internal market.⁷¹

Both protection systems have consequences for GI registration, monitoring and enforcement processes. Countries that have adopted a *sui generis* system generally consider GIs as common goods or public goods that belong to the state. Their protection, based on a public or administrative act, usually relies on a formal registration process that goes beyond the minimum standards of protection of TRIPS.⁷² This process typically requires that a clearly identified link between the good's origin and its quality, characteristics and/or reputation should be detailed in collectively framed mandatory specifications documented in a Code of Practice (CoP). As such, GIs are protected as long as the conditions for their protection are met and the costs associated with the administration, inspection and enforcement of their protection are usually borne by a government agency.⁷³ The most prominent example is the EU *sui generis* legal framework, which largely derives from the French system of *appellations d'origine*.⁷⁴

By contrast, countries that do not consider GIs as a distinct IPR usually protect them as (registered or unregistered) collective or certification marks.⁷⁵ For instance, in the USA, Kona coffee and Idaho potatoes are registered as a certification mark while Cognac is protected as an unregistered certification mark. Unlike *sui generis* systems, collective and certification

66 OECD (n11) 12.

67 Council Regulation (EC) 510/2006 of 20 March 2006 and Regulation (EU) 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuff .

68 Council Regulation (EC) 479/2008 of 29 April 2008 on the Common Organisation of the Market in Wine.

69 Regulation (EC) 110/2008 of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.

70 Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark.

71 Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

72 Correa (n36) 221.

73 Bramley, Biénabe and Kirsten (n22) 111.

74 Blakeney (n54).

75 D. Gervais, 'A Cognac after Spanish Champagne? Geographical Indications as Certification Marks' in J.C. Ginsburg and R. Dreyfuss (eds), *Intellectual Property at the Edge* (CUP, 2014) 130.

marks are private property rights not necessarily originating in governmental initiatives,⁷⁶ which do not usually require strict conditions as per the link between the product and its geographical origin. Indeed, while both marks are signs that serve to distinguish specific characteristics of the goods or services, their owner is free to define which specific conditions must be met by the users. The user regulations may include evidence of a link between the good and its geographical origin, but only if the owner wishes so. As Martin argues, ‘[t]he requirements applied to certification marks are much simpler than those applied to GIs which are much more precise when demanding that the particular characteristics of a product or its reputation are tied to a determined geographic area’.⁷⁷ In contrast to *sui generis* systems, collective and certification marks have to be renewed after a certain period of time, upon the payment of renewable fees, and all monitoring, inspection and implementation costs are borne by the right-holders, except for certification marks which often involve the government or another authorized party.⁷⁸

1.1.3 The politicisation of GIs

Far from being a strictly legal debate, the protection of GIs has become political with the emergence of a relatively recent narrative, based on a *terroir* paradigm, that posits GIs’ ability to foster rural development⁷⁹ and preserve cultural and natural heritage⁸⁰ in favour of enhanced protection pursuant to the TRIPS Article 23.1 standards within a *sui generis* i.e. registration-based protection scheme.⁸¹ The *terroir* approach, championed by the EU, anchors geography, including the cultural, social and environmental values embodied therein, at the very heart of GIs.⁸² In claiming that ‘GIs are key to EU and developing countries cultural heritage, traditional methods of production and natural resources’,⁸³ the EU argues that GIs are not just an IPR that

76 WIPO (n51) 9.

77 J.M. Cortes Martin, ‘The WTO TRIPS Agreement – The Battle between the Old and the New World over the Protection of Geographical Indications’ (2004) 7 JWIP 287, 309.

78 Correa (n36) 224.

79 European Commission, ‘Why Do Geographical Indications Matter to Us?’ (MEMO/03/160, July 2003) <http://europa.eu/rapid/press-release_MEMO-03-160_en.htm> accessed 26/07/2018.

80 D. Gangjee, ‘Geographical Indications and Cultural Heritage’ (2012) 1(4) The WIPO Journal 85; S. Singhal, ‘Geographical Indications and TK’ (2008) 11 JWIP 732.

81 European Commission (MEMO/03/160, July 2003).

82 Moran (n13) 265.

83 European Commission (MEMO/03/160, July 2003).

economically benefits producers and facilitates consumer choice. They can also serve as a multifunctional development tool to foster the objectives of the public policies concerned if associated with adequate proprietary-type protection and well-designed CoPs.⁸⁴ In contrast, the USA and its allies perceive *sui generis* protection as a form of disguised protectionist tool that would disrupt existing legitimate marketing practices.⁸⁵

Considering the socio-economic, environmental and cultural issues involved, this ‘war on *terroir*’⁸⁶ is not just a matter of protecting signs. It is also a political dispute about different paradigms with respect to which functions GIs should play in relation to trade concerns, agricultural policies, and cultural and environmental issues.⁸⁷ Unlike other IPRs, the dispute over GIs does not reflect a North-South divide but rather a conflict between emigrant and immigrant countries.⁸⁸ A strong majority of emerging and developing countries, whose GI-related interests lie in goods other than wines and spirits, join the EU in supporting enhanced standards for GI protection. These include Bangladesh, Cuba, India, Kenya, Morocco, Nigeria, Pakistan, Sri Lanka, Tunisia, Turkey and Venezuela.⁸⁹ According to the World Bank, the comparative advantage that developing countries have in agricultural products, processed foods and beverages makes GIs particularly attractive to these countries.⁹⁰ Conversely, a number of Latin American countries including Argentina, Chile, Guatemala, Paraguay and Uruguay, oppose the extension of the GI protection amid fears that enhanced protection would disrupt existing legitimate marketing practices.⁹¹ They worry that emigrants using skills brought from their countries of origin to manufacture similar goods protected by a GI in their home country would be denied the right to use the GI-protected name.⁹²

84 W. Van Caenegem, ‘Registered geographical indications: between intellectual property and rural policy’ (2003) Part I: 6 JWIP 699.

85 L. Beresford, ‘Geographical Indications: The Current Landscape’ (2007) 17 Fordham Intell. Prop. Media & Ent. 979, 986-990.

86 T. Josling, ‘The War on Terroir: Geographical Indications as a Transatlantic Trade Conflict’ (2006) 57 Journal of Agricultural Economics 337.

87 E. Thévenod-Mottet and D. Marie-Vivien, ‘Legal Debates Surrounding Geographical Indications’ in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 13; K. Raustiala and S.R. Munzer, ‘The Global Struggle over Geographical Indications’ (2007) 18 European Journal of International Law 337.

88 J.M. Cortes Martin, ‘TRIPS Agreement: Towards a Better Protection of Geographical Indications?’ (2004) 30(1) Brooklyn Journal of International Law 117, 127.

89 WTO, ‘Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS Agreement to products other than wines and spirits’ May 2005 (WT/GC/W/546).

90 World Bank, *Global Economic Prospects and the Developing Countries 2002: Making Trade Work for the Poor* (World Bank, 2002).

91 WTO (n89).

92 For more in-depth analysis of the different views expressed in this debate, see Addor and Grazioli (n5) 883-885; D. Rangnekar, ‘Geographical Indications: A Review of Proposals at the TRIPS Council’ (UNCTAD/ICTSD Capacity Building Project on IPR and

Showing the positive externalities of GIs is thus an important political issue with commercial and legal implications. At stake is the extent to which the EU may strengthen its case at the WTO by putting forward empirical evidence that a public policy approach to GIs contributes to development objectives. Put differently, if it is proved that the promises of GIs are based on real benefits, then the ‘evangelical role of the European Union in popularising’⁹³ its *terroir* narrative would not be ‘simply the projection of a Eurocentric approach to culture’.⁹⁴ Neither would it lead developing countries to waste their time and limited resources in ‘chasing an illusive dream’.⁹⁵ The true potential of GIs would open up promising prospects for fostering development while providing the EU with a sound justification for strengthening the international legal protection of GIs. Caution is, however, advisable when burdening GIs with hopes and expectations. Not only is empirical data lacking, especially from developing countries,⁹⁶ but the empirical research that has been carried out to date has also led to inconclusive results as to the welfare effects of GIs, even in Europe, where impacts vary on a case by case basis.⁹⁷

Sustainable Development, 2002) 23-29; W. van Caenegem, ‘Registered GIs: Intellectual property agricultural policy and international trade’ 2004 EIPR 170.

93 D. Rangnekar, ‘Geographical Indications and Localisation: A Case Study of Feni’ (ESRC Report, 2009) 19.

94 G. Sautier, E. Biénabe and C. Cerdan, ‘Geographical Indications in Developing Countries’, in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 138, 138.

95 W. Kerr, ‘Enjoying a Good Port with a Clear Conscience: Geographical indicators, rent seeking and development’ (2006) 7(1) *The Estey Centre Journal of International Law and Trade Policy* 8.

96 Indeed, most of the data available so far in relation to GIs have been collected in Europe. See J. Hughes, ‘Coffee and Chocolate: Can We Help Developing Country Farmers through Geographical Indications?’ (Report prepared for the International Intellectual Property Institute, 2009).

97 Bramley C. and Biénabe E., ‘Developments and considerations around geographical indications in the developing world’ (2012) 2(1) *Queen Mary Journal of Intellectual Property* 14; R. Teuber, S. Anders and C. Langinier, ‘The Economics of Geographical Indications: Welfare Implications’ (2011) Working paper No. 2011-6, SPAA Network <https://sites.ualberta.ca/~langinie/papers/Lit-Overview_GI_Paper_04_2011.pdf> accessed 02/09/2018; D. Rangnekar, ‘The Socio-Economics of Geographical Indications: A Review of the Empirical Evidence from Europe’ (UNCTA/ICTSD Issue Paper No. 4, 2004).

1.2 Research questions and methodology

1.2.1 Research questions and hypotheses

This research is concerned with the apparent tensions between the *terroir* and the trade mark approaches to protecting GIs. It seeks to understand the extent to which the creation process, the operation and the effects of GI initiatives established according to these two approaches differ in light of the broader socio-economic and institutional context for each approach. In doing so, this research project aims to provide new empirical data and new perspectives to the ongoing international legal dispute over GIs. It asks: what makes GIs work in practice?

To this aim, four main research questions are investigated as follows:

- (i) why is the GI protection process initiated and what objectives are associated with GI protection?
- (ii) how are GI initiatives established and how do they operate under both approaches?
- (iii) what factors influence the use and economic value of GIs on the market – or their lack of use?
- (iv) what factors contribute to the ability of GIs to create non-economic effects?

The research questions require us to reconsider the aims of GI regulation, by scrutinising the creation process, the functioning and the effects of GI initiatives operating under different legal systems. The main argument is that the significance of the distinction between the two types of legal protection varies greatly depending on the institutional context in which the GI initiatives are embedded and that the differences between the *sui generis* and trade mark approaches can be greatly reduced in practice. Besides, I argue that the type of legal protection is often not enough to drive the value and benefits of GIs, except in countries where the *sui generis* system enjoys a special status. Legal protection *per se* is, however, irrelevant in instances where local producers cannot participate meaningfully in these initiatives. To unpack this argument, the following hypotheses are suggested.

(i) The integration of GI schemes with other regulatory interventions and requirements

According to my first hypothesis, GI schemes are affected by, and integrated with, other regulatory interventions and requirements. By looking beyond formal GI law to relocate it within a wider system of regulatory interventions, this thesis contributes to a regulatory theory which rejects the conventional rules-based definition of regulation as a set of formal rules adopted and enforced by the state only, as developed by Drahos in the book *Regulatory Theory, Foundations and Applications*.⁹⁸ Drawing on regulatory pluralism which embraces an array of regulatory forms and interventions other than state law and policy,⁹⁹ this book shows that regulation has evolved to encompass new forms of formal and informal norm-making. These include, among others, social and customary norms, cultural conventions, beliefs and symbolic meanings, economic forces and entrenched business practices, which may have an equal, if not greater, impact on people's conduct. The state still plays an important role in regulation but as one rule-maker among many others within a network of regulation. This wider definition of regulation allows us to engage with processes of change and capture the empirical richness of regulatory activity to produce thick descriptions of specific regulatory systems at play in certain contexts. This is a particularly important point in this thesis as I consider how the effects of GI initiatives result not only from formal GI law but from a much wider set of regulatory interventions located at different levels and defending varied interests.

(ii) The significance of the distinction between the *terroir* and the trade mark approach

My second hypothesis considers that the significance of the distinction between the two types of legal protection varies greatly depending on the institutional context in which the GI initiatives are embedded. In countries that have a long tradition of protecting GIs through a *sui generis* system, the two legal approaches are totally independent from one another and significantly different from each other. In particular, the statutes governing the two regimes usually involve different processes for the creation and operation of the initiatives. The *sui generis* system typically provides for more stringent requirements as per the definition of the link to origin, the quality control systems and the roles of local stakeholders as well as public

98 P. Drahos (ed.), *Regulatory Theory, Foundations and Applications* (ANU Press, 2017).

99 N. Gunningham and D. Sinclair, 'Regulatory pluralism: Designing environmental policy mixes for environmental protection' (1999) 21 *Law & Policy* 49.

authority, among others. In these countries, the *sui generis* system can potentially lead to higher economic benefits for producers, when compared with the trade mark system, owing to the fact that it enjoys a special status that is sought after by distant consumers. The distinction between the two regimes and between their effects is, however, much less obvious in countries whose processes for the establishment and implementation of both regimes show strong similarities and where legal structures have a very subordinate role. I further argue that, even in countries where there is a clear distinction between the *terroir* and trade mark approach, the type of legal protection fails to fully explain the non-economic effects of GIs outside the market. This is because those effects are largely mediated by the rules governing the product, found within the product specification, as well as by other non-legal factors such as the market and the stakeholders' social, cultural and environmental awareness.

(iii) Producers' participation and collective action

My third hypothesis suggests that the establishment and use of GIs on the market encourages collaboration among producers and other local stakeholders, which further contributes to generate spillover effects outside the market.

This proposal builds on collective action theory that has been developed in the context of GIs to study the actions undertaken by groups of local producers involved in GI initiatives to achieve shared economic and non-economic objectives. As contended by the economists Belletti and Marescotti,¹⁰⁰ GI products have a strong collective dimension derived from their close ties with places of origin. The elaboration of local products typically relies on the local resources, knowledge, skills, history and culture of a community of operators within a specific geographical area. The formulation, control and observance of the rules of production of the GI product requires the mobilisation and collaboration of local stakeholders along the value chain to build and maintain consumer trust. Collaboration among local stakeholders is also needed for the implementation of collective marketing activities to strengthen the reputation of the product on the market and for the prevention of free-riding and individual opportunistic behavior within the collective. This reflects the economic approach to collective action. From a non-economic perspective, Belletti and Marescotti argue that, when local stakeholders invest collectively in the preservation of the cultural and natural resources that are essential to the

100 G. Belletti and A. Marescotti, 'Link Between Origin Labelled Products and Rural Development' (Dolphins Final Report, WP3, 2002).

distinctive character of the GI product including, for instance, traditional methods of production and cultural practices, plant varieties and breeds, GIs can bring about territorial development dynamics.¹⁰¹ The use of collective action theory is relevant to this thesis as I explore the factors promoting or hindering producers' participation, collaboration and use of the GI labels, including the relationship between legal processes, collective action and the effects of GI initiatives.

(iv) The role and value of formal legal protection

My last hypothesis posits that formal legal protection is irrelevant in some contexts, typically where individual and community needs take precedence over the legal and economic value of GIs. This suggests the importance of looking closely at the interests and priorities of local producers.

In seeking to understand why GI legal protection is sought and what it means to local producers in the everyday life, this thesis engages with scholars who have looked at IP from socio-legal and anthropological perspectives. There is a rich literature on how social networks prevail where formal institutions are weak and how creative industries develop with no or little protection from IP law – what has been described by Raustiala and Sprigman as 'IP's negative space'.¹⁰² Of particular relevance to this thesis is the work of Murray, Piper and Robertson in *Putting Intellectual Property In Its Place: Rights Discourses, Creative Labor and the Everyday*.¹⁰³ In this seminal book, the authors stress the limited relevance of legal IP institutions in some cultural contexts of creative activity, thereby challenging the conventional utilitarian and economic theories of IP. As they explore various creative contexts, the authors show that creative and innovative practices within communities are contingent on time and place. The authors' attention to cultural, professional, economic, and ideological circumstances, including personal desires and community needs, to explain the effects of creative activity rather than by the law itself, has been of great influence in developing my own grids of analysis.

101 G. Belletti and A. Marescotti, 'Origin products, geographical indications and rural development' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 75.

102 K. Raustiala and C. Sprigman, 'The Piracy Paradox: Innovation and Intellectual Property in Fashion Design' (2006) 92 *Virginia Law Review* 1687, 1764. See also E. Rosenblatt, 'A Theory of IP's Negative Space' (2011) 34(3) *Columbia Journal of Law & the Arts* 317.

103 L.J. Murray, S.T. Piper and K. Robertson, *Putting Intellectual Property in Its Place: Rights Discourses, Creative Labor, and the Everyday*, (OUP, 2014).

1.2.2 Comparative case study approach

This research is based on a comparative case-study based approach, which is critical for understanding whether, how and why the complex, context-specific conditions in which GI initiatives are embedded, influence their creation processes, practical operation and socio-economic effects.¹⁰⁴ The ability of case studies to explain how causal processes and interactions operate is typically associated with the rich, nuanced and complex data set that they can capture through their propensity to use a combination of methods.¹⁰⁵ As such, case studies allow for explanatory analysis,¹⁰⁶ which is most appropriate to address *how* and *why* questions.¹⁰⁷ A comparative case study strategy is thus well-suited for the needs of this research project. Case studies were selected purposively and strategically based on consideration of the issues of importance to this project, i.e. the type of legal protection and the characteristics of the contexts in which GI initiatives are embedded.¹⁰⁸

The choice to investigate GI initiatives in France and in Vietnam was made for three main reasons. First, both countries associate GIs with economic and non-economic objectives, which permits an investigation of the effects of GI initiatives against the expectations associated with them. Second, both France and Vietnam protect GIs through both trade marks and *sui generis* systems, which has enabled the study in each country of at least one product protected through each system. Third, considering France and Vietnam's contrasting levels of socio-economic development and institutional settings, the choice of these two countries makes it possible to explore the influence of the social and institutional context in which GI initiatives are embedded.

The selection of the GI initiatives – which represent the ‘unit of analysis’¹⁰⁹ - was made in such a way as to cover a wide range of types of GI products according to two criteria: (1) the category of product and (2) the type of legal protection. Considering that GIs can be used for five categories of products, including agricultural products, foodstuffs, handicrafts, wine and spirit

104 R.K. Yin, *Case study research : design and methods* (Sage Publications, 2003) 13.

105 Perri 6 and C. Bellamy, *Principles of methodology: research design in social science* (SAGE, 2012).

106 A. Bryman, *Social research methods* (OUP, 2004).

107 Yin (n104) 1.

108 U. Flick, E. Kardorff and I. Steinke, *A companion to qualitative research* (SAGE Publications, 2005) 150.

109 Yin (n104) 22.

drinks, and industrial products,¹¹⁰ the aim of the first criterion was to ensure that at least one product was selected in each category of products for each country whenever possible, except wines and spirits. This category was excluded from the scope of this research because wine and spirit drinks are protected under a special regime at both the international¹¹¹ and European levels,¹¹² which would have distorted the analysis. It should also be noted that there is no known example of GIs for an industrial product in Vietnam, hence the selection of an industrial product case study in France only. Finally, for the purpose of this project, and to clarify the product classification, agricultural products are considered as agricultural commodities that have undergone little or no processing, while foodstuffs are understood as resulting from the processing of unprocessed products.

Under the second criterion, at least one product protected by a trade mark and one product protected by a *sui generis* system have been chosen in each country, taking into account that the EU *sui generis* legislation for Protected Denominations of Origin and Protected Geographical Indications (PDO/PGIS) for agricultural products and foodstuffs¹¹³ applies in France. Considering that what differentiates PDOs and PGIs is the intensity of the link to the area of origin, it was useful to select at least one PGI and one PDO product.

Following these criteria, a total of twelve cases were selected (Table 1.1), including seven products in Vietnam and five in France. The slightly higher number of case studies in Vietnam is explained by the longer uninterrupted period spent in Vietnam (four months in total), as compared with the shorter return trips made to France, which is easier to reach from London.

110 WIPO, 'Frequently Asked Questions: Geographical Indications – For what type of product can geographical indications be used?' <http://www.wipo.int/geo_indications/en/faq_geographicalindications.html> accessed 26/07/2018.

111 TRIPS, Article 23.

112 Regulations (EC) (n68 and 69).

113 Council Regulations (n67).

Table 1.1
List of product case studies with year of protection

(i) France

	Collective mark	Certification mark	<i>Sui generis</i> protection
Agricultural product			Green lentils from Berry (1998)
			Bouchot mussels from Mont-St-Michel Bay (2006; 2011)*
Foodstuff			Pélardon cheese (2000; 2001)*
Handicraft	Marseille soap (2012)		
Industrial product		Wood from the Alps (2013)	

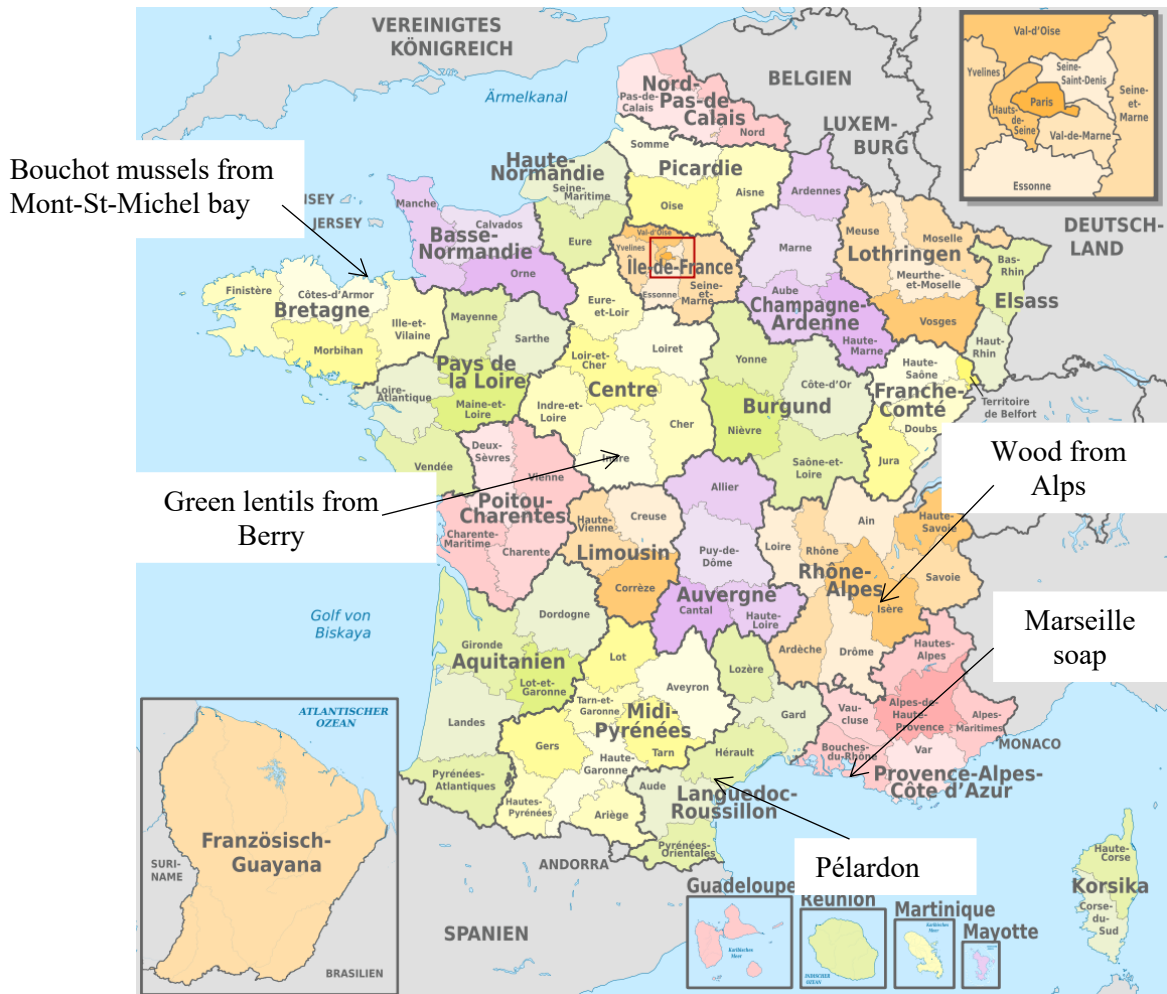
* The two dates correspond to the protection at the French and European levels, respectively.

(ii) Vietnam

	Collective mark	Certification mark	<i>Sui generis</i> protection
Agricultural product	Sticky rice from Đông Triều (2013)		Star anise from Lạng Sơn (2007)
Foodstuff	H'mong beef from Cao Bằng (2011)	Vermicelli from Bình Liêu (2013)	Fried calamari from Hạ Long (2013)
Handicraft	Pottery from Đông Triều (2012)		Conical hat from Huế (2010)

Map 1.1

Location of the French case studies



Map 1.2

Location of the Vietnamese case studies



1.2.3 Methods of data collection and analysis

In line with the case study approach, a variety of methods were used to generate data. Primary data were collected through a combination of semi-structured interviews and direct observations. The selection of the respondents was done according to a purposeful sampling method,¹¹⁴ which is admittedly not statistically representative, but rather strategically based on the presence or absence of specific characteristics, roles, knowledge and experience that are relevant to the research project.¹¹⁵ Interviewees included the four following categories of individuals: (1) public authorities; (2) farmers, producers and processors; (3) distributors and traders; and (4) leaders of producers' associations and cooperatives. These categories are not equally important in each context. For instance, public authorities play a far more important role in the management of the GI initiatives in Vietnam than in France, where producers are much stronger actors than in Vietnam.

The interviews were conducted in Vietnam with the help of a professional translator between March and May 2014 and in France in February 2014 then from June to October 2014. They were based on a topic guide that had been designed in advance to collect data and information that are of most interest to my research project (Annex 3). To update data, I followed up with phone interviews and e-mail correspondence until July 2018. Overall, I conducted between six and fourteen interviews for each GI product for a total of 117 interviews. Annexes 1 and 2 set out the list and codification of interviews in Vietnam and France, respectively. Such codes will be used for all subsequent references to the interviews.

Fieldwork in Vietnam was greatly facilitated by the French Agricultural Research Centre for International Development (*Centre de coopération internationale en recherche agronomique pour le développement*, CIRAD)¹¹⁶ and the Vietnamese Centre for Agrarian Systems Research and Development (CASRAD) within the research consortium 'Markets and Agriculture Linkages for Cities in Asia' (MALICA).¹¹⁷ In particular CIRAD and CASRAD not only assisted me in obtaining my visa and research authorizations in the field, but also greatly

114 M. Patton, *Qualitative evaluation and research methods* (SAGE, 1990) 169.

115 W.J. Gibson and A. Brown, *Working with qualitative data* (SAGE, 2009) 56.

116 CIRAD operates under the joint authority of the French Ministry of Higher Education and Research and the French Ministry of Foreign and European Affairs. It is one of the main development actors working on GIs.

117 More information on the MALICA Consortium can be found at <<https://www.malica.org>> accessed 27/07/2018.

facilitated my access to and knowledge of local populations and organisations, thus saving me a huge amount of time and resources. In France, I was invited to participate in the training session on GIs (InterGI) co-organised by CIRAD and the Swiss organisation REDD in June 2014.¹¹⁸ This training allowed me to interview local actors involved in the Pélardon initiative together with other participants. As I subsequently collected useful material and conducted phone interviews with other stakeholders identified during the training, I decided to include this product as a case study. This explains why there are two PDO products among my case studies. Later, I was also invited to the InterGI session in September 2014 to present the Marseille soap case study and organise interviews with some key actors, which usefully complemented my own personal interviews. Finally, I was invited to participate in the conference ‘Adding value to local wood from the Alps by guaranteeing its traceability’ organised by the association Bois des Alpes in October 2014. This conference allowed me to meet the key actors of the initiative and collect data from both the speakers’ presentations and individual interviews.

In addition, secondary data was generated through document study, including legal and policy documents, CoPs, registration regulations, charters, evaluation reports, as well as newspaper articles, documentary and promotional videos and pictures.¹¹⁹ The employment of various methods was useful to complement and cross-validate data¹²⁰ – what is commonly called ‘triangulation’. The aim of this strategy was to provide a more comprehensive and unified picture of the GI initiatives under investigation, while increasing the validity and reliability of the empirical findings.¹²¹ Each case was analysed individually before comparing them with and among each other to highlight commonalities and differences. As part of this process, interview transcripts and document-generated data were coded manually.

118 See details on this programme here: <<https://www.cirad.fr/en/teaching-training/available-training/intergi>> accessed 20/08/2018.

119 French CoPs are available on the EU’s DOOR online database <<http://ec.europa.eu/agriculture/quality/door/list.html>>. There is no online register for Vietnamese GIs. The author has personal copies of all the files. It should be noted that the charters of two producers’ associations (star anise from Lang Son and conical hat from Hué) could not be accessed due to difficult access to documents in Vietnam.

120 A. Bryman, *Research Methods and Organization Studies* (Unwin Hyman, 1989) 151.

121 Flick, Kardorff and Steinke (n108) 172.

1.3 General context in France

Regarded as the pioneer of GI protection, France has arguably the oldest, most fully developed and most influential *sui generis* protection system in the world.¹²² This also inspired the European law.¹²³ As already mentioned, the EU and its member countries have associated GIs with public benefit outcomes, which in turn has justified public intervention through support policies. Support to promote the use of the PDO/PGI scheme is provided primarily under the EU's rural development policy,¹²⁴ known as the Second Pillar of the Common Agricultural Policy (CAP).¹²⁵ The CAP is aimed specifically at developing rural areas, which represent 52% of the EU territory and more than 46 million jobs with a population of 113 million people.¹²⁶

Both France and the EU have been actively engaged in promoting *sui generis* protection of GIs around the world. For example, the French Development Agency has provided support for the 2010-2013 PAMPIG project (*Projet d'Appui à la Mise en Place d'Indications Géographiques*), now in its second phase of implementation until 2021,¹²⁷ which aims to support members of the African Intellectual Property Organisation in implementing and protecting GIs. France has also funded the 2013-2018 Trade Capacity-Building programme aimed at protecting and promoting local products, including through GIs, in member countries of the Association of Southeast Asian Nations (ASEAN).¹²⁸ At the European level, the main strategy has been to foster the protection of GIs through bilateral agreements¹²⁹ and the provision of technical and financial support to promote IPRs, including GIs.¹³⁰ For instance, the EU has concluded Free-

122 O'Connor (n1) 165.

123 G. Allaire, F. Casabianca and E. Thévenod-Mottet, 'The geographical origin, a complex feature for agro-food products' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 1.

124 European Commission, *The EU Rural Development Policy 2007-2013* (European Commission, Fact Sheet, 2006) 12 <https://ec.europa.eu/agriculture/publi/fact/rurdev2007/2007_en.pdf> accessed 25/07/2018.

125 European Commission, 'The common agricultural policy at a glance' <https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/cap-glance_en> accessed 24/07/2018.

126 European Commission, 'Rural Development in the EU, Statistical and Economic Information' (Report, European Union, December 2013) 52 <https://ec.europa.eu/agriculture/sites/agriculture/files/statistics/rural-development/2013/full-text_en.pdf> accessed 02/09/2018.

127 See the description of the project here: <<https://umr-innovation.cirad.fr/en/projets/pampig-2>> accessed 25/07/2018.

128 See the description of the project here: <https://www.tresor.economie.gouv.fr/Ressources/13533_le-financement-de-projets-de-valorisation-des-indications-geographiques-dans-les-pays-de-l-asean-par-le-prcc> accessed 25/07/2018.

129 D. Marie-Vivien, D. Sautier and E. Biénabe, 'Bilateral agreements for geographical indications: the evaluation 'of the local by the local'' (XXV ESRS Congress, Florence, Italy, August 2013). The list of European Trade Agreements is available here: <<http://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/>> accessed 26/07/2018.

130 European Commission, 'Main IPR related technical assistance programmes' <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=328>> accessed 24/07/2018.

Trade Agreements (FTAs) with South Korea,¹³¹ Colombia and Peru,¹³² Singapore,¹³³ and Vietnam,¹³⁴ among many others. In Asia, it has funded the EU-ASEAN Project on the Protection of Intellectual Property Rights (ECAP project)¹³⁵ and the EU-Vietnam MUTRAP project (European Trade Policy and Investment Support Project),¹³⁶ which both have a GI component.

1.4 General context in Vietnam

After gaining independence from France in 1954, Vietnam became a politically unified country under a Communist government in 1975 at the end of the so-called Vietnam War. With the introduction in December 1986 of a set of reforms known as *doi moi* (renovation), Vietnam gradually deregulated and liberalised the economy to create a socialist-oriented market economy.¹³⁷ As part of these reforms, new agricultural development policies dismantled rural collectives, assigned land rights to farmers,¹³⁸ and liberalised agricultural markets with a focus on cash crops (for instance rice, coffee, rubber, cashew nut and pepper), thereby putting an end to previous self-sufficiency policies.¹³⁹ To support the reform process, decentralization policies were also adopted.¹⁴⁰

Despite Vietnam's strong economic growth in the past decades, 20.7% of the population still lived below the poverty line in 2010, including 27% in rural areas and 6% in urban areas, and

131 Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part [2011] OJ L 127/6.

132 Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part [2013] EC/CO/PE/en1.

133 Free Trade Agreement between the European Union and the Republic of Singapore [negotiations finished in April 2018 – awaiting signature].

134 Free Trade Agreement between the European Union and the Socialist Republic of Vietnam [negotiations finished in June 2018 – awaiting signature].

135 See the description of the project here: <<http://www.ecap3.org/about/ecap-project-overview-1993-2016>> accessed 24/07/2018.

136 See the description of the project here: <<http://mutrap.org.vn/index.php/en/about-eu-mutrap-2>> accessed 24/07/2018.

137 T.G. MacAulay, S.P. Marsh and P. Van Hung (eds.), *Agricultural Development and Land Policy in Vietnam* (Australian Centre for International Agricultural Research, Monograph 126, 2007) 14.

138 M. Kirk and N.D. Anh Tuan, 'Land-Tenure Policy Reforms, Decollectivization and the Doi Moi System in Vietnam' (2009) IFPRI Discussion Paper, 1 <<http://www.ifpri.org/publication/land-tenure-policy-reforms>> accessed 03/09/2018.

139 C. Durand and S. Fournier, 'Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies' (2017) 98(C) World Development 91, 93.

140 A. Fforde, 'Decentralization in Vietnam-working effectively at provincial and local government level. A comparative analysis of long an and Quang Ngai provinces' (Report prepared for the Australian Agency of International Development, 2003).

8% of the population is extremely poor.¹⁴¹ Besides, Vietnam's 53 ethnic minority groups, who make up less than 15% of the population, accounted for 47% of the poor in 2010, up from 29% in 1998.¹⁴²

Vietnam is still governed by a single party, the Communist Party of Vietnam (CPV), and its administrative system is divided into four levels: Central, Provincial, District, and Communal level. As of July 2018, it has 63 administrative units at provincial level (58 provinces and 5 centrally-run cities), 713 districts and over 11,000 communes.¹⁴³ All three sub-central administrative levels are governed by a representative body, the People's Council, and an executive body, the People's Committee, which is composed of Departments that mirror the missions and duties of the central Ministries.¹⁴⁴ The effects of decentralisation have so far been limited. Central units still maintain control and decision-making powers, while there remain inconsistent institutions, unclear mandates and tasks of both central and local authorities, and inefficient operation styles and manners.¹⁴⁵

France's colonial legacy in Vietnam has translated into a strong cooperation between the two countries, including as regards GIs. As such, France has supported the development of the Vietnamese legislation on GIs since 1995. In late 2015, France also launched a three-year project to support the development of Vietnamese GIs for a total budget of US\$1.3 million.¹⁴⁶ Vietnam has also signed bilateral agreements to protect GIs, including the EU-Vietnam Framework Agreement on Comprehensive Partnership and Cooperation of October 2012. This Agreement led to the conclusion of the EU-Vietnam FTA of December 2015¹⁴⁷ under which 39 Vietnamese GIs are protected in the EU and 171 European GIs are protected in Vietnam.¹⁴⁸

141 According to the updated GSO-WB poverty line for 2010 (US \$2.26 per person per day, 2005 PPP). World Bank, 'Well Begun, Not Yet Done: Vietnam's Remarkable Progress on Poverty Reduction and the Emerging Challenges' (Vietnam Poverty Assessment, World Bank, 2012) 3.

142 *ibid* 5.

143 Vietnam Law and Legal Forum, 'Current local administration system in Vietnam' <<http://vietnamlawmagazine.vn/current-local-administration-system-in-vietnam-6058.html>> accessed 25/07/2018.

144 *ibid*.

145 J. Acuña-Alfaro (ed.), *Reforming public administration in Vietnam, Current situations and recommendations* (UNDP, The National Political Publishing House 2009) 5-6.

146 See the description of the project here: <<https://www.afd.fr/fr/soutenir-le-developpement-des-indications-geographiques-protgees-au-vietnam-programme-prcc>> accessed 26/07/2018.

147 See the news archive on the EU-Vietnam FTA here: <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1437>> accessed 24/07/2018.

148 The list of GIs being protected under the EU-Vietnam FTA is available here: <http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154223.%20institutional%20-%20GIs%206.5a3%206.11wg%20rev2%20-%20for%20publication.pdf> accessed 24/07/2018.

1.5 Structure of the thesis

This thesis is organised into six substantive chapters.

Chapters 2 and 3 provide an analysis of the legal frameworks for GIs in France in Vietnam, respectively. Without providing a full and detailed study of the *sui generis* and trade mark protection systems that apply in both countries, these chapters highlight those features that are of most interest to this research. Unlike in France where protection of GIs has matured for over a century out of a long process that was initiated by local producers, the legal framework for GIs in Vietnam is fairly recent and was led by state authorities. The state-driven, top-down approach of Vietnam to GIs sharply contrasts with the bottom-up system of GI protection in France, where local producers have a pivotal role in initiating and managing the initiatives. Both approaches have significant consequences on the establishment and operation of GI initiatives, as will be discussed in the subsequent chapters.

Chapters 4-7 are chapters detailing and analysing empirical findings. Chapter 4 explores the actors' strategies and collective dynamics in all twelve case studies. The establishment and management of GI initiatives involve collective action dynamics that have emerged as critical factors for directing their effects. By presenting the environment and characteristics of the twelve products through narrative accounts, this chapter will first show how the genesis of the initiatives stems from different motivations and interests attached to the legal protection of GIs. It will then turn to the implementation process of the GI initiatives with a focus on the creation process and the internal structure of GI collectives. By connecting the legal rules around GI recognition with the way in which collective action of local stakeholders is given the space to develop, it will highlight their contrasting active/passive roles in the decision-making processes involved within the GI initiatives in France and Vietnam.

Drawing upon the six case studies where the use of origin labels on the marketplace can be observed, Chapter 5 analyses the factors influencing the value of GIs on the market and the economic benefits derived from them. It first explores the ways in which the reputation of origin products was successfully established on the marketplace, both before and after the labelling processes. This chapter subsequently analyses the effects of GIs on consumer demand and production capacity. In particular, it will show that, while consumer demand for the six products has generally increased, the potential of the initiatives to match supply and demand

depends not only on their growth capacity and dynamism but also on the market environment and institutional context in which they are developing. Finally, in analysing commercial approaches and marketing strategies, this chapter argues that the types of marketing channels not only impact on the commercial value of GIs and the economic benefits derived from their use, but further that they do not impact in the same way across the initiatives.

Chapter 6 focuses on the six products for which the origin label has been either entirely or relatively unused despite a formal registration having taken place; whose name has been largely associated with goods that do not correspond to the ‘genuine’ product; and/or whose manufacturing according to the traditional methods of production is very limited, if at all. While a range of reasons contribute to explain such ‘GI failures’, this chapter seeks to identify the key factors that impact negatively on the producers’ willingness or capacity of using the origin labels and/or producing the traditional product. It will suggest that GIs fail to engage and foster the interest of local producers in using the origin labels when the communication function of GIs on the market is undermined; when local producers lack economic incentives to adhere to the initiative; and when products lack reputation on the end markets due to the nature and structure of marketing channels.

Chapter 7 explores the effects of GIs outside the market and seeks to disentangle the factors involved therein. It first analyses the dynamics of territorial development that have derived from the GI initiatives before examining the extent to which GIs have contributed to the preservation of cultural heritage and the protection of biodiversity. This chapter will show that the impacts vary greatly across the initiatives depending on each specific context as well as a range of factors found at the producer/initiative, market and state levels. These findings suggest the need to develop a dynamic understanding of GIs and consider both the functioning of the initiatives at the local level, including formal rules and informal constraints, and the broader commercial and institutional context in which the GI initiatives are operating. It will argue that legal protection is not a sufficient condition to bring about effects outside the market, and that the type of legal protection is not necessarily a relevant factor. These findings contribute to challenge the EU’s assumption of the positive externalities of *sui generis* protection of GIs.

Legal framework for the protection of GIs in France

This chapter provides an overview of the French legal framework for the protection of GIs with a focus on the *sui generis* and trade mark systems. As seen in Chapter 1, these regimes have emerged as the two main institutional approaches to protect GIs. In describing and contrasting the main features of each regime, this chapter aims to provide the necessary basis for discussion of the impact of the law on the creation process, operation and likely effects of the French GI initiatives under study. This legal study is thus particularly important to the analysis of our empirical findings in Chapters 4-7 that will expose the interpretation and the effects of the law in practice.

In France, the *sui generis* protection system has traditionally played a much more significant role in the protection of GIs than the trade mark system. The French *sui generis* law, regarded as the oldest and most influential system of GI protection,¹ has derived from a long, drawn-out process first designed to fight against the increased levels of fraudulent and artificial wines following the phylloxera epidemic at the end of the nineteenth century.² This chapter focuses on the existing law only, not the history of French legislation, which goes beyond the scope of this thesis. In particular, the chapter looks at those characteristics that are of most interest to this research project, making references to historical developments whenever useful. A second limitation relates to the type of products. This chapter considers agricultural products, foodstuffs, and industrial and artisanal products only, thereby excluding the study of the regulations on wines and spirits that are outside the scope of this study.

1 B. O'Connor, *The Law of Geographic Indications* (Cameron May, 2004) 165.

2 For a detailed study of the French history of wine quality regulations see G. Teil, 'Protecting Appellations of Origin: One Hundred Years of Efforts and Debates' in W. Van Caenegem and J. Cleary (eds), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice n°58, 2017) 147.

It is important to note from the outset that, in France, while the *sui generis* system of protection of GIs *must* certify the origin of the products, trade marks *may* be used for that purpose. As noted by Gangjee, ‘[t]he very act of establishing a separate system to accommodate regionally specific products indicates that [*sui generis*] GI regimes are positioned differently from trade marks and expected to do different kinds of legal work’.³ This chapter will help understand how. It is divided into two main sections. Section 2.1 will address the *sui generis* protection system of GIs, and Section 2.2 will explore the trade mark system applicable in France.

2.1 *Sui generis* protection of GIs

The French *sui generis* system for the protection of GIs provides for three different schemes due to the coexistence of the French and European legislation.⁴ A brief historical perspective is useful to disentangle the different regimes at play.⁵

After successive failed attempts to protect GIs through an administrative⁶ then a judicial procedure,⁷ the decree-law of 30 July 1935,⁸ which constitutes a landmark in the development of French modern law on GIs, established the National Institute for Appellations of Origin (INAO – which became the National Institute of Origin and Quality in 2006). As a unique public institution composed of both state officials and professionals and operating under the authority of the French Ministry of Agriculture and Food (MAF), INAO is specifically dedicated to the recognition, control and defence of controlled appellations of origin (*appellation d’origine contrôlée* - AOCs). AOCs were first granted for wines and spirits⁹ before

3 D. Gangjee, ‘Proving Provenance? Geographical Indications Certification and its Ambiguities’ (2015) 98 World Development 12, 13.

4 As an EU member state, the European law applies in France. While EU regulations and decisions are automatically binding, directives must be incorporated by member countries into their national legislation.

5 For a comprehensive description of the French *sui generis* GI system and its historical developments, see N.Olszak, *Le droit des appellations d’origine et des indications de provenance* (Tec&Doc, Paris, 2001).

6 *Loi du 1er août 1905 sur la repression des fraudes dans la vente des marchandises et des falsifications des denrées alimentaires et des produits agricoles* (Law of 1 August 1905 on the repression of fraud in the sale of goods and adulteration of foodstuff and agricultural products) (5 August 1905) Journal Officiel de la République Française (JO) 210.

7 *Loi du 6 Mai 1919 Relative à la Protection des Appellations d’Origine* (Law of 6 May 1919 on the Protection of Appellations of Origin) (8 May 1919) JO 4726.

8 *Décret-loi du 30 juillet 1935 Relatif à la Défense du Marché des Vins et au Régime Economique de l’Alcool* (Decree-Law of 30 July 1935 on the defence of the wine market and the economic regime of alcohol) (31 Juillet 1935) JO 8314 (hereafter, Decree-Law of 30 July 1935).

9 *ibid.*

extending to cheeses in 1955¹⁰ and all other agro-food and forestry products in 1990.¹¹ Subsequently, the French AOC legislation inspired European law¹² which introduced the concepts of protected denominations of origin (PDOs) and protected geographical indications (PGIs) for agricultural products and foodstuffs through the Council Regulation (EEC) 2081/92 of 14 July 1992,¹³ as repealed by the Regulation (EC) 510/2006¹⁴ and Regulation (EC) 1151/2012,¹⁵ that is in force today [hereafter, Regulation 1151/2012].

Curiously, France is the only EU Member State to still have its own *sui generis* legislation in force.¹⁶ According to the Court of Justice of the European Union (CJEU), national rules ‘governing the protection of geographical designations which fall outside [the EU’s] scope’ can continue to be applicable.¹⁷ Consequently, the French system of AOCs is applicable to forestry products which are not covered by European law. However, for agro-food products which fall within the scope of the European law, the French AOC system is a subsidiary and transitory regime that provides protection on the French territory only until the European PDO protection is granted.¹⁸ Although the concepts of AOCs and PDOs are similar, the concept of PGI does not relate to any notion in French law. Whereas a PDO/PGI application can be submitted in France without having to be recognised as a French AOC first, all AOCs must necessarily be recognised as a PDO.¹⁹ If the PDO application is not successful at the European

10 *Loi du 28 novembre 1955 relative aux appellations d’origine des fromages* (Law of 28 November 1955 on appellations of origin for cheeses) (30 November 1955) JO 11580.

11 *Loi du 2 juillet 1990 relative aux appellations d’origine contrôlées des produits agricoles ou alimentaires, bruts ou transformés* (Law of 2 July 1990 on controlled appellations of origin for raw or processed agro-food products) (6 July 1990) JO <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000167733>> accessed 8 July 2018.

12 G. Allaire, F. Casabianca and E. Thevenod-Mottet, ‘The geographical origin, a complex feature for agro-food products’ in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 1, 8.

13 Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992R2081&from=EN>> accessed 08/08/2018.

14 Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R0510&from=EN>> accessed 08/08/2018.

15 Council Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuff <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R1151&from=EN>> accessed 08/08/2018.

16 C. Le Goffic, ‘La protection des indications géographiques en France, dans la Communauté européenne et aux États-Unis’ (PhD thesis, Université Pantheon-Assas Paris II, 2009) 159.

17 CJCE, *Assica, Kraft Foods Italia v Associazione fra produttori per la tutela del ‘Salame Felino’ and Others* (C-35/13) 8 May 2014 (Unreported) at [28]-[29].

18 Regulation 1151/2012, Article 9.

19 Rural Code and Maritime Fishing Code (hereafter, Rural Code), Article L.641-10.

level, the AOC protection shall cease.²⁰ The maintenance of a national title such as the AOC is thus questionable considering that it changes the substitution intended by the European scheme into a seemingly overlapping protection.²¹

It should be noted that France has the second largest number of PDO/PGI registrations after Italy. These two countries account for 38% of the total number of PDO/PGIS registered so far. As of May 2019, France has registered 104 PDOs and 144 PGIs out of a total of 638 PDOs and 749 PGIs currently protected.²²

Alongside the French AOC and European PDO/PGI systems, France has recently created a third scheme with the adoption of a new Consumer Law in March 2014,²³ implemented by Decree 2015-595 of 2 June 2015.²⁴ This regime is specifically dedicated to protecting GIs for industrial and artisanal products (*indications géographiques pour les produits industriels et artisanaux* - IGPIAs), which are not (yet) protectable under European law.²⁵ As of May 2019, eight products have been registered as an IGPIA²⁶ and three applications are pending, including two for Marseille soap (see below).

For clarity, the French *sui generis* system for the protection of GIs covers the following schemes:

1. AOCs for agro-food and forestry products, as protected under French law and defined in Article 645-5 of the Rural Code;
2. PDOs and PGIs for agricultural products and foodstuffs, as protected at the European level under Regulation 1151/2012; and

²⁰ *ibid.*

²¹ Le Goffic, 'La protection des indications géographiques' (n16) 162.

²² European Commission, DOOR database <<http://ec.europa.eu/agriculture/quality/door/list.html>> accessed 16/08/2018.

²³ *Loi 2014-344 du 17 mars 2014 relative à la consommation* (Law 2014-344 of 17 March 2014 on consumers) (18 March 2014) JO 65 <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028738036&categorieLien=id>> accessed 13/08/2018.

²⁴ *Décret 2015-595 du 2 juin 2015 relatif aux indications géographiques protégeant les produits industriels et artisanaux et portant diverses dispositions relatives aux marques* (Decree 2015-595 of 2 June 2015 on geographical indications for industrial and artisanal products and containing various provisions on marks) (3 June 2015) JO 126 <<https://www.legifrance.gouv.fr/eli/decret/2015/6/2/EINI1426403D/jo/texte>> accessed 13/08/2018.

²⁵ However, the European Commission has been discussing the issue of GI protection for non-agricultural products since 2011. See European Commission, 'Geographical indications for non-agricultural products' <http://ec.europa.eu/growth/industry/intellectual-property/geographical-indications/non-agricultural-products_en> accessed 13/08/2018.

²⁶ These are: siège de Liffol; granit de Bretagne; pierre de Bourgogne; porcelaine de Limoges; charentaise de Charente-Périgord; tapis d'Aubusson; tapisserie d'Aubusson; and grenat de Perpignan. See INPI database <<https://base-indications-geographiques.inpi.fr/fr/toutes-les-ig>> accessed 21/08/2018.

3. IGPIAs for industrial and artisanal products, as protected under French law and defined in Article L.721-2 of the Intellectual Property Code [hereafter, IP Code].

From an institutional point of view, the protection of agricultural products and foodstuffs (AOCs, PDOs and PGIs) falls within the scope of INAO under the authority of the MAF, whereas IGPIAs fall within the remit of the National Institute for Industrial Property (INPI)²⁷ under the authority of the Ministry of Economy and Industry. For Marie-Vivien, this division leads to a questionable categorisation of GIs depending on the type of products.²⁸

A number of features that are common to all schemes are seen as useful grounds for analysing the collective dynamics involved in the creation and operation of GI initiatives and their ability to generate economic and non-economic effects. These include:

- (i) the definition of the link between the product and its geographical origin;
- (ii) the choice of the name;
- (iii) the voluntary and collective action of local operators;
- (iv) the elaboration of a code of practice (CoP);
- (v) quality control mechanisms;
- (vi) the right to use;
- (vii) the role of public authority; and
- (viii) the absolute protection of all signs.

2.1.1 Link to the geographical area of origin

Each scheme provides for a definition of the link between the product and its geographical origin. AOCs and PDOs require the strongest and most complete link between the product and its geographical origin, whereas the product/origin nexus involved in IGPIAs and PGIs is more flexible. The analysis of the definition of the link to origin is particularly relevant to research questions aimed at examining the factors influencing the economic value of GIs and their non-economic effects. This is because, as Bramley and Biénabe argue, ‘the stronger the

²⁷ IP Code, Article L.721-3.

²⁸ D. Marie-Vivien, ‘Do Geographical Indications for Handicraft Deserve a Special Regime? Insights from Worldwide Law and Practice’ in W. Van Caenegem and J. Cleary (eds.), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice n. 58, 2017) 221, 245-246.

product/origin nexus, the more robust the competitive advantage created by the differentiation is likely to be',²⁹ providing a greater accessibility to markets and hence generating economic benefits. Besides, in localising production of goods that often involve labour-intensive production techniques, the link to origin may also contribute to the preservation and creation of job opportunities in the different stages of the production processes.³⁰ These aspects will be dealt with in Chapters 5 and 7, respectively.

According to Article 5.1 of Regulation 1151/2012, PDOs are names identifying products 'whose qualities or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural *and* human factors; and the production steps of which all take place in the defined geographical area' [emphasis added]. This definition has been closely modelled on French AOCs,³¹ which also emphasise the importance of both natural factors (geographical *milieu* including soil, climate etc.) and human factors (the producers' know-how, methods etc.). Through this definition, AOCs and PDOs seek to guarantee a highly distinctive link between a product and its place of origin – in other words, its *terroir* connection – from which the product derives its 'typicity'.³²

The French concept of *terroir*, which has no equivalent term in any other language,³³ has been defined by INAO and the French National Institute for Agricultural Research as 'a determined geographical area, defined by a human community, which generates and accumulates along its history a set of distinctive cultural traits, knowledge and practices based on a system of interactions between the natural environment and human factors. The know-how involved carries originality, confers its typical nature, and enables recognition of the goods and services

29 C. Bramley and E. Biénabe, 'Developments and considerations around geographical indications in the developing world' (2012) 2(1) Queen Mary Journal of Intellectual Property 14, 23.

30 D. Downes and S. Laird, 'Community Registries of Biodiversity-Related Knowledge: The Role of Intellectual Property in Managing Access and Benefit' (1999) Paper prepared for UNCTAD Biotrade Initiative <<http://www.ciel.org/Publications/CommunityRegistries.pdf>> accessed 03/09/2018.

31 According to Article L.115-1 of the Consumer Code, AOCs are 'the denomination of a country, region or locality which serves to designate a product originating therein whose quality or characteristics are due to the geographical environment, including natural factors and human factors' ('Constitue une appellation d'origine la dénomination d'un pays, d'une région ou d'une localité servant à désigner un produit qui en est originaire et dont la qualité ou les caractères sont dus au milieu géographique, comprenant des facteurs naturels et des facteurs humains').

32 E. Barham, "'Translating Terroir' Revisited: The Global Challenge of French AOC Labelling" in D. Gangjee (ed.) *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 46, 66.

33 L. Bérard, 'Terroir and the Sense of Place' in D. Gangjee (ed.), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 72, 84.

originating from this specific geographical area and thus of the people living within it'.³⁴ As noted by Le Goffic,³⁵ the definitions of AOCs and PDOs, in referring to a geographical *environment* including both natural and human factors, are the legal translation of the geographical concept of *terroir*.

By contrast, the definition of PGIs does no mention natural or human factors. According to Article 5.2 of Regulation 1151/2012, PGIs are names attached to products 'whose given quality, reputation or other characteristic is essentially attributable to its geographical origin; and at least one of the production steps of which take place in the defined geographical area'. This definition, which echoes the definition of GIs provided by TRIPS (see Chapter 1), is very similar to that of IGPIAs.³⁶ For both qualifications, the product/origin nexus does not derive from the geographical *environment* but from the geographical *origin*. In not requiring the combination of natural and human factors while accepting reputation as a sufficient ground for protection, the definitions of French IGPIAs and European PGIs allow for a more flexible link to origin. Further, contrary to PDOs which require that all the stages of production shall take place in the geographical area, PGIs require that only one stage of the production should take place in the geographical area.

Historically, the existence of the dual system of PDOs/PGIs at the European level results from different traditions among the EU Member States.³⁷ While some countries, such as France and Italy, were attached to the *terroir* concept, others, such as Germany and the UK, used simple indications of origin³⁸ involving a 'quality-neutral' link³⁹ between the product and the

34 F. Casabianca and others, 'Terroir et typicité: propositions de définitions pour deux notions essentielles à l'appréhension des indications et du développement durable' (2006) 2 Terroirs viticoles, Actes du VIe Congrès International des Terroirs Viticoles 544, 546.

35 C. Le Goffic, 'L'appellation d'origine, reconnaissance juridique du concept géographique de terroir' (2007) 358(37) Revue de droit rural 32.

36 According to Article L.721-2 of the IP Code, IGPIAs are 'the denomination of a geographical area or a specific place which serves to designate a product other than from the agricultural, forestry, food and fishery sector, originating therein and whose given quality, reputation or other characteristic is essentially attributable to its geographical origin' ('Constitue une indication géographique la dénomination d'une zone géographique ou d'un lieu déterminé servant à désigner un produit, autre qu'agricole, forestier, alimentaire ou de la mer, qui en est originaire et qui possède une qualité déterminée, une réputation ou d'autres caractéristiques qui peuvent être attribuées essentiellement à cette origine géographique').

37 D. Gangjee, 'From Geography to History: Geographical Indications and the Reputational Link' in I. Calboli and W.-L. Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture in the Asia-Pacific* (CUP, 2017) 47-49.

38 D. Gangjee, 'Melton Mowbray and the GI Pie in the Sky: Exploring Cartographies of Protection' (2006) 3(291) *Intellectual Property Quarterly* 291, 301.

39 C. Correa, *Trade Related Aspects of Intellectual Property Rights. A Commentary on the TRIPS Agreement* (OUP, 2007) 211.

geographical origin and which correspond to a ‘minimalist regulation of truth telling’.⁴⁰ However, the distinction between PDOs and PGIs may be primarily symbolic, considering that the registration procedure and the scope of protection are identical, as will be shown below.

The absence of a *sui generis* protection for industrial and artisanal products at the European level is traditionally explained by the value attached to ‘a notion of *terroir* heavily influenced by a deterministic understanding of the importance of physical geography inputs’,⁴¹ i.e. the presence of natural factors in the geographical and geological environment from where products derive their qualities and/or characteristics. As recalled by Marie-Vivien, this strict interpretation of the link to origin historically results from the monitoring system of wine production in France.⁴² Yet it is difficult to reconcile this deterministic approach to *terroir* with the greater social and cultural dimensions embodied in artisanal and industrial products, including the producers’ know-how, skills and practices, especially as these can move outside the area of origin.⁴³ The establishment of the link between an industrial and artisanal product and its geographical origin thus calls for a new type of *terroir* connection, which would provide more space to accommodate human factors and reputation.⁴⁴

2.1.2 Choice of the name

AOCs, IGPIAs, PDOs and PGIs are formed with appellations that may be names of a country, region, locality or a specific area,⁴⁵ yet non-geographical names are also eligible for protection if they have been traditionally used to refer to the geographical origin of the product. For instance, the name Pélardon does not refer to any geographical area but derives from old names used in relation to the goat cheese produced in the Cévennes area in the 17th Century, including ‘péraldou’, ‘pélardou’, or ‘pélaudou’. These various names may themselves come from the

40 D. Gangjee, *Relocating the Law of Geographical Indications* (CUP, 2012) 21.

41 D. Gangjee, ‘Geographical Indications and Cultural Heritage’ (2012) 1(4) *The WIPO Journal* 85.

42 D. Marie-Vivien, ‘The Protection of Geographical Indications for Handicrafts: How to Apply the Concepts of Natural and Human Factors to All Products’, 2013 4(2) *WIPO Journal* 19.

43 D. Marie-Vivien, ‘A comparative analysis of GIs for handicrafts: the link to origin in culture as well as nature?’ in D. Gangjee, *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 292, 295.

44 Gangjee ‘From Geography to History’ (n37); Marie-Vivien, ‘Do Geographical Indications for Handicraft Deserve a Special Regime?’ (n28).

45 For AOCs: Consumer Code, Article L. 431-1; for IGPIAs: IP Code, Article L.721-2; for PDO/PGIs: Regulation 1151/2012, Article 5.

term ‘pèbre’ that means pepper and which may relate to the spicy taste of the cheese. As for the name ‘Berry’, it is the historical name of a French province that existed until the French Revolution abolished its boundaries in 1790.

Importantly, the names cannot be generic⁴⁶ as these have become common names identifying a category of products and, as such, as are no longer understood as indicating the specific origin of the goods. Although French law is silent on the issue of generic terms, the French jurisprudence has excluded such names from the scope of protection of AOCs, for instance ‘Moutarde de Dijon’.⁴⁷ Likewise, the European legislation explicitly mentions that generic terms shall not be registered as PDOs/PGIs.⁴⁸ The issue of genericity is particularly important in the Marseille soap case study. French courts ruled in the 1920s that the name is not an indication of origin; that it has entered the public domain; and that it has become a generic appellation that can be used for any product whose composition (and not method of production or origin) is consistent with the usual practices.⁴⁹ As a result, no less than sixty-two trade marks combining the name ‘savon de Marseille’ have been registered by INPI so far – sometimes even including the qualification ‘traditional’.⁵⁰ At the time of writing, the protection of the denomination ‘savon de Marseille’ as an IGPIA is under dispute among three producer organisations. An important issue that INPI has to solve is to decide whether the name has become generic and, if not, for which type of product the IGPIA should be granted (see Chapters 4 and 6).⁵¹

2.1.3 Collective action

The voluntary and collective action of local operators which, as suggested by Le Goffic, emphasises the idea of human community contained in the definition of *terroir*,⁵² is fundamental to initiate the application process in the AOCs, IGPIAs, and PDO/PGI systems.

46 ECJ, *Feta*, 25 October 2005, C-465/02 and C-466/02 [86].

47 CA Paris, 19 mars 1929, Ann. propr. ind. 1930, 257.

48 Regulation 1151/2012, Article 6.1.

49 Société nouvelle des savons de Marseille C. Syndicat des fabricants de savon de Marseille, Cour de Cassation, 24 October 1928.

50 See INPI’s database: <https://bases-marques.inpi.fr/Typo3_INPI_Marques/marques_resultats_liste.html> accessed 21/08/2018.

51 For general background on the issue of genericity, see D. Gangjee, ‘Genericide: the death of a Geographical Indication?’ in D. Gangjee (ed.) *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 508.

52 Le Goffic, ‘L’appellation d’origine’ (n35).

In involving a participatory process, this requirement has significant consequences on the mobilization, participation and empowerment of local actors (see Chapter 4).

According to Article 49.1 of Regulation 1151/2012, '[a]pplications for registration of names under the quality schemes (...) may only be submitted by groups who work with the products with the name to be registered' except in exceptional cases, with groups being defined as 'any association, irrespective of its legal form, mainly composed of producers or processors working with the same product'.⁵³

In France, the role of producers was first promoted with the Decree-Law of 1935 that required INAO to consult producer unions before proposing the recognition of an AOC.⁵⁴ It was subsequently strengthened⁵⁵ with a new Order adopted in 2006 for the promotion of agricultural, forestry, food and seafood products [hereafter, Order of 2006].⁵⁶ Following this Order, all operators involved in the production, processing, elaboration and packaging of the product⁵⁷ must group together within one single entity with legal personality.⁵⁸ This has put an end to the possibility that the same AOC is claimed by rival producer unions.⁵⁹ Such entity, to which all operators must necessarily adhere,⁶⁰ must be recognised by INAO as an Organisation for the Defence and Management of the AOC (*Organisme de Défense et de Gestion*, ODG)⁶¹ on the basis of its representativeness and the balanced representation of the different professional groups involved.⁶² These requirements, that are not mentioned in European law, aim to ensure the democratic functioning and inclusivity of the producers' organisations,⁶³ which have been identified as a key factor for the success of GI initiatives.⁶⁴ Similarly, the

53 Regulation 1151/2012, Article 3(2).

54 Decree-Law of 30 July 1935, Article 21.

55 D. Marie-Vivien, 'The Role of the State in the Protection of Geographical Indications: From Disengagement in France/Europe to Significant Involvement in India' (2010) 13 JWIP 121, 126.

56 *Ordonnance 12006-1547 du 7 décembre 2006 relatif à la valorisation des produits agricole, forestiers ou alimentaires et des produits de la mer* (Order of 7 December 2006 for the promotion of agricultural, forestry, food and seafood products) (8 décembre 2006) JO 18607.

57 Rural Code, Article L.642-3.

58 Rural Code, Article L.642-17.

59 C. Le Goffic, 'La protection des indications géographiques' (n16) 253. For examples of conflicts between rival producer unions, see N. Olszak, 'Actualité du droit des signes d'origine et de qualité (indications géographiques, labels)' (2007) 9 *Propriété industrielle* 6, 10.

60 Rural Code, Articles L.642-3 and L.642-21.

61 Rural Code, Article L.642-17.

62 Rural Code, Article L.642-18.

63 INAO, 'Guide du demandeur pour la reconnaissance en qualité d'organisme de défense et de gestion' (Janvier 2016) 10.

64 N. Ackermann and F. Russo, 'Adding value to traditional products of regional origin: A guide to creating a quality consortium' (UNIDO, 2010) 49.

regulation on IGPIAs requires that, as a condition for granting the protection,⁶⁵ their defence and management must be carried out by an ODG that must ensure the representativeness of the operators.⁶⁶

Details of these requirements are provided by INAO. To assess the representativeness of the ODGs, information shall be provided on the number of operators who are already members of the candidate body and the volumes they produce as compared with the total production volume.⁶⁷ Further, to ensure the democratic functioning of the ODG, all members shall have the right to participate in its general assemblies, taking into account that quorum rules for decision-making should guarantee their proportional representation.⁶⁸ Finally, all the different professional groups involved, including producers, processors and packagers, should be equally represented in all decision-making bodies, including the board of directors and the general assembly.⁶⁹ These requirements have significant consequences on the nature of collective dynamics involved in the creation process and operation of the GI initiatives (see Chapter 4).

Whereas the ODGs for agro-food products must be recognised by INAO as a pre-condition for the AOC, PDO and PGI recognition,⁷⁰ the recognition of an IGPIA confirms recognition of the ODG by INPI.⁷¹

Applications must be submitted by the ODGs⁷² to INAO (for AOCs, PDOs and PGIs)⁷³ or INPI (for IGPIAs),⁷⁴ thereby giving local operators grouped within an association a key role in the initiation of the application process. Thus, the application process is based on a bottom-up and participatory approach. This approach stands in sharp contrast with Vietnam's top-down and state-driven processes (see Chapter 3).

65 IP Code, Article L.721-3.

66 IP Code, Articles L.721-4 and L.721-6, 4°.

67 INAO (n63).

68 *ibid* 11.

69 *ibid* 12.

70 Rural Code, Article L.642-17.

71 IP Code, Article L.721-3, 5°.

72 For AOCs: Rural Code, Article L.641-6; for IGPIAs: IP Code, Article L.721-3, 1°.

73 Consumer Code, Art. L.115-21 and Rural Code, Article R.641-11.

74 IP Code, Article L.721-3.

Two comments can be made on the nature of the ODGs. On the one hand, it is remarkable that the representativeness of the ODGs, and the balanced nature of the representation of the different categories of operators who work with the product, are mandatory criteria for the recognition of AOCs and IGPIAs. On the other hand, the compulsory membership of all operators has proved controversial as it is contrary to European law and may also affect the constitutional freedom of association, including the freedom not to join an association, as established by article L.411-8 of the French Labour Code, Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 12 of the EU Charter of Fundamental Rights. This appears to be a concern more particularly with regard to the obligation to pay fees.⁷⁵ For Olszak, the compulsory membership cannot be a legal requirement but only a ‘natural obligation’ and ‘voluntary commitment to fulfil the moral duty of defending an appellation’.⁷⁶ This points to the relationship between generations of producers who have developed the product and built its reputation over time and individual operators who sustain the appellation in the present time. The recognition of an appellation derives from intergenerational transmission of specific knowledge and practices of producers over time, which alludes to the continuity or organic nature of the community. In practice, an appellation requires the actions of individual operators who produce and market the labelled products,⁷⁷ and who should not be legally required to join one single entity with legal personality.

The missions entrusted to producers through the ODGs will be detailed in Chapter 4. Of particular importance is that they include the elaboration of a CoP at the core of the application process which, before the reform of 2006, was previously drafted by INAO together with producers.⁷⁸ This points to a progressive disengagement of the French State and increased powers of producers.⁷⁹ The objectives also encompass the elaboration of the control plan and participation in its implementation.⁸⁰

75 Rural Code, Article L.642-24.

76 Conseil d’Etat, 12/02/2007, Ass. Sopravit et autres, n° 301131, Gaz. Pal., 18/08/2007, n° 230, note N. Olszak 9.

77 Olszak, *Le droit des appellations d’origine* (n5) 83.

78 *ibid* 157-158.

79 Marie-Vivien, ‘The Role of the State in the Protection of Geographical Indications’ (n55) 126.

80 For AOCs, Rural Code: Article L.642-22; for IGPIAs: IP Code, Article L.721-6.

2.1.4 Codes of practice

The elaboration of a CoP ('product specifications' in European law) is a key element of all AOCs, IGPIAs and PDOs/PGIs applications.⁸¹ It is the fundamental document upon which the quality control mechanisms are based and it guarantees to consumers a product's specific qualities and characteristics.⁸² As stressed by Regulation 1151/2012, '[t]he added value of [GIs] is based on consumer trust [and] is only credible if accompanied by effective verification and controls'.⁸³ To that end, 'operators should be subject to a system that verifies compliance with the product specification'.⁸⁴

The CoP is generally regarded as the masterpiece of collective action as it must be agreed upon collectively by producers,⁸⁵ which highlights their pivotal role in the definition of the products. As such, the law provides local producers with the necessary space to take ownership of the initiatives (see Chapter 4). The CoP must be approved by INAO (for AOCs, PDOs and PGIs)⁸⁶ or INPI (for IGPIAs)⁸⁷ and published in a ministerial decree for AOPs,⁸⁸ the Official Industrial Property Gazette for IGPIAs,⁸⁹ or the Official Journal of the European Union (OJEU) for PDOs/PGIs.⁹⁰

As a detailed technical document that describes the specificity of the product, the CoP includes:⁹¹

- (i) the name of the product;
- (ii) the definition of the geographical area;
- (iii) the description of the product, including the raw materials if appropriate;
- (iv) the description of the link between the product and its geographical origin;

81 For agro-food products: Rural Code, Article L.641-6 and Regulation 1151/2012, Article 8(b); for industrial and artisanal products: IP Code, Articles L.721-3 and R.721-1.

82 G. Allaire, F. Casabianca, E. Thévenod-Mottet (n12) 1, 8.

83 Regulation 1151/2012, Recital 46.

84 Regulation 1151/2012, Recital 47.

85 S. Révion and J.-M. Chappuis, 'Geographical Indications: Collective Organization and Management' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 45, 53.

86 Consumer Code, Article L.115-21. See Rural Code, Articles L.641-6, L.641-10 and L.641-11, for AOCs, AOPs and IGP, respectively.

87 IP Code, Article L721-6, 1°.

88 Rural Code, Article L641-7.

89 IP Code, Article L721-3, 5°.

90 Regulation 1151/2012, Article 50.2.

91 For AOCs: Rural Code, Article R.641-12; for PDOs/PGIs: Regulation 1151/2012, Article 7; for IGPIAs: IP Code, Article L.721-7.

- (v) the conditions of production, including technical, environmental and cultural norms; and
- (vi) the control plan and arrangements.

Interestingly, the regulation on IGPIAs goes further by specifying that the CoPs may also include, as a facultative option, the social and environmental commitments of the ODG, thereby pointing to the potential multi-functionality of GIs.⁹²

The CoP is thus a normative document that codifies the product quality and cultural and agro-environmental practices. Despite their mandatory content, the CoPs allow for some flexibility and can vary greatly in terms of details and standards. Indeed, local stakeholders taking part of the elaboration process are ultimately the ones deciding which criteria and rules of production to include – or deliberately ignore.⁹³ This aspect reminds us that, beyond the normative aspect, the CoP is also a strategic tool that may have exclusionary effects deriving from the definition of the geographical area or the conditions of production.⁹⁴ The way in which the CoPs were elaborated in our case studies, including which economic, environmental or cultural interests were represented or excluded from such process, will be discussed in Chapter 4.

2.1.5 Quality controls

To verify compliance with the CoP and monitor the use of registered names on the market,⁹⁵ Regulation 1151/2012 requires Member States to designate the competent authority(ies) responsible for official controls.⁹⁶ These must offer adequate guarantees of objectivity and impartiality⁹⁷ and may delegate the control tasks to one or more control bodies⁹⁸ that shall be accredited in accordance with European Standard EN 45011 or ISO/IEC 65.⁹⁹ Member States are under the obligation to organise external controls but are free to decide whether these shall

92 IP Code, Article L.721-7.

93 For more detailed discussion on the flexibilities of the PDO/PGI registration system, see Gangjee, 'Proving provenance?' (n3) 18-20.

94 G. Belletti and A. Marescotti, 'Origin products, geographical indications and rural development' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 75, 82.

95 Regulation 1151/2012, Article 36.3.

96 Regulation 1151/2012, Article 36.1.

97 Regulation 1151/2012, Article 36.2.

98 Regulation 1151/2012, Article 39.1.

99 Regulation 1151/2012, Article 39.2.

be carried out by public or private certification entities, which was an important reform introduced by Regulation 510/2006. This has resulted in a variety of approaches across Member States. For instance, in Czech Republic, Finland and Luxembourg, external controls are carried out by public bodies that are not accredited with any European standard,¹⁰⁰ whereas in the UK they are undertaken by a designated private firm except in some cases where local authorities and Trading Standards officers can also act as inspectors.¹⁰¹

In France, the establishment of control mechanisms is a prerequisite for the recognition of AOCs¹⁰² and IGPIAs.¹⁰³ This shows how essential controls are to guarantee the specificity and quality of local products in consistency with their CoP.¹⁰⁴ Whereas INAO was traditionally in charge of the controls and sanctions for AOCs – and hence PDOs/PGIS –, the Order of 2006 introduced a major reform by making it mandatory – and not only optional as per Regulation 510/2006 – for controls to be carried out by private, independent third bodies. These bodies must be chosen by the ODG,¹⁰⁵ approved by INAO¹⁰⁶ as the national competent authority responsible for official controls, and accredited according to the relevant national and European technical accreditation standards.¹⁰⁷ As noted by Marie-Vivien, this reform, which was justified by the need to tackle the partiality and inefficiency of the controls that INAO used to delegate to professional syndicates, as well as to reduce public spending, has led to a reduction of the role of INAO and hence of the state.¹⁰⁸

While the ODGs could traditionally choose between inspection and certification bodies, since 2013 only the latter can be responsible for quality controls of AOC, PDO and PGI products.¹⁰⁹ The control of IGPIAs is more flexible considering that the ODGs can choose between inspection bodies and certification bodies, who must be accredited by the French accreditation

100 London Economics, 'Evaluation of the CAP Policy on Protected Designations of Origin (PDO) and Protected Geographical Indications (PGI)' (Final Report, 2008) 73.

101 *ibid* 74.

102 Rural Code, Article L.641-5.

103 IP Code, Articles L.721-3 and L.721-7.

104 Le Goffic, 'La protection des indications géographiques' (n16) 112.

105 Rural Code, Article R.642-37, 1°.

106 Rural Code, Article L.642-5, 4°.

107 Rural Code, Article R.642-53.

108 D. Marie-Vivien and others, 'Are French Geographical Indications Losing Their Soul? Analyzing Recent Developments in the Governance of the Link to the Origin in France' (2017) 98 *World Development* 25, 27.

109 *ibid* 29.

authority (COFRAC).¹¹⁰ The main difference between inspection and certification bodies is that the former send their evaluation reports to the ODGs who decide on the sanctions while the latter decide on the sanctions themselves.¹¹¹ For instance, in our case studies, the certification bodies are Veritas,¹¹² Certipaq¹¹³ and Qualisud¹¹⁴ for green lentils from Berry, bouchot mussels from Mont-St-Michel Bay and Pélardon cheese, respectively.

The law on IGPIAs does not provide detail on the type of controls to be carried out. As for AOC, PDO and PGI products, control plans must be elaborated by the certification body in cooperation with the ODG¹¹⁵ and approved by INAO.¹¹⁶ They shall provide for three types of controls:

- (i) self-monitoring carried out by the operators on their own products;
- (ii) internal controls conducted under the supervision of the ODG; and
- (iii) external controls performed by the certification bodies¹¹⁷ under the authority of INAO¹¹⁸ and whose costs are borne by producers/processors.¹¹⁹

In addition, an organoleptic examination of the products shall be carried out by a commission made up of competent professionals and experts.¹²⁰

In the case of AOCs, PDOs and PGIs, the certification body has broad powers to decide on the granting, maintenance, and extension of the certification.¹²¹ It can take appropriate measures to sanction failures to observe the CoP, can suspend or withdraw producers' certification,¹²²

110 IP Code, Article L.721-9.

111 *ibid.* Besides, certification bodies must be accredited by the French Accreditation Committee (COFRAC) in accordance with EN 45011. See Marie-Vivien, 'Are French Geographical Indications Losing Their Soul?' (n108) 28.

112 See <<https://www.bureauveritas.fr/home/about-us/our-business/certification#>> accessed 21/08/2018.

113 See <<https://www.certipaq.com/>> accessed 21/08/2018.

114 See <<http://www.qualisud.fr>> accessed 21/08/2018.

115 Rural Code, Article L.642-32 and Article R.642-39.

116 Rural Code, Article L.642-5, 3°.

117 Rural Code, Article R.642-39.

118 Rural Code, Article L.642-27.

119 *ibid.*

120 *ibid.*

121 Rural Code, Article L.642-30.

122 *ibid.*

and informs INAO of any such decision.¹²³ Regarding IGPIAs, non-compliant operators are subject to a warning or exclusion procedure.¹²⁴

2.1.6 Right to use

Only those stakeholders who are located inside the concerned region and who comply with the CoP have the right to use the AOC,¹²⁵ IGPIA,¹²⁶ PDO or PGI logos,¹²⁷ taking into account that the use of an AOC, PDO and PGI logo is also subject to results of the quality controls.¹²⁸ Besides, French law requires all operators to adhere to the ODG in order to have the right to use the logos.¹²⁹ However, this membership requirement appears to be contrary to the European PDO/PGI scheme, directly applicable in France, which does not require the establishment of unique organisations with legal personality. On the contrary, European legislation enshrines the principle of availability of PDOs/PGIs by declaring that these may be used by any operator marketing a product conforming to the corresponding specification.¹³⁰

Since May 2009, the use of PDO and PGI logos (or the indications ‘protected designation of origin’ or ‘protected geographical indication’) is mandatory on the labelling of the products that are marketed under a registered PDO or PGI.¹³¹ This reform was driven by the need to increase consumers’ awareness of these signs following a survey conducted in 2007 that showed that only 8% of European consumers recognize the PDO and PGI logos.¹³² Since January 2012, AOC products registered at the European level can only bear the PDO label or indication but not the AOC logo.¹³³

123 Rural Code, Article R.622-55.

124 IP, Code Article L.721-7, 9°.

125 Rural Code, Article L.641-5.

126 IP Code, Articles L.721-5, L.721-9 and R.721-8.

127 Regulation 1151/2012, Article 12.1.

128 Rural Code, Article L.642-3.

129 For IGPIAs: IP Code, Article L.721-5; for AOC, PDO and PGIs: Rural Code, Articles L.642-3 and L.642-21. As confirmed by the Council of State (CE, 12 February 2007, n° 301131).

130 Regulation 1151/2012, Article 12.1.

131 Regulation 1151/2012, Article 12.3.

132 London Economics (n100) 259.

133 *Décret 2007-30 du 5 janvier 2007 relatif à la valorisation des produits agricoles, forestiers ou alimentaires et des produits de la mer* (Decree 2007-30 of 5 January 2007 on the enhancement of agricultural, forestry or food and seafood products), Article 6.

Picture 2.1

Logos of the different signs of quality and origin in use in France



The right to use does not mean that the operators *own* the appellation. In effect, both French and European law is silent on the issue of ownership. As suggested by Le Goffic, GIs do not belong to any individual, collective, private or public person, including local stakeholders, the ODG, INAO, INPI or the state, as confirmed by the highest French Court.¹³⁴ Rather, they are considered as common goods that cannot be appropriated, are non-rivalrous (the use of the label by an operator does not preclude another's use) and non-excludable (any operator located inside the concerned region and who comply with the CoP have the right to use).¹³⁵ This is a significant difference in comparison with trade marks (see Section 2.2) as well as with the state ownership of *sui generis* GIs in Vietnam (see Chapter 3). One consequence of the principle of 'non-appropriation' of *sui generis* GIs is that they cannot be sold, licensed or transferred.¹³⁶

2.1.7 Public dimension

Contrary to other IPRs, and despite their categorisation as voluntary standards,¹³⁷ the *sui generis* protection of GIs in France and in Europe has traditionally been characterised by a strong public dimension. The involvement of state authorities is usually justified by the need to provide an effective guarantee of the origin, quality and characteristics of the GI product to consumers.

134 Cass. Com., 24 March 1992, 89-20.178.

135 Le Goffic, 'La protection des indications géographiques' (n16) 255-282.

136 S. Stern, 'Are GIs IP?' (2007) 29(2) European Intellectual Property Review 39.

137 Marie-Vivien and others, 'Are French Geographical Indications Losing Their Soul?' (n108) 25.

The public dimension of *sui generis* GIs is first reflected in their recognition process. In France, the recognition of AOCs leads to the publication of a ministerial decree that shall validate the CoP on a proposal of INAO¹³⁸ that cannot be amended, after a two-month national opposition procedure.¹³⁹ In a similar way, IGPIAs are recognised following a decision taken and published by INPI in the Official Industrial Property Gazette¹⁴⁰ after a two-month public survey¹⁴¹ and consultation of stakeholders.¹⁴² At the European level, the recognition of PDOs and PGIs is published in an implementing act of the Commission.¹⁴³

The public dimension of GIs is also reflected in the important role that Member States play as the first tier to evaluate and validate the PDO/PGI applications submitted at the national level, which includes the potential for a national opposition procedure,¹⁴⁴ before transferring them to the Commission, which triggers the European phase of the procedure.¹⁴⁵ Groups of local operators cannot submit their PDO or PGI application directly to the Commission. In France, it is INAO who processes the applications and acts as an intermediary between local operators and the MAF. Subsequently, the MAF transfers the applications proposed by INAO to the Commission.¹⁴⁶ The internal application procedure for PDOs and PGIs is the same as for French AOCs. The mechanism is based on the *lex rei sitae* principle and the consideration that countries where GIs are located are best able to evaluate the link to origin.¹⁴⁷

At the European level, the Commission is required to scrutinise the application for a maximum period of six months.¹⁴⁸ In this regard, it is noteworthy that, despite the official length of the European procedure for the scrutiny of the applications, its complexity and duration – which was reported to last on average four years –¹⁴⁹ has been pointed as an issue discouraging

138 Rural Code, Article L.641.7.

139 Rural Code, Article R.641.13.

140 IP Code, Article L.721-3, 5°.

141 IP Code, Article R.721-3.

142 IP Code, Article L.721-3.

143 Regulation 1151/2012, Article 52.2.

144 Regulation 1151/2012, Article 49.

145 Regulation 1151/2012, Article 49.4.

146 Rural Code, Article R.641.20.

147 J. Derruppe, 'Appellations d'origine, indications de provenance' in *Repertoire de Droit international* (dir.), Encyclopédie Dalloz.

148 Regulation 1151/2012, Article 50.1.

149 European Court of Auditors, 'Do the Design and Management of the Geographical Indications Scheme Allow it to be Effective?' (Special Report No 11, Luxembourg' 2011) [37].

potential applicants.¹⁵⁰ Case studies also show a disconnect between producers' needs and European bureaucracy. As summarised by an INAO officer, 'to be clear, European officials don't understand anything about the products which is absolutely normal considering that they cannot have a full knowledge of all European products. They just have to verify that the applications sent by the Member States meet the European criteria. Yet we lose a lot of time trying to explain to the Commission how the product is made'.¹⁵¹

The Commission only checks for manifest errors,¹⁵² contrary to Member States who are supposed to examine the substance of the application, including the definition of the geographical area and the conditions of production. Ultimately, based on its own scrutiny and the evaluation of any notice of opposition received during a three-month opposition procedure,¹⁵³ the Commission may either reject the application or register the PDO/PGI on the publicly accessible DOOR register.¹⁵⁴

The role of the state is also important in the choice and implementation of the official control mechanisms although, as discussed previously, INAO's role has been reduced since 2006 to the approbation of the control plans, the accreditation of the certification bodies and their evaluation. Yet the involvement of INAO provides AOCs, PDOs and PGIs with a strong public and regulatory dimension, as opposed to the freedom enjoyed by the trade mark owners in the choice of the controls.¹⁵⁵

Finally, whereas the law is silent on the role of the INPI in defending IGPIAs, the role of INAO explicitly extends to the defence and promotion of quality signs both in France and abroad.¹⁵⁶

150 *ibid* [33]-[38].

151 Interview F-C10.

152 CJCE, 6/12/2001, *Carl Kühne GmbH & Co. KG and Others v Jütro Konservenfabrik GmbH & Co. KG.*, Case C-269/99, paras. 58 and 60.

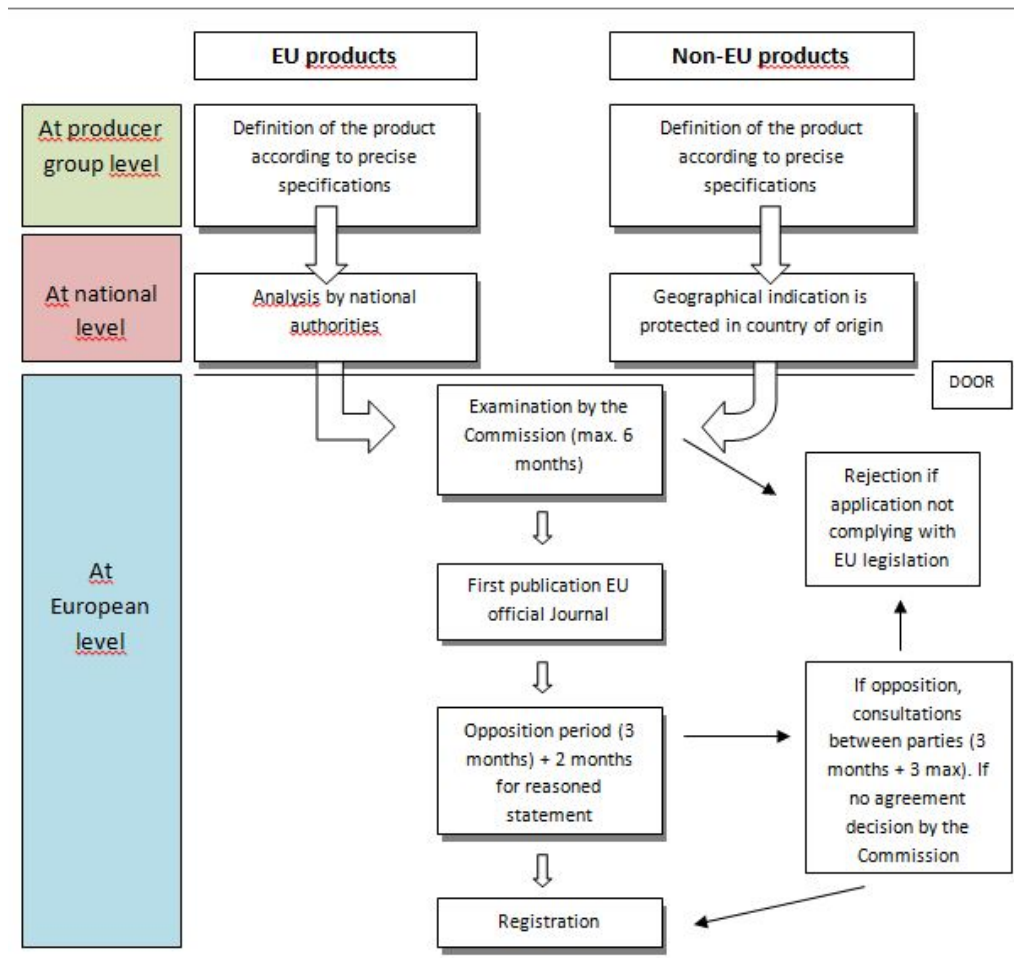
153 Regulation 1151/2012, Article 51.

154 Regulation 1151/2012, Article 11. The DOOR database is available here: <<http://ec.europa.eu/agriculture/quality/door/list.html>> accessed 10/08/2018.

155 Le Goffic, 'La protection des indications géographiques' (n16) 113.

156 Rural Code, Article L.642-5, 8°.

Figure 2.1
Registration procedure of PDOs and PGIs



Source: European Commission, Agriculture and Rural Development Directorate General

It follows from the above that the role of the state through the MAF and INAO is important in overseeing the whole application process, administering the control mechanisms and defending quality signs. At the same time, Marie-Vivien notes the progressive disengagement of the French State in the protection of GIs since the reform introduced in 2006 in at least two different ways: first, the producers' empowerment through the increased role of ODGs in the application process and the elaboration of the CoP; second, the shift of quality control processes from the state (INAO) to private, independent certification bodies.¹⁵⁷

¹⁵⁷ Marie-Vivien 'The Role of the State' (n55) 126-128.

2.1.8 Absolute protection

The protection of AOCs, IGPIAs and PDOs/PGIS is similar, although European legislation is more detailed. French legislation prohibits the use of any evocative term of the appellation on any similar product, as well as on other establishment, product or service when such use is likely to misappropriate or weaken the reputation of the name.¹⁵⁸ Likewise, European law protects against any direct or indirect commercial use on comparable products; any misuse, imitation or evocation, even if the true origin is indicated or if the protected name is translated or accompanied by an expression such as ‘style’, ‘type’, ‘method’, ‘as produced in’, ‘imitation’ or similar, including when those products are used as an ingredient; any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product; and any other practice liable to mislead the consumer as to the true origin of the product.¹⁵⁹

The French and European *sui generis* protection of GIs therefore appears to be the same as the highest ‘absolute’ level protection provided by Article 23 of TRIPS (see Chapter 1). Besides, *sui generis* GIs can never become generic and enter the public domain.¹⁶⁰ However, unlike French law on AOCs that only provides for sanctions in case of non-compliance with the CoP, both the French law on IGPIAs¹⁶¹ and European law on PDO/PGIS¹⁶² stipulate that the registration of the titles may be cancelled by INPI or the European Commission, respectively, where compliance with the CoP is not ensured (for both IGPIAs and PDO/PGIS), or no product is placed on market for at least seven years (for PDO and PGIS), or the controls are not carried out (for IGPIAs).

Contrary to the law on trade marks that limits the group of people who can bring an action for infringement (see Section 2.2), the protection of an AOC may be requested by any person authorised to use it,¹⁶³ the ODG¹⁶⁴ or INAO.¹⁶⁵

158 For AOCs: Rural Code, Article L.643-1, 2; for IGPIAs: IP Code, Article L.721-8-I.

159 For full detail, see Regulation 1151/2012, Article 13.

160 For AOCs: Rural Code, Article L.643-1; for IGPIAs: IP Code Article, L.721-8-II; for PDOs/PGIS: Regulation 1151/2012, Article 13.

161 IP Code, Article L.721-9.

162 Regulation 1151/2012, Article 54.1.

163 Consumer Code, Article L.115-8, and IP Code, Article L.722-2.

164 *ibid.*

165 Rural Code, Article L.642-5, 8°.

2.2 Trade mark protection of GIs

Unlike *sui generis* systems, trade mark systems are not specifically designed to protect GIs but *may* be used for that purpose under certain conditions. According to the IP Code, a trade mark (individual or collective) is ‘a sign which serves to distinguish the goods or services of a natural or legal person’.¹⁶⁶ Similarly, European law defines trade marks as signs ‘capable of distinguishing the goods or services of one undertaking from those of other undertakings [...]’.¹⁶⁷ Whereas *sui generis* GIs aim to identify the *geographical* origin of goods, trade marks convey information on the *commercial* origin of goods.

In France, trade marks can be protected through national and EU trade marks.¹⁶⁸ While the French national route provides protection on the French territory only, the EU scheme ensures a Union-wide protection. The recent ‘European trade mark reform package’ adopted in December 2015 has led to the publication of new instruments that will be referred to in this section:

- (i) for national trade marks: Directive (EU) 2015/2436¹⁶⁹ which has repealed Directive 2008/95/EC with effect from 15 January 2019 [hereafter, Directive 2015/2436]; and
- (ii) for EU trade marks: Regulation (EU) 2015/2424¹⁷⁰ amending Council Regulation (EC) 207/2009 on the Community Trade Mark¹⁷¹ and which has now been codified and replaced by Regulation (EU) 2017/1001 on the European Union trade mark which came into force on 1 October 2017 [hereafter, EUTMR]¹⁷²

This section will focus on certification and collective marks exclusively. Both types of mark serve different purposes.¹⁷³ Collective marks simply aim to distinguish the commercial origin

166 IP Code, Article L.711-1 (‘La marque de fabrique, de commerce ou de service est un signe susceptible de représentation graphique servant à distinguer les produits ou services d’une personne physique ou morale’).

167 Directive 2015/2436, Article 3 and EUTMR, Article 4.

168 Paris Convention for the Protection of Industrial Property, 20 March 1883, Article 7bis.

169 Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks.

170 Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) 207/2009 on the Community trade mark and Commission Regulation (EC) 2868/95 implementing Council Regulation (EC) 40/94 on the Community trade mark.

171 Council Regulation (EC) 207/2009 of 26 February 2009 on the Community trade mark.

172 Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark.

173 See WIPO ‘Technical and Procedural Aspects Relating to the Registration of Certification and Collective Marks’ 30 August 2010 (WIPO/Strad/INF/6) [21]-[22].

of goods on the basis of ‘club membership’ (through compliance with the users’ regulation¹⁷⁴ and membership of the association).¹⁷⁵ By contrast, certification marks serve the purpose to certify specific characteristics of the goods (which may include geographical origin) in consistency with the users’ regulations, and hence distinguish such goods from others that are not so certified.¹⁷⁶

It should be noted from the outset that both the French and European trade mark systems have important limitations as per their ability to protect GIs. First, although initially included in the proposal for this provision,¹⁷⁷ the EUTMR explicitly excludes the possibility to certify geographical origin for an EU certification mark (introduced for the first time in European law by the EUTMR).¹⁷⁸ This exclusion is surprising considering the expectations placed on certification marks to be more actively used for protecting GIs.¹⁷⁹ Second, the French law applicable to the certification of products, which certification marks must satisfy,¹⁸⁰ prohibits the use of geographic names in certificates of conformity for agro-food products unless such names have become generic.¹⁸¹ This tends to indicate that geographic names cannot be used as certification marks in relation to agro-food products.¹⁸² However, the absence of such provisions in the law applicable to the certification of non-agro-food products¹⁸³ suggests that geographical names can be used as certification marks in relation to industrial and artisanal products.

Consequently, three types of trade marks can apply to GIs:

1. EU collective marks for all products, as protected in European law under the EUTMR;
2. national collective marks for all products, as protected in French law and regulated by the IP Code under Directive 2015/2436; and

174 IP Code, Article L.715-1 (‘La marque est dite collective lorsqu’elle peut être exploitée par toute personne respectant un règlement d’usage établi par le titulaire de l’enregistrement’).

175 Directive 2015/2436, Article 27(b) and EUTMR, Article 74.1.

176 IP Code, Article L.715-1; Directive 2015/2436, Article 27(a); and EUTMR, Article 83.1.

177 Proposal for a Regulation of the European Parliament and of the Council Amending Council Regulation (EC) 207/2009 on the Community Trade Mark (March 2013) COM(2013) 161 final, 2013/0088 (COD), Article 74b(3).

178 EUTMR, Articles 83.1 and 85.

179 European Commission, ‘Green paper on agricultural product quality: product standards, farming requirements and quality schemes’, COM(2008) 641 final, 18-19.

180 IP Code, Article L.715-2, 5°.

181 IP Code, Article L.715-2, 5°, and Rural Code, L.641-21.

182 Le Goffic, ‘La protection des indications géographiques’ (n16) 63.

183 Consumer Code, Articles L.433.3-L433.11.

3. national certification marks for industrial and artisanal products, as protected in French law and regulated by the IP Code under Directive 2015/2436.

Without going through a detailed analysis of French and European legislation, the sections below will highlight the main features that are of interest to this research project. These include:

- (i) the distinctiveness of geographical names;
- (ii) the question of ownership;
- (iii) the users' regulations;
- (iv) the quality control mechanisms;
- (v) the right to use;
- (vi) the non-transferability issue; and
- (vii) the relative protection.

2.2.1 Distinctiveness of geographical names

Both French¹⁸⁴ and European law¹⁸⁵ allow for geographical names to be registered as collective trade marks. However, in French law, the use of geographical names as collective and/or certification trade marks (for industrial and artisanal products only) is subject to the distinctiveness requirement.¹⁸⁶ This requirement entails that trade marks must have a distinctive character, which refers to 'the uniqueness or singularity of the mark, to the degree to which it stands out from the crowd of competing signs in the marketplace'.¹⁸⁷ Consequently, the use of descriptive names that may serve to designate the geographical origin of the goods is expressly prohibited.¹⁸⁸ The reason for such prohibition is that descriptive geographical names are of general interest¹⁸⁹ and should remain available to all economic actors operating in the same area.¹⁹⁰ Although the use of descriptive geographical names *alone* is prohibited,

184 IP Code, Article L.711-1(a).

185 For national trade marks: Directive 2015/2436, Article 28.4 and 29.3, as a derogation from the general prohibition to use geographical names as per Art. 4(1)(c). For EU trade marks: EUTMR, Article 74.2, as a derogation from the general prohibition to use geographical names as per Art. 7.1(g).

186 See WIPO (n173) [24]-[25].

187 B. Beebe, 'Search and Persuasion in Trademark Law' (2005) 103 Mich. L. Rev. 2020, 2030.

188 IP Code, Article L.711-2.

189 ECJ, *Windsurfing Chiemsee Produktions- und Vertriebs GmbH (WSC) v Boots- und Segelzubehör Walter Huber and Franz Attenberger*, C-108/97 and C-109/97, I-2779, paras 25-27.

190 Le Goffic, 'La protection des indications géographiques' (n16) 296.

collective and certification marks may consist of complex marks combining words, graphical and figurative signs, as illustrated by the certification mark ‘Laguiole Origine Garantie’ registered since 2001 and, among our case studies, the collective mark ‘Savon de Marseille’ registered as a collective mark in 2012. This is because those additional elements make the trade marks distinctive.¹⁹¹ This is an important difference with AOCs, IGPIAs, and PDOs/PGIs, which may all consist of geographical names exclusively.

Picture 2.2

Examples of complex marks with geographical names



It should be noted that the application of the distinctiveness requirement reflects the decision of French legislators not to use the permitted derogations from the prohibition of Directive 2015/2436 to use geographical names.¹⁹² These derogation provisions allow Member States to ‘provide that signs or indications which may serve, in trade, to designate the geographical origin of the goods or services may constitute’ certification marks¹⁹³ and collective marks.¹⁹⁴ For instance, in the UK, descriptive geographical names can be registered as collective and certification marks,¹⁹⁵ notwithstanding the general prohibition to use signs or indications which may serve to designate the geographical origin.¹⁹⁶

191 *ibid.*

192 Directive 2015/2436, Article 4(1)(c).

193 Directive 2015/2436, Article 28.4.

194 Directive 2015/2436, Article 29.3.

195 UK Trade Marks Act 1994, Schedule 1§3 and Schedule 2§3.

196 UK Trade Marks Act 1994, Section 3(1)(c).

By contrast, an EU collective mark can consist of a descriptive geographical name without having to combine words and figurative signs.¹⁹⁷ Nevertheless, both Community (now EU) trade marks ‘Bois des Alpes’ and ‘Savon de Marseille’, registered under Regulation 207/2009 in 2013 and 2014 respectively, are complex word/figurative marks. In the first case, the combination of words and figurative signs was seen as a way to strengthen the distinctive character of the mark.¹⁹⁸ In the second case, it was justified by the need to ensure consistency with the collective mark already registered at the French level.¹⁹⁹

Picture 2.3

The EU trade marks ‘Savon de Marseille’ and ‘Bois des Alpes’



2.2.2 Ownership

Unlike *sui generis* GIs that cannot be appropriated, trade marks safeguard the private interest of their holder. Their ownership, which can be co-ownership, is acquired by registration.²⁰⁰ In the absence of specific provisions, collective trade marks may be filed (and owned) by a natural or legal, private or public person. The implementation of Directive 2015/2436 is likely to lead to the evolution of French law in the near future. Indeed, according to the Directive, ‘associations of manufacturers, producers, suppliers of services or traders [...] as well as legal persons governed by public law, may apply for collective marks’.²⁰¹ This provision emphasises

197 ECJ, *Nordmilch v OHIM*, T-295/01, II-4378, para. 32; ECJ, *Peek & Cloppenburg v OHIM*, T-379/03, II-4646, para. 35.

198 Interview F-E1.

199 Interview F-A1.

200 IP Code, Article L.712.1.

201 Directive 2015/2436, Article 29.2.

the role of groups of local stakeholders by identifying associations of local stakeholders as the only possible applicants governed by private law. Similarly, applications for EU collective marks may be filed by associations of local stakeholders or legal persons governed by public law.²⁰² However, unlike in the *sui generis* systems of protection, there is no requirement for trade marks to reflect the balanced representation of the different professional groups involved with the product.

Turning to certification marks, the rules governing their registration and ownership depart from the general trade mark regime to guarantee efficient and independent controls. In French law, certification marks may be registered by a *legal person only* who is neither the manufacturer nor the importer nor the seller of the goods or services.²⁰³ However, the Directive 2015/2436 broadens the category of possible applicants to ‘any *natural or legal person* [...] provided that such person does not carry on a business involving the supply of goods or services of the kind certified’ [emphasis added],²⁰⁴ which may call for amendment to French law.

It follows from the above that, in contrast with the *sui generis* systems of protection, local stakeholders do not have any specific role in the application process of collective and certification marks. It may be that French law on collective marks needs amending to better take into account the role of groups of stakeholders in the application process.

2.2.3 Users’ regulations

Applications for collective and certification marks at both the French and European levels must include users’ regulations²⁰⁵ which remind us of the CoPs. Unlike for the CoPs, the law does not specify which elements must be included in the users’ regulations. French law merely specifies that, for certification marks, the regulations must set out the conditions of their use.²⁰⁶ European law goes further and indicates that the regulations governing the use of national²⁰⁷

202 EUTMR, Article 74.1.

203 IP Code, Article L.715-2, 1°.

204 Directive 2015/2436, Article 28.2.

205 For French collective and certification marks: IP Code, Articles L.715-1 and L.715-2(2), and Directive 2015/2436, Article 30.1. For EU trade marks: EUTMR, Article 75.1.

206 IP Code, Article L.715-2, 2°.

207 Directive 2015/2436, Article 30.2.

and EU collective marks²⁰⁸ shall specify at least the persons authorised to use the mark, the conditions of membership of the association and the conditions of use of the mark, including sanctions. This suggests that the conditions of membership and conditions of use may be different, and that nothing prevents the latter from including additional criteria.

In the absence of minimum or mandatory content to describe the specificity of the product, applicants have full discretion to include the obligation for a product to have certain characteristics linked to its geographical origin. Consequently, users' regulations can vary in terms of the level of detail regarding the ingredients, methods of production, practices etc. to be satisfied. Yet, despite such limits of the trade mark system *as a whole*, if applicants desire, users' regulations can provide the same degree of technical detail and complexity as CoPs. For example, the users' regulations of the certification mark 'Bois des Alpes' contains detailed provisions specifying the product's characteristics, methods and place of production. They even go beyond the requirements of *sui generis* systems by including socio-economic, environmental and governance standards (called 'issues of sustainable development')²⁰⁹ for the evaluation of applicants.²¹⁰ This has important consequences on the ability of the initiative to generate effects outside the market (see Chapter 7). It thus appears that users' regulations in the trade mark system may contain as many, if not more, detailed and demanding rules than the CoPs in the *sui generis* systems, as it may also contain minimal requirements.

2.2.4 Quality controls

Neither the French nor the European law on national and EU collective marks (both the Directive 2015/2436 and the EUTMR) make provision to ensure the effectiveness of the product controls. In particular, they do not require the owner of the mark to be independent from its users. However, although not required by European law, the association 'Bois des Alpes' has gone beyond the minimum legal requirements by designating an accredited certification body to carry out controls in an independent manner.

208 EUTMR, Art. 75.2.

209 Rules governing the certification mark 'Bois des Alpes' 7.

210 *ibid* 3.

As regards certification marks, their specific certification function has justified special rules. Both French²¹¹ and European law²¹² enshrine the principle of the independence of the users from the owner of the certification mark, which aims to provide a strong guarantee of the product's compliance with the users' regulations by ensuring efficient and independent controls. The French law applicable to certification goes further and specifies that certificates for non-agro-food products (the only category of products for which a geographical name can be protected as a certification mark) must be issued by organisations that are accredited by the French accreditation authority (COFRAC).²¹³

2.2.5 Right to use

According to French law, collective marks can be used by any person satisfying the regulations,²¹⁴ while the use of certification marks should be open to all persons, other than the owner, who supply goods satisfying the conditions laid down by the regulations.²¹⁵ Interestingly, for EU collective marks consisting of geographical names, European law specifies that the users' regulations shall 'authorise any person whose goods [...] originate in the geographical area concerned to become a member of the association which is the proprietor of the mark'.²¹⁶ While this provision aims to avoid monopolisation of geographical names, it doesn't imply that only compliant members have the right to use the marks. In fact, the EUTMR enshrines the principle of availability of collective marks consisting of geographical names to any third party, 'provided that he uses them in accordance with honest practices in industrial or commercial matters; in particular, such a mark shall not be invoked against a third party who is entitled to use a geographical name'.²¹⁷ This provision closely approximates the rules of the PDO/PGI protection systems by introducing the idea of a defined geographical area and the principle of availability of geographical marks to all compliant operators whose goods originate from the area.

211 IP Code, Article L.715-2, 1°.

212 Directive 2015/2436, Article 28.2.

213 Consumer Code, Article L.433-4.

214 IP Code, Article L.715-1.

215 IP Code, Article L.715-2, 3°.

216 *ibid.*

217 EUTMR, Article 74.2.

2.2.6 Non-transferability

By contrast to individual and collective marks that are freely transferable,²¹⁸ but in a similar way as for *sui generis* GIs, certification marks are not transferrable and cannot be subject to assignment, pledge or any measure of enforcement.²¹⁹ The only exception is in case of dissolution of the legal person who is the owner,²²⁰ yet under strict conditions. In such case, the certification mark may be transferred to another legal person subject to the conditions laid down by decree in Council of State, and such transfer may only be made to a certification body or a legal person holding a certification body to which it grants an exclusive license of the mark.²²¹ These limitations are justified by the specific certification function of this type of marks.

2.2.7 Relative protection

In stating that the ordinary regime of trade marks applies to collective and certification trade marks,²²² French law provides a relative protection to collective marks that is subject to the ‘principle of specialty’.²²³ According to this principle, collective and certification marks are not protected in absolute terms but only for specific uses in relation to identical or similar goods to those designated by the mark.²²⁴ More specifically, two types of use are prohibited unless authorised by the owner in consistency with the Directive 2015/2436.²²⁵ The EUTMR provides the same level of protection to EU collective marks²²⁶ throughout the EU.²²⁷

First, the law prohibits the reproduction, use or affixing of a mark on identical goods, even with the adjunction of wordings such as ‘formula, style, system, imitation, genre,

218 IP Code, Article L.714-1.

219 IP Code, Article L.715-2, 4°.

220 *ibid.*

221 IP Code, Article R.715-2, 2°.

222 IP Code, Article L.715-2.

223 A. Bouvel, *Principe de spécialité et signes distinctifs* (Litec, 2004).

224 F. Pollaud-Dulian, *La propriété industrielle* (Economica, 2011) 904.

225 Directive 2015/2436, Article 10.

226 EUTMR, Article 9.

227 EUTMR, Article 1.2.

method'.²²⁸ Second, upon the condition that there is a likelihood of confusion in the mind of the public, it prohibits the reproduction, use or affixing of a mark on similar goods; as well as the imitation of a mark and the use of an imitated mark for similar or identical goods.²²⁹ Consequently, the complainant bears the burden of proving the risk of confusion, which depends greatly on the degree of distinctiveness which the mark has acquired through use.²³⁰ Special consideration of certification marks should be made here. As noted, a certification mark can only be used by a person who complies with the users' regulations. However, by definition, 'similar' products do not comply with the users' regulations. It follows from this that the complainant can bring an action for infringement on the basis of non-compliance with the users' regulations without having to prove the risk of confusion.²³¹ Finally, a special protection is granted for well-known marks against any use that is likely to cause a prejudice to its owner, or if such use constitutes unjustified exploitation of the mark, even for goods that are not similar.²³²

In both French²³³ and European law,²³⁴ the persons who are entitled to bring an action for infringement are limited to the owner of the mark and its users. However, users can only institute infringement proceedings if after formal notice the owner does not exercise such right,²³⁵ or upon his consent.²³⁶

Contrary to AOCs, IGPIAs, PDOs and PGIs that are protected as long as the conditions for their protection are met, the protection of trade marks lasts 10 years and can be renewed any number of times.²³⁷

228 IP Code, Article L.713-2.

229 IP Code, Article L.713-3.

230 WTO, 'European Communities: protection of trademarks and geographical indications for agriculture products and foodstuffs,' March 2005 (WT/DS174/R) 121.

231 TGI Paris, 23 April 1997, *PIBD* 1997, 635, III, 374.

232 IP Code, Article L.713-5.

233 IP Code, Article L.716-5.

234 EUTMR, Article 80.2.

235 IP Code, Article L.716-5.

236 EUTMR, Article 80.1.

237 IP Code, Article L.712-1, 2°.

Conclusion

The aim of this chapter was to explore the main features of the French/European *sui generis* and trade mark systems for the protection of GIs. This study has allowed us to identify a number of differences between and within the two systems. These include the definition of the link between the product and its geographical area of origin; the registration requirements; the extent to which the quality and production process of local products should be specified and codified; the quality control systems; the scope of protection; and the involvement of different actors, including local stakeholders, the state, the European Commission, and institutions such as INAO, INPI and the ODGs, in the monitoring of the registration procedure, the quality control mechanisms and the use of the signs.

Broadly speaking, in France, the *sui generis* system provides for more stringent registration requirements, greater role of both producers and public authority, and wider scope of protection, compared to the trade mark regime. *Sui generis* GIs are considered as common goods and public assets that protect the public and producers' interests – hence a demanding procedure for the *recognition* of pre-existing rights by an act of public authority. Contrastingly, trade marks are more closely associated with individual ownership and private, commercial interests – which justify a procedure for the *creation* of rights of ownership.²³⁸

Unlike collective trade marks, the rules governing the use, quality controls and non-transferability of certification trade marks bring them closer to *sui generis* systems of protection, yet their scope is reduced to national protection of industrial and artisanal products only. As for collective trade marks, their use to protect local products in France is very limited in practice and may appear to play a complementary role to *sui generis* protection systems only. This is especially true considering that, in French law, collective marks can be used cumulatively with *sui generis* GIs so that local stakeholders can provide additional information to consumers on their affiliation to an association and compete for market share.²³⁹ Yet as mentioned above, the trade mark system is flexible enough to be used and adjusted to protect

²³⁸ Le Goffic (n16).

²³⁹ N. Olszak, 'Marques et indications géographiques' in C. Geiger, J. Schmidt-Szalewski (eds), *Les défis du droit des marques au XXI^e siècle: Actes du colloque en l'honneur du Professeur Yves Reboul* (Lexis Nexis, 2011) 76.

GI products as well as *sui generis* systems, depending on the actors' interests, priorities and strategy.

These observations stress the importance of looking at the interpretation of the law in practice, including the way in which local stakeholders have made use of the law and the extent to which the law provides them with the necessary space to take ownership of the initiatives. In analysing our empirical findings in Chapters 4-7, it will be particularly critical to assess the extent to which the law and institutions that have fashioned the environment of the GI initiatives under study, have impacted on the collective dynamics involved in their creation and operation as well as on their ability to generate economic and non-economic effects.

Legal framework for the protection of GIs in Vietnam

This chapter turns to the study of the Vietnamese legal framework for the protection of GIs, including the *sui generis* and trade mark systems. In a similar way as for Chapter 2 for French law, the objective of this chapter is to provide the necessary knowledge of Vietnamese law to further our understanding of its interpretation in practice and be able to identify its effects when analysing our empirical findings in Chapters 4-7.

Unlike in France where protection of GIs has matured for over a century out of a long process that was initiated by local producers, the legal framework for GIs in Vietnam is recent. It was first established in 1995 through the concept of ‘appellations of origin’ (AOs) under the influence of France, more specifically as a result of the technical cooperation between the French Embassy’s Economic Mission and the Vietnamese Ministry of Agriculture and Rural Development (MARD).¹ The French inter-professional association for ‘Cognac’ also conducted several missions in the 1990s to raise awareness with Vietnamese public authorities about the importance of protecting GIs.² Leading up to its accession to the WTO in 2007, Vietnam revised its legislative framework to comply with TRIPS and adopted the Intellectual Property Law 50/2005/QH11 of 29 November 2005 [hereafter ‘IP Law’]. The elaboration of this new legal framework was supported as part of the 2001-2010 Swiss-Vietnamese Intellectual Property Project (SVIP).³ This project also led to the creation of the National Office of Intellectual Property (NOIP) under the authority of the Ministry of Science and Technology (MOST)⁴.

1 D.H. Dao, ‘Institutions de gestion de la qualité : action collective et apprentissage organisationnel. le cas de l’Indication Géographique (IG) “Nuoc mam de Phu Quoc” au Vietnam’ (Master’s thesis, Essor: Développement des territoires ruraux, Ecole Nationale Supérieure Agronomique de Toulouse, 2011) 6.

2 *ibid* 51.

3 See the description of the project here:

< https://www.ige.ch/fileadmin/user_upload/recht/entwicklungszusammenarbeit/factsheet_vietnam_a4all.pdf > accessed 20/08/2018.

4 D. Marie-Vivien, ‘The protection of Geographical Indications in Vietnam’, draft chapter in I. Calboli (ed.) *The protection of Geographical Indications in ASEAN* (expected, publisher unknown) 5.

The IP Law introduced the concept of ‘geographical indications’ which replaced that of AOs. To avoid confusion with the umbrella term of GIs as per TRIPS, the Vietnamese ‘geographical indications’ will be referred to in this chapter as ‘*sui generis* GIs’. Whereas the Civil Code of 1995 protected local products through AOs only, the new IP Law provides that, alongside the *sui generis* scheme, collective and certification trade marks can also protect ‘Vietnam’s local specialties’⁵ defined as ‘special and well-known products that have specific characteristics and are produced locally’.⁶ Interestingly, Marie-Vivien reports that the introduction of this dual system of protection of GIs aimed to please both European countries (through the *sui generis* system) and the USA (through the trade mark system).⁷ Likewise, influences from both the EU and the USA have resulted in the coexistence of both systems of protection in China.⁸

While France was a pioneer in the protection of GIs and actively sought to improve and promote its own legal system, Vietnam, as many other developing and emerging countries, ‘hardly had [its] own legal consciousness of geographical indications before the norm migrated from the WTO to [the country]’,⁹ hence reflecting a ‘passive process of accepting “transplantation” of norms’.¹⁰ Far from being initiated by local producers and farmers, this process was led by state authorities, which still has important consequences today, and at least initially was motivated by political and commercial considerations. Yet, as in France, Vietnam’s approach to GIs has subsequently evolved toward a more holistic conception. Today, their protection aims not only to ‘enhance the commercial value of GI-protected products but also preserve cultural values and traditional knowledge of the nation’.¹¹

Although both France and Vietnam associate GIs with public benefit outcomes, the legal framework for the protection of GIs in the two countries differ in many ways. First and foremost, Vietnam’s state-driven, top-down approach to GIs sharply contrasts with the bottom-up system of protection in France, where local producers have a pivotal role in initiating the

5 Circular 05/2013/TT-BKHHCN, Article 1.9, amending Circular 01/2007/TT-BKHHCN, point 37.7.

6 Circular 05/2013/TT-BKHHCN, Article 1.1, amending Circular 01/2007/TT-BKHHCN, point 37.8.c(i).

7 Marie-Vivien (n4) 24.

8 D. Marie-Vivien and E. Biénabe, ‘The multifaceted role of the state in the protection of geographical indications: A worldwide review’ (2017) 98 World Development 1, 5.

9 M.C. Wang, ‘The Asian Consciousness and the Interest in Geographical Indications’ (2006) 96 The Trademark Reporter 906, 906.

10 *ibid.*

11 NOIP, ‘Geographical Indications, Overview’

<[http://www.noip.gov.vn/web/noip/home/en?proxyUrl=/noip/cms_en.nsf/\(agntDisplayContent\)?OpenAgent&UNID=49BC1C4511A1FFCA4725767F00377FAD](http://www.noip.gov.vn/web/noip/home/en?proxyUrl=/noip/cms_en.nsf/(agntDisplayContent)?OpenAgent&UNID=49BC1C4511A1FFCA4725767F00377FAD)> accessed 21/08/2018.

initiatives. Besides, contrary to France where the *sui generis* protection is specifically designed to protect GIs unlike the trade mark system, in Vietnam both *sui generis* and trade mark systems can equally protect the geographical names of local products, although their requirements and level of protection differ. The extent to which the characteristics of each legal framework impact differently on the creation process, operation and likely effects of the initiatives under study, will be analysed in Chapters 4-7.

In light of the differences between the French and Vietnamese legal framework for the protection of GIs, this chapter is organised differently from Chapter 2. Instead of analysing the *sui generis* and trade mark systems of protection in a sequential manner, this chapter analyses the features that are common to both systems of protection and which are of most interest to this research project. Section 3.1 will first study the rigid interpretation of the law in practice, in particular as regard the product/origin nexus. Section 3.2 will turn to the analysis of the state-driven, top-down management of both systems, including through the support policies, the registration and the management of the IP titles, which leaves little space to local stakeholders. Finally, Section 3.3 will highlight the organisational and institutional limitations of the Vietnamese framework for the protection of GIs.

3.1 A rigid interpretation of the law

Under Vietnamese law, any type of local products (including raw materials, agricultural, food and drink products, industrial and handicraft products), can be protected through either the *sui generis* or the trade mark system. As will be shown, the requirements of the *sui generis* protection system are generally more stringent than for a trade mark protection, in particular with respect to the nature of the link between the product and its geographical area of origin. In practice, the applicants usually go beyond the legal requirements and the two schemes tend to converge toward a strict demonstration of the product/origin nexus.¹²

¹² D. Marie-Vivien D., B. Pick and T.A. Dao, 'Geographical Indications and Trademarks in Vietnam: Confusion or Real Difference?' (International Conference on Agriculture in an Urbanizing Society, Rome, Italy, 14–15 September 2015).

3.1.1 The use of the French *terroir* approach to Vietnamese *sui generis* GIs

As mentioned above, Vietnam first provided a *sui generis* protection of geographical names for local products through the concept of AOs. These were defined as ‘a geographical name of a country or locality that is used to indicate the origin of a good as being from that country or locality, provided that the good has characteristics or qualities that reflect the specific and advantageous geographical conditions of a natural or human character or the combination of thereof’.¹³ This definition did not mention the reputation criterion and did not require the combination of human and natural factors.

In practice, the AO applications documented the existence of both elements to demonstrate a strong link between the product and its geographical area of origin. This was the case for the two AOs registered under this regime, i.e. Phú Quốc fish sauce and Mộc Châu shan tea, for which France provided technical assistance. The provision of French technical expertise for the registration of these products may have influenced the adoption of a strict interpretation of the link to origin by Vietnamese practitioners beyond the legal requirements, considering that France has been promoting a rigid interpretation of the concept of *terroir* encompassing both human and natural factors. For example, Dao reports that, as part of the preparation process for the registration of an AO for Phú Quốc fish sauce, several seminars on GIs involving French experts from the French Embassy in Vietnam and the inter-professional association for ‘Cognac’, as well as the NOIP, the Ministry of Fisheries, local authorities and local producers and processors, took place in 2000. These seminars aimed to identify the specific quality and characteristics of Phú Quốc fish sauce and elaborate the application and registration documents.¹⁴

The IP Law of 2005 introduced the concept of *sui generis* GIs that are defined as a ‘sign used to indicate a product originating from a specific area, locality, region or country’.¹⁵ Similarly to TRIPS, the IP Law provides for three alternative criteria to establish the link between a

¹³ Civil Code, Article 786.

¹⁴ *ibid* 51.

¹⁵ IP Law, Article 4.22.

product and its geographical origin, including the quality, characteristics¹⁶ or the reputation¹⁷ of the product that must be essentially attributable to the ‘geographical conditions of the area, locality, territory or country corresponding to such geographical indication’.¹⁸ Yet, despite the apparent equivalence with the TRIPS definition of GIs, the requirements of the IP Law are more stringent in that the nature of ‘geographical conditions’ is further defined as including both ‘natural and human factors’.¹⁹ As such, the Vietnamese definition of GIs gets closer to the concept of *terroir* as encompassed in the French AOCs and European PDOs with the additional mention of the reputation criterion (see Chapter 2).

The need to demonstrate a strong product/origin nexus that relies on both human and natural factors is also reflected in the documentation required as part of the application process for a *sui generis* protection. Applications must provide, in addition to the name or sign to be protected as a GI²⁰ and a map of the geographical area corresponding to the GI,²¹ a detailed document describing the peculiar characteristics of the product.²² This document should include information on:

- (i) the product and its characteristics (including raw materials and physical, chemical, microbiological and perceptive characteristics), quality or reputation as linked to the geographical origin;
- (ii) the methods used for defining the geographical area and the evidence that the product originates from this area;
- (iii) the local and stable methods of production and processing (i.e. human factors);
- (iv) the link between the product and the natural conditions of the geographical area (i.e. natural factors); and
- (v) the self-control mechanism of the characteristics or quality of the product.

In practice, no *sui generis* GI has yet been granted on the ground of the reputation criterion alone. In fact, even when the reputation of the product was described for some of the products,

16 According to Article 81.2, the quality or characteristics of a GI product are defined by one or several qualitative, quantitative or physical, chemical, microbiological perceptible norms which shall be testable by technical means or experts with appropriate testing methods.

17 According to Article 81.1, the reputation shall be determined on the basis of the consumer trust.

18 IP Law, Article 79.2.

19 IP Law, Article 82.1. See Articles 82.2 and 82.3 for details on the natural factors and human factors respectively.

20 The name cannot be a generic name and it must not be identical with, or similar to, a mark having been protected if their use will cause confusion as to the origin of the products. IP Law, Article 80.

21 IP Law, Article 106.1.

22 IP Law, Article 106.2.

the application documents of the large majority of the GIs registered so far demonstrate that the products' quality and characteristics are linked to the geographical conditions of the area of origin. For example, although the reputation and history of conical hats from Huế is described at length in the application document, both the human factors and the natural factors are also documented in detail. The application highlights the importance of the 'traditional stitching techniques and especially the skills of women'²³ and specifies that 'the colour of the leaf [...] depends on the types of materials employed and on the processing techniques [...]. Leaves are different from each other depending on their location due to the variety of climatic conditions. It is only in the valleys of the Rivers Đà and Thao that palm leaves used for making conical hats are found'.²⁴

In light of the above, it appears that the practice has long gone beyond the formal legal texts by valuing the strongest possible link between the product and its geographical area of origin through the implementation of the French *terroir* approach based on a combination of human and natural factors. As Marie-Vivien suggests, the reason for the rigid interpretation of the concept of *terroir* probably lies in the French influence.²⁵

The fact that, in practice, criteria to be met for registering *sui generis* GIs are very high, might partly explain the lower number of registered GIs (68 as per August 2018 including six from foreign countries – see Annex 4) as compared with that of collective and certification trade marks for local specialty products (respectively 765 and 181 as of October 2017).²⁶ It may also contribute to explain that the great majority of *sui generis* GIs are registered for raw materials including fruits, vegetables, and materials used in processed products (about 80%).²⁷ Although human factors might be less easy to demonstrate for this type of product, the applications generally focus on the harvesting, post-harvesting and preservation methods, as for star anise from Lạng Sơn.²⁸ However, raw materials tend to have low economic value which may account for the limited impact of GI protection on socio-economic development in Vietnam.²⁹ By

23 Document describing the characteristics of conical hats from Huế (GI application), 2.

24 *ibid* 16.

25 Marie-Vivien (n4) 10.

26 *ibid* 29. However, the author acknowledges that there is uncertainty about these figures.

27 Đ. Đức Huân and others, 'Rapport - Etude des modèles de gestion des indications géographiques du Vietnam' (NOIP/AFD, 2017) 20.

28 Document describing the characteristics of star anise from Lạng Sơn (GI application), 2.

29 B. Pick, D. Marie-Vivien and D. Bui Kim, 'The Use of Geographical Indications in Vietnam: A Tool for Socio-Economic Development?' in I. Calboli and W.L. Ng-Loy (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (CUP, 2017) 305, 314-316.

comparison, *sui generis* GIs for processed products and handicrafts respectively account for about 15% and 5% of all registered GIs despite the economic and cultural importance of these two types of products for the country.³⁰

3.1.2 The convergence of trade marks and GIs

In Vietnam, collective and certification marks can be registered to indicate the geographical origin of local specialty products. In a similar way as in French law, the IP Law provides that, while a collective mark aims to distinguish goods or services of members of an organization that is the owner of the mark from those of non-members,³¹ the functions of a certification mark, of which the owner is independent from the users, are to certify the characteristics of a product in relation *inter alia* to its origin, raw materials or methods of production.³² Unlike French law but similar to EU trade mark law, the Vietnamese law allows for collective and certification marks to be registered for descriptive geographical names as an exception to the general distinctiveness requirement which, as a principle, excludes the use of descriptive names (see Chapter 2).³³ This exception means that collective and certification marks can be registered for geographical names without having to be combined with figurative signs. However, in practice, they are usually registered with a logo for marketing purposes.

30 Đức Huân (n27).





31 IP Law, Article 4.17.

32 IP Law, Article 4.18.

33 IP Law, Article 74.2 dd).

Picture 3.1

Logos of the Vietnamese collective and certification marks under study

Collective mark	Collective mark	Collective mark	Certification mark
Sticky rice from Đông Triều	H'mong beef from Cao Bằng	Pottery from Đông Triều	Vermicelli from Bình Liêu
			

At first glance, the application documentation required in both France and Vietnam is similar.³⁴ In particular, applicants for a trade mark in Vietnam shall provide samples of the mark and regulations governing its use. For a collective mark, regulations shall include:

- (i) the conditions for membership;
- (ii) the list of organisations and individuals who have the right to use the mark;
- (iii) the conditions of use of the mark; and
- (iv) the remedies in case of infringement.³⁵

Regulations governing the use of a certification mark should be more detailed and describe:

- (i) the conditions of use of the mark;
- (ii) the product characteristics certified by the mark;
- (iii) the methods of evaluation of such characteristics; and
- (iv) the methods for controlling the use of the mark.³⁶

Consequently, as in France, regulations governing the use of trade marks do not have to demonstrate the product/origin nexus. Yet, unlike in France, Vietnamese law requires

³⁴ See WIPO 'Technical and Procedural Aspects Relating to the Registration of Certification and Collective Marks' 30 August 2010 (WIPO/Strad/INF/6) [39]-[55].

³⁵ IP Law, Article 105.4.

³⁶ IP Law, Article 105.5.

additional application documents for the registration of trade marks indicating the geographical origin of goods. These include an explanation of the particular characteristics and quality of the product bearing the mark,³⁷ a map of the geographical area corresponding to the geographical name or the geographical origin of the local product,³⁸ as well as a written authorisation of the relevant People's Committees for the registration of the mark.³⁹ This last requirement, which shows the importance given by the state to trade marks indicating the geographical origin of local specialty products, will be studied in Section 3.2.3.

In practice, applications for trade mark protection go beyond the legal requirements and get closer to the application documentation submitted for a *sui generis* GI protection. Indeed, in addition to the minimum documentation required by the law, the application documentation of the four trademarked products under study include a detailed description of the product characteristics as well as a substantive document providing much detail on the technical process of production (for sticky rice, pottery from Đông Triều and vermicelli from Bình Liêu) or breeding methods (for H'mong beef from Cao Bằng). Besides, the application documentation of all three collective marks provide information on the internal quality management and control procedures which is legally required for certification marks only. Looking more closely at the application documentation, it appears that for pottery from Đông Triều and vermicelli from Bình Liêu, both natural and human factors are specified and the link to origin is demonstrated.

Applications for trade mark protection may thus be as detailed as for those submitted for *sui generis* protection. For example, Marie-Vivien reports that the regulations of the certification trade mark for the Shan Tuyet tea from Suối Giàng contain as many details on the characteristics of the tea and the product/origin nexus as the CoP for the *sui generis* GI Shan Tuyet tea from Mộc Châu.⁴⁰ This indicates that the concerned products could possibly have been eligible for a *sui generis* GI protection.

37 Circular 1/2007/TT-BKHCN, Article 7.1(b)ii, as amended by Circular 05/2013/TT-BKHCN.

38 Circular 1/2007/TT-BKHCN, Article 7.1(b)iii, as amended by Circular 05/2013/TT-BKHCN.

39 Circular 1/2007/TT-BKHCN, Article 37.7, as amended by Circular 05/2013/TT-BKHCN.

40 Marie-Vivien (n4) 27.

3.2 State-driven, top-down management system

This section first explores the importance of policy intervention in the identification of the product candidates and the initiation of the processes for the registration of *sui generis* GIs and geographical trade marks. It then turns to the analysis of the state's direct control over *sui generis* GIs before analysing the way in which the state involvement in trade mark initiatives is more indirect though pervasive.

By contrast to France where the voluntary and collective action of local producers is fundamental to initiate the registration process of *sui generis* GIs (see Chapter 2), in Vietnam the identification of the product candidates for GI protection and the ensuing registration and management of the IP titles are primarily the responsibility of the state through its institutions at the central and local levels. Considering the strong state intervention in agricultural matters,⁴¹ and the fact that the majority of local specialty products are agricultural products and foodstuffs, the state's driven, top-down approach to their identification and management is not surprising. While the *sui generis* system best crystallizes the intervention of public authorities in the registration and management processes, in practice trade marks are also characterized by a strong mediation by public entities. Adding to the bureaucracy of the system, the high number of laws, decrees, circulars and amendments adopted in this area is symptomatic of the state's over-regulation.

3.2.1 Policy intervention for the identification of GIs

In Vietnam, the identification of the product candidates for GI and trade mark protection is not the responsibility of local stakeholders but that of the state. The important role of the state in identifying potential GIs has been observed in other countries, especially among those that have provided protection for GIs only recently. For instance, in India, the GI registry conducted a nation-wide inventory of food and handicraft products for potential GI protection; in Brazil, the National Institute of Intellectual Property supports the identification and subsequent

41 N.H. Bui and T.N. Duc, 'Le développement de l'agriculture vietnamienne au cours des 15 dernières années' (2002) 3(2) *Vertigo* – la revue électronique en sciences de l'environnement <<https://journals.openedition.org/vertigo/3738>> accessed 20/08/2018.

registration of at least one GI in each federal state; and OAPI has identified five GI products in West Africa for GI registration.⁴²

The role of the Vietnamese State in identifying GIs is clearly stated in the Governmental Decree 122/2010/ND-CP adopted on 31 December 2010, which provides that ‘[t]he Ministry of Agriculture and Rural Development and the Ministry of Industry and Trade shall assume the prime responsibility for and coordinate with People's Committees of provinces or central-level cities in identifying specialties, characteristics and production process of specialties bearing geographical indications managed by ministries, agencies or localities’ whereas ‘[t]he Ministry of Science and Technology shall specify criteria for identifying geographical names and other signs indicating the geographical origins of products’.⁴³

Support policies have been adopted to give operational effect to this policy commitment, even since the enactment of the IP Law. The most important of these policies is the so-called ‘Programme 68’ which was adopted by the Prime Minister following Decision 68/2005/QD-TTg of 4 April 2005 to support the development of IP assets of small and medium enterprises. As part of this national programme, financial assistance is provided to identify, manage and enhance the value of local products through their protection by collective/certification trade marks or *sui generis* GIs – both for the registration and post-registration management of the IP titles.⁴⁴ Following the end of the first (2005-2010) and second (2011-2015) phases of this programme, its third phase is now running until 2020.⁴⁵

The procedure of Programme 68 mainly involves state authorities. The Steering Committee of the programme, which operates under the authority of the MOST and includes representatives of a number of Ministries⁴⁶ but no producers or other field professionals, first collects and reviews proposals for product protection from local authorities (local Departments of Science and Technology (DOST), Universities, Research Institutes etc.), before submitting a list of

42 Marie-Vivien and Biénabe (n8) 5.

43 Decree 122/2010/ND-CP, Article 1.2.

44 Decision 68/2005/QD-TTg, Article 1.2b).

45 Decision 1062/QD-TTg of 14th June 2016.

46 These include representatives of the Ministry of Finance, the Ministry of Culture and Information, the Ministry of Industry, the Ministry of Agriculture and Rural Development, the Ministry of Fisheries, the Ministry of Health, the Ministry of Commerce, the Ministry of Education and Training and the Ministry of Justice. Decision 68/2005/QD-TTg, Article 2.2.

products to be supported by the programme for approval by the MOST.⁴⁷ Consequently, farmers, producers and other local stakeholders cannot directly apply for support. Once the products have been selected, a technical expert is selected following an open call for proposals⁴⁸ to lead the project under the supervision of local authorities. The expert may come from an IP Law firm, such as Concetti, or an agricultural research institute, such as CASRAD or the Institute of Policy and Strategy for Agriculture and Rural Development (IPSRAD), which both operate under the authority of the MARD.

Whereas the project leader is contracted and paid by local authorities – usually the local DOST, the local Department of Agriculture and Development (DARD) or the People’s Committee – funding is provided by the MOST and administered by the NOIP. On average, funding ranges from about US\$28,000 for a project involving a collective mark, to US\$33,000 for a project involving a certification mark, to US\$45,000 for a *sui generis* GI.⁴⁹ The tasks of the project leader, in collaboration with local authorities, generally include, depending on whether the project focuses on the pre- or post-registration stage, the establishment of an association of producers, processors and/or traders; the elaboration of the documents required for the registration of the IP title; training of farmers/producers in production techniques; the organization of the supply chain; awareness and communication activities, among others. It is usually not until the implementation phase of the projects that local stakeholders become involved in the initiatives. Generally speaking, the Programme 68 has played a pivotal role in the registration and management of GIs in Vietnam, funding for about 70% of all *sui generis* GIs registered so far as well as a large number of geographical trade marks.⁵⁰

In addition to the centrally-managed Programme 68, the MARD has also provided support for the registration of about 20% of all existing *sui generis* GIs.⁵¹ Besides, a number of local programmes funded at the Province or District levels also aim to support the development of *sui generis* GIs and geographical trade marks. For instance, Quang Ninh Province has

47 Circular 03/2011/TT-BKHCHN of 20/04/2011 providing guidelines for the selection and project management under the support programme for IP development in 2011-2015, Article 6 (hereafter, Circular 03/2011/TT-BKHCHN).

48 Circular 03/2011/TT-BKHCHN, Article 13.

49 *ibid.*

50 Marie-Vivien (n4) 8.

51 C. Durand, ‘L’émérgence des indications géographiques dans les processus de qualification territoriale des produits agroalimentaires - Une analyse comparée entre l’Indonésie et le Vietnam’ (PhD Thesis, Institut national d’études supérieures agronomiques de Montpellier - SupAgro Montpellier, 2016) 292.

established a ‘Brand development programme for agricultural products’ by Decision PPC 273/QĐ-UBND of 13 February 2012. Under this programme that is managed by the local DOST, projects are supported up to 80% by the Province and less than 30% by the relevant District⁵² and are led by a project leader recruited from an established agricultural research centre or an IP Law firm. So far, under this programme, provincial representatives of the DOST and the DARD have selected 27 products for protection,⁵³ including four *sui generis* GIs, 16 certification marks and seven collective marks,⁵⁴ out of over 80 products proposed by District authorities for support.⁵⁵ Although these figures show a positive trend in GI protection, they also indicate that a great number of products were ultimately not supported for protection.

Finally, policy intervention for the registration and management of GIs and geographical trade marks is shown in the number of international cooperation projects funded by external sources, including the European Commission⁵⁶ and UN agencies such as the IFAD and the FAO, as well as bilateral donors including France, Switzerland, Luxembourg, Canada and the UK. These projects either focus on the registration and management of the IP title or aim to develop the product quality control system, the value chain and the producers’ skills. For instance, under the SVIP mentioned earlier, over 12 *sui generis* GIs were registered, including star anise from Lạng Sơn.⁵⁷ France also supported the registration of Phú Quốc fish sauce and the Mộc Châu shan tea as AOs. To take a last example, in 2015, the French Development Agency agreed on a three-year project to support the creation of a national GI committee and the development of a new methodology for the elaboration of CoPs, including through the strengthening of producers’ associations and the creation of a quality control system.⁵⁸ The registration of all the Vietnamese GI under study has received financial support (Table 3.1).

52 Programme attached to Decision PPC 273/QĐ-UBND, Section III, Article 2.

53 A total of 24 products were selected in the initial list to which three additional products were added by Decision 797/QĐ-UBND of 11/04/2012.

54 For further detail, see Programme attached to Decision PPC 273/QĐ-UBND, Section II, Article 2.1, and Appendix of Decision 797/QĐ-UBND.

55 Interview V-H1.

56 In particular through the EU-MUTRAP project (European Trade Policy and Investment Support Project) and the EU-ASEAN Project on the Protection of Intellectual Property Rights (ECAP project) which supported the registration of the Phú Quốc fish sauce in the EU.

57 See the description of the project here: <https://www.ige.ch/fileadmin/user_upload/recht/entwicklungszusammenarbeit/factsheet_vietnam_a4all.pdf> accessed 20/08/2018.

58 See information on the MALICA website here: <<https://www.malica.org/projects/on-going/geographical-indications>> accessed 20/08/2018; See also the AFD website <<https://www.afd.fr/fr/soutenir-le-developpement-des-indications-geographiques-protectees-au-vietnam-programme-prcc>> accessed 26/07/2018.

Table 3.1
Funding sources of the GIs under study

Product	Programme 68	Quang Ninh programme	External sources	
			Multilateral	Bilateral
Sticky rice from Đông Triều		Yes		
H'mong beef from Cao Bằng			IFAD	Luxembourg and UK
Pottery from Đông Triều	Yes			
Vermicelli from Bình Liêu		Yes		
Star anise from Lạng Sơn	Yes		EU-MUTRAP	
Fried calamari from Hạ Long		Yes		
Conical hat from Huế	Yes			

In Vietnam, the establishment and management of GI initiatives, which relies upon the collective action of producers in France, is thus largely based on an interventionist approach by state authorities or other countries and organisations whose conception of GIs is likely to influence the Vietnamese understanding and practices. While public intervention signals the increasing importance attached to GIs and should be welcome to promote their use in a country where this concept is still new, this approach also comes with its own pitfalls. First, the fact that GI projects are driven by outside actors proves problematic for local stakeholders to understand the concept of GIs, take ownership and participate willingly in the initiatives.⁵⁹ Further, the appropriation of the description of the local products by agricultural or legal experts under the supervision of public authorities in a country where agricultural

⁵⁹ Đức Huân and others (n27) 56.

modernization is a policy priority,⁶⁰ may contribute to negatively impact on the maintenance of traditional techniques and preservation of local breeds and varieties (see Chapters 4 and 6).⁶¹

3.2.2 The state's direct control over *sui generis* GIs

The Vietnamese system for the *sui generis* protection of GIs establishes a division of rights among: i) the right to own; ii) the right to register, which involves the right to decide on the content of the CoP; iii) the right to manage; and iv) the right to use. Finally, the IP Law has also planned the prohibited use of the registered names.

3.2.2.1 The right to own

According to Article 751.4 of the Civil Code and Article 121.4 of the IP Law, the owner of all GIs is the state who cannot transfer this ownership⁶² because GIs are considered as 'valuable properties of the nation'.⁶³ By contrast, in France, *sui generis* GIs are considered as common goods that cannot be appropriated (see Chapter 2). Interestingly, a proposal to amend the IP Law and provide for different ownership rules and greater role of local stakeholders is currently being discussed.⁶⁴

3.2.2.2 The right to register

The right to register *sui generis* GIs with NOIP belongs to the state who can allow organisations/individuals involved in the production of the product, their representative collective organizations, or the administrative authorities of the locality to which the product pertains, to exercise this right.⁶⁵

60 R. De Koninck, 'Les agricultures du Sud-Est asiatique: interrogations sur l'avenir d'un nouveau modèle de développement' (2004) 4 L'Espace géographique 301; ESCAP, 'Sustainable agriculture and food security in Asia and the Pacific, economic and social commission for Asia and the Pacific' (United Nations, ESCAP, 2009).

61 C. Durand and S. Fournier, 'Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies' (2017) 98 World Development 93.

62 Civil Code, Article 753.3.

63 NOIP, 'Geographical indications, Overview' (n11).

64 Marie-Vivien (n4) 30.

65 IP Law, Article 88.

In practice, the registration of GIs is always processed by local authorities, i.e. the People's Committees of the Provinces, Districts or cities to which the product pertains depending on whether the geographical name to be protected refers to the name of a Province, a District or a city.⁶⁶ Even if permitted by the IP Law, no GI has been registered by producers or collective organizations to date.⁶⁷ In fact, the Decree 103/2006/ND-CP of 22/09/2006 specifies that the MARD, the Ministry of Fisheries and the Ministry of Industry are *primarily* responsible to determine, in collaboration with the relevant People's Committees, the characteristics and methods of production of the GI products.⁶⁸ Going further, the Decree 122/2010/ND-CP of 31/12/2010 states that the relevant People's Committees *shall* file the applications for the registration of *sui generis* GIs,⁶⁹ thereby excluding outright local stakeholders from the process. As seen above, public authorities generally recruit a technical expert to lead the elaboration of the CoP and proceed with the registration of the GI under their supervision. As there is no standard application form, there is a great diversity in their format.

Sui generis GIs are registered for an unlimited period,⁷⁰ unless the geographical conditions attributable to the reputation, quality or characteristics change. In that case, the registration may be cancelled.⁷¹

3.2.2.3 The right to manage

The ownership of all GIs provides the state with the right to manage GIs,⁷² which includes the right to grant licenses to use GIs.⁷³ The right to manage can be transferred to the People's Committee(s) of the Province(s) or city(ies) to which the GI pertains.⁷⁴ It can also be transferred to a representative organisation of all collectives and individuals conferred with the right to use the GI,⁷⁵ as authorized by the People's Committees of the Province or city to which the GI pertains.⁷⁶ Although the representative organisation of producers is listed among the holders of

66 Pick and others (n29) 317.

67 *ibid.*

68 Decree 103/2006/ND-CP, Article 19.3.

69 Decree 122/2010/ND-CP, Article 1.2.

70 IP Law, Article 93.7.

71 IP Law, Article 95.1(g).

72 IP Law, Article 121.4.

73 IP Law, Article 123.2(a).

74 Decree 103/2006/ND-CP, Articles 3.2(h) and 19.1(a) and (b).

75 IP Law, Article 121.4.

76 Decree 103/2006/ND-CP, Article 19.1(c).

the right to manage by Article 19.1(c) of Decree 103/2006/ND-CP, the same article also states that ‘the People’s Committees of provinces and cities under central authority *shall* [...] organise the management of geographical indications used for the localities’ specialties’. In practice, the DOST and District People’s Committees manage about 70% and 28% of existing *sui generis* GIs, respectively.⁷⁷ The initiative of conical hats from Hué is the only case where the producers’ association has the right to manage the GI. However, the state is still involved in the management of this initiative considering that the President of the association is also the President of the Provincial Women’s Union which, as a party-State affiliated organisation (so-called ‘mass organisation’), is largely funded and controlled by the CPV. In all other initiatives where a collective organisation has been created, i.e. for about half of the *sui generis* GIs registered so far,⁷⁸ the producers’ association does not intervene in the management of the GI.

In investigating the existing GI initiatives, Đức Huân found that four types of documents could be promulgated to organise their management:⁷⁹

- (1) regulations for the management and use of the GI;
- (2) regulations for granting, modifying, renewing and withdrawing the right to use the GI;
- (3) manual on technical production, processing and storage aspects; and
- (4) control regulations, based on the French three-stage control system, including self-monitoring by the operators; internal controls by the managing organisation or the producers’ association; and external controls by a public authority.⁸⁰

However, these regulations are not legally required and they are characterized by their complexity, diversity and lack of homogeneity across the initiatives. Some initiatives promulgated one or two of these regulations only, whereas no management regulation has been adopted for about 17% of all *sui generis* GIs.⁸¹

77 Marie-Vivien (n4) 17.

78 Durand (n51) 291.

79 For more details on these regulations, see Đức Huân and others (n27) 31-44.

80 *ibid* 38.

81 *ibid* 28.

3.2.2.4 The right to use

The right to use the GI can be granted for an indefinite period⁸² to organisations or individuals located in the relevant area and involved in the production and marketing of the GI product.⁸³ Unlike in France, membership of the producers' association is not a legal requirement, especially as there is no obligation under the Vietnamese law for local stakeholders to organise themselves within one single association. The only exception is found in the Hả Long fried calamari initiative where the membership of the association, as well as a working experience of three years in the production and sale of calamari, are additional conditions for being granted the right to use the GI.⁸⁴

Local stakeholders must apply individually to the management organisation to obtain the right to use the GI. This right is not transferrable.⁸⁵ It is the only right that can be granted to local stakeholders who are not associated with the registration procedure nor the management system. Other emerging and developing countries have adopted a similar system. For instance, in India, where the GI registration process is led by public authorities, producers join in the GI process only after they have applied for the right to use the GI. This has resulted in a low number of registered users.⁸⁶

In practice, there is a significant heterogeneity across Vietnamese initiatives with regard to the right to use. According to Đức Huấn, the right to use the GI has been granted in 57% of the initiatives for which management regulations have been adopted,⁸⁷ yet with great differences. For instance, 66 producers (out of 93)⁸⁸ and 24 producers (100% of all producer members of the association) have the right to use the names of Phú Quốc fish sauce⁸⁹ and fried calamari

82 Decree 63/CP of 24 October 1996 as amended by Decree 06/2001/ND-CP, Articles 9 and 10.

83 IP Law, Article 121.4.

84 Regulations on the management and use of the GI for fried calamari from Hả Long, Article 9.7.

85 IP Law, Article 139.2.

86 C. Bramley, D. Marie-Vivien and E. Biénabe, 'Considerations in designing an appropriate legal framework for GIs in southern countries' in C. Bramley, E. Biénabe and J.F. Kirsten (eds.) *Developing geographical indications in the South : The Southern African experience* (Springer, 2013) 15, 47.

87 Đức Huấn and others (n27) 55.

88 T. Nguyen, G. Hoang and K. Nguyen, 'Geographical Indications and Quality Promotion of Agricultural Products in Vietnam: An Analysis of Government Roles' (2016) SECO/WTI Academic Cooperation Project Working Paper Series 15/2016,

15 <http://seco.wti.org/media/filer_public/10/45/10458906-339d-4e76-830d-dea921307f10/working_paper_no_15_2016_nguyen.pdf> accessed 03/09/2018.

89 Pick and others (n29) 317.

from Hạ Long,⁹⁰ respectively. By contrast, only two producers of Cao Phang orange,⁹¹ two companies processing star anise from Lạng Sơn,⁹² and nine companies producing Buon Ma Thuot coffee⁹³ are entitled to use the label. Amongst the initiatives where no producer has the right to use the GI are fragrant rice from Nang Nhen Bẫy Núi and Văn Yên cinnamon.⁹⁴ In 2016, no-one was granted the right to use the GI for conical hats from Huế⁹⁵ and the current situation is unclear.

In practice, the actual use of GI labels is still very low. In addition to other reasons that will be analysed in Chapter 6, the fact that GI projects are driven by outside actors and that local stakeholders get involved in the initiatives only after the GI is registered makes it difficult for local producers to understand the GI concept, take ownership and participate willingly in the initiatives.

3.2.2.5 The prohibited uses

The IP Law prohibits the use of the denominations on products from the geographical area that do not have the same characteristics and do not meet the quality criteria of the GI product; on similar products when such use is likely to misappropriate or weaken the reputation of the name; and on products not originating from the geographical area and misleading consumers as to the true origin of the product.⁹⁶ An action for infringement can be brought by the state, the managing organisation as well as the organisations and individuals who have the right to use the GI.⁹⁷ The law therefore makes a distinction between two types of infringements. For products originating from the GI-protected area, the scope of protection extends to the characteristics and quality of the product beyond cases of misuses. For products not originating from the GI-protected area, the holder of the infringed indication bears the demanding burden of establishing consumers' confusion.

90 Interview V-C14.

91 C. Alexandre, 'Impacts et perspectives de développement de l'indication géographique Orange de Cao Phong' (Master's thesis, Spécialité MOQUAS, IRC de spécialité, Montpellier SupAgro, 2017) 58.

92 Interview V-G8.

93 Durand and Fournier (n61) 6.

94 Đức Huân and others (n27) 55.

95 Interview V-E8.

96 IP Law, Article 129.3.

97 IP Law, Article 125.1.

The law protects only the name or sign that constitutes the GI itself, i.e. not the combination of the name or sign with the type of product and even less so the associated logo. For instance, only ‘Lạng Sơn’ is protected and not ‘star anise from Lạng Sơn’. In practice, all GI applications include the combination of the name or sign and the type of product as well as the associated logo. In effect, there is no official state logo for GIs as yet and each GI has a specific logo.⁹⁸

Picture 3.2

Logos of the Vietnamese *sui generis* GIs under study



3.2.3 The state’s indirect control over trade marks

In theory, the registration process and management of trade marks which are of private nature should provide a larger space to local stakeholders and entail less involvement from the state as compared with *sui generis* GIs. However, both the law and the practice have gradually provided public authorities with an important role in the registration and management of collective and certification marks indicating the geographical origin of local products.

3.2.3.1 The right to register

According to the IP Law, collective marks indicating the geographical origin of goods can be registered by the collective of organisations or individuals engaged in the production or

⁹⁸ IP Law, Article 106-1(a).

marketing of goods or services in the relevant locality,⁹⁹ i.e. the association of producers and traders. Consequently, in order to proceed with the registration of a collective mark, local operators must group together within an association, which is not required for *sui generis* GIs and certification marks. Turning to certification marks, these can be registered by organizations able to control and certify the quality, characteristics and/or origin of goods or services provided that such organisations are not engaged in the production or marketing of such goods or services.¹⁰⁰

The text of the IP Law does not give any formal role to the state or public authorities in the application process for trade mark protection. However, the Law 36/2009/QH12 of 19/06/2009 has specified that when collective and certification trade marks indicate the geographical origin of local specialties of Vietnam, their registration must be permitted by competent state agencies.¹⁰¹ The Decree 122/2010/ND-CP has subsequently posited that the relevant People's Committees shall authorise the registration of collective or certification trade marks that indicate the geographical origin of local specialties.¹⁰² Going further, the Circular 05/2013/TT-BKHCN of 20/02/2013 states that the People's Committees' authorisations must be made in writing¹⁰³ and that written approvals must be submitted as part of the minimum application documentation.¹⁰⁴ Consequently, although the involvement of state authorities in the registration process of geographical trade marks had not initially been planned by the law, the specificities and importance of local specialty products for the country subsequently justified the necessity to obtain the approval of the relevant local public authorities for their registration.

Regarding more specifically certification marks that should be registered by organizations able to control and certify the quality, characteristics and/or origin of goods, the lack of independent certification agencies in practice has led state agencies to take over the registration process. Consequently, the great majority of certification marks have been registered by the People's Committee of the Province or the District to which the product pertains, which raises issues as to the efficiency of the product control process (see Section 3.3.2).

99 IP Law, Articles 87.3.

100 IP Law, Articles 87.4.

101 Law 36/2009/QH12, Article 13, amending IP Law, Articles 87.3 and 87.4.

102 Decree 122/2010/ND-CP, Article 1.2.

103 Circular 05/2013/TT-BKHCN, Article 1.9, amending Circular 01/2007/TT-BKHCN, point 37.7.

104 Circular 05/2013/TT-BKHCN, Article 1.2, amending Circular 01/2007/TT-BKHCN, points 7.1.b(iii) and 7.1.b(iv).

Unlike *sui generis* GIs that are protected for an unlimited period, trade marks are registered for a period of 10 years that may be renewed indefinitely.¹⁰⁵ The IP titles may be revoked in the absence of genuine use during 5 years or where compliance with the regulations is not ensured.¹⁰⁶

3.2.3.2 The right to own

According to the IP Law, the collective or organisation who applied for the registration of a trade mark becomes its owner.¹⁰⁷ The owners of collective marks are therefore the associations of producers and/or traders who proceeded with their registration while the great majority of certification marks are owned by a state institution.

3.2.3.3 The right to manage

As the IP Law is silent on the management of collective and certification marks, it logically follows that these are managed by the owners of the IP titles. As such, collective marks are managed by the associations of producers and/or traders whereas the great majority of certification marks are managed by the public authorities who own them. The managing organisations are responsible for granting licenses to use the marks to individual applicants.¹⁰⁸ For instance, in the case of vermicelli from Bình Liêu, the owner of the certification mark is the District People's Committee, who has delegated the management of the certification mark to the Department of Economics and Infrastructure who grants the right to use the mark to individual applicants.¹⁰⁹ In the case of collective marks, the designation of the associations as the managing organisations should, at least in theory, contribute to empower local producers and traders. However, as will be shown in Chapter 4, producers' associations are, to a large extent, subject to the control of state authorities.

105 IP Law, Article 93.6.

106 IP Law, Article 95.1.

107 IP Law, Article 121.1.

108 See, for instance, the Charter of the association 'Production and commercialisation of pottery from Đông Triều', Section II paragraph 1: 'Organizations and individuals must submit their application to the Board of the Association that is responsible for granting the licence certificates'.

109 Regulations on the management and use of the certification mark 'vermicelli from Bình Liêu' Article 11: 'The Department of Economics and Infrastructure of the District of Bình Liêu is the Management Board of the certification mark who grants the right to use the certification mark'.

3.2.3.4 The right to use

There is no specific legal provision on the right to use collective and certification marks. Guidelines published by the NOIP laconically specify that the right to use trade marks can be granted to any organisation and individual satisfying the users' regulations.¹¹⁰ In practice, as with *sui generis* GIs, there is a very limited use of trade marks (see Chapter 6).

3.2.3.5 The prohibited uses

Trade mark protection is ensured against any reproduction or imitation of the mark on identical or similar products when such use is likely to cause confusion as to the origin of the goods as well as, for well-known marks, on different products when the use of the sign is likely to mislead consumers as per the origin of the goods or the identity of the owner of the well-known mark.¹¹¹ As for *sui generis* GIs, the owner of the trade mark, the managing organisation and the holders of the right to use the trade mark, are all entitled to bring an action for infringement.¹¹²

3.3 Limitations of the system

Despite the positive dynamic in the registration of GIs in Vietnam in the past twenty years, the Vietnamese legal and policy framework presents a number of organisational and institutional limitations. These can be explained by the relative youth of the IP system. Besides, the top-down organization of the system has resulted in bureaucratic procedures and constraints embedded in the local environments in which GI initiatives develop. Three main constraints are commonly encountered in Vietnam. First, the choice of a means of protection may be arbitrary and inconsistent with the legal definition of the *sui generis* GI and trade marks. Second, it is widely recognised that quality controls are inefficient and ineffective. Third, the poor quality of institutions arguably undermines the smooth operation of the initiatives.

110 For collective marks, see NOIP, 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques collectives utilisées pour les spécialités locales"' (NOIP, 2009) 5; for certification marks, see 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques de certification utilisées pour les spécialités locales' (NOIP, 2009) 5.

111 IP Law, Article 129.1.

112 IP Law, Article 125.1.

3.3.1 Arbitrariness in the choice of the means of protection

Although it is not always the case, the choice of a means of protection may appear arbitrary due to the existence of a system of quotas under Programme 68. The low awareness and understanding of the differences between the different systems of protection among state authorities and local stakeholders further contributes to uninformed decisions.

According to the quota policy of Programme 68, which supports the majority of GI projects, the project leader in charge of the registration process can be in charge of a maximum of three projects, of which no more than two can be of the same kind.¹¹³ For instance, if two projects aim to register a *sui generis* GI, a third one must necessarily involve a trade mark. This rule, which drives the choice of the means of protection based on political motivations rather than legal grounds, aims to contribute to an even distribution of collective marks, certification marks and *sui generis* GIs in each region,¹¹⁴ sometimes regardless of the appropriateness of the means of protection in relation to the characteristics of the product. For example, Shan tuyết tea from Suối Giàng meets the *sui generis* GI requirements, and in particular shows a strong product/origin link including both natural and human factors, in the same way as Shan tuyết tea from Mộc Châu that is registered as a *sui generis* GI. However, local authorities decided to protect it with a certification mark because a *sui generis* GI was already registered in the same Province as cinnamon from Văn Yên – both products being supported by Programme 68.¹¹⁵ The choice of a means of protection therefore appears arbitrary and inconsistent with the legal definitions of *sui generis* GIs and trade marks.

Generally speaking, there is a lack of awareness and understanding of the differences between the *sui generis* and trade mark systems among state authorities and local stakeholders. When asked the reasons for selecting the chosen means of protection for the initiatives that fall under their authority, local authorities often could not answer the question and reported having left this choice to the consultants in charge of the projects.¹¹⁶ As for local stakeholders, the fact that they are not acquainted with the different IP titles is not surprising considering that they usually become involved in the initiatives once the IP title is registered only. The involvement of state

113 Circular 03/2011/TT-BKHCHN, Article 2.

114 Interview V-C1.

115 Pick and others (n29) 328-329.

116 Interviews V-D2 and V-H1.

authorities in the registration of both *sui generis* GIs and geographical trade marks may also lead to confusion about their different function and meaning. For example, when asked the reason for protecting pottery from Đông Triều with a collective mark, the leader of a pottery village replied that ‘because it is approved by DOST, the trade mark guarantees a specific quality and high standards and can therefore build customers’ trust.’¹¹⁷ Such statement could well be made about a *sui generis* GI, for which the state traditionally plays an important role in guaranteeing the product quality and characteristics. Finally, the lack of one official state logo for all *sui generis* GIs also contributes to the lack of understanding of the specificities of the *sui generis* protection. This is especially true considering that both *sui generis* GIs and trade marks are usually registered with a logo, which makes it uneasy for local stakeholders and consumers to distinguish a *sui generis* GI logo from a trade mark logo.

At the international policy level, the arbitrariness of the choice of the means of protection may lead to questions as to the appropriateness of the EU’s preferential policy for Vietnamese *sui generis* GIs over trade marks as reflected in the EU-Vietnam FTA as finalised in June 2018.¹¹⁸ According to the FTA, only *sui generis* GIs are legally protected in the EU but none of the geographical trade marks¹¹⁹ despite the fact that some trade marks fulfill the requirements for a *sui generis* protection.

3.3.2 Lack of transparent and efficient quality controls

While the establishment of quality control mechanisms based upon the CoP is a prerequisite for the recognition of the titles in France (see Chapter 2), GI applications in Vietnam must only include information on self-control mechanisms.¹²⁰ Consequently, the law does not require the elaboration of internal and external control plans. This significant legal loophole contributes to

117 Interview V-B4.

118 European Commission, ‘EU and Vietnam finalise trade and investment discussions’ (Press release, 26/06/2018) <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1875>> accessed 20/08/2018.

119 EU-Vietnam Free Trade Agreement: Agreed text as of January 2016 <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1437>> accessed 20/08/2018. Chapter 12 ‘Intellectual Property’ of the FTA is available here:

<http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154223.%20institutional%20-%20GIs%206.5a3%206.11wg%20rev2%20-%20for%20publication.pdf> accessed 20/08/2018>. The list of the 39 protected GIs from Vietnam in Annex GI-I Part B of the FTA.

120 IP Law, Article 106.2.

ineffective and inexistent quality controls and lack of consistency between internal and external controls,¹²¹ which challenges the process of building consumer trust. The lack of efficient quality controls has also been reported in many other emerging and developing countries, for instance in India and in OAPI countries.¹²²

Unlike in France, where the ODGs can choose the certification body in charge of the external quality controls, in Vietnam the law provides for a state management of external quality controls. According to Decision 27/2014/QĐ-TTg of the MOST, it is the Directorate for Standards, Metrology and Quality (STAMEQ), a governmental agency under the authority of the MOST,¹²³ that has overall responsibility:

- (i) to carry out the external quality controls of the products that fall within the scope of MOST;¹²⁴
- (ii) to coordinate with other authorities to carry out the inspection and examination of the quality of products and goods that fall within the scope of other ministries;¹²⁵ and
- (iii) to manage the labels.¹²⁶

In practice, the local Departments of STAMEQ at the Province and District levels oversee the external quality controls of all types of products protected with a GI. Considering that most GIs relate to agricultural products and foodstuffs and that STAMEQ staff are not agricultural experts, there is doubt on their technical capacity to perform the control agencies role efficiently.¹²⁷ In practice, local Departments of STAMEQ usually collaborate with other state agencies, such as the DARD,¹²⁸ local authorities of the Ministry of Industry and Trade¹²⁹ and of the Ministry of Health.¹³⁰ Regarding internal controls, the producers' associations (when established) or managing organisations are the competent authorities.

121 Đức Huân and others (n27) 43.

122 Marie-Vivien and Biénabe (n8) 6.

123 Decision 27/2014/QĐ-TTg of 4/05/2014 on the functions, tasks, powers and organizational structure of STAMEQ, Article 1.1.

124 Decision 27/2014/QĐ-TTg, Article 2.8(b).

125 Decision 27/2014/QĐ-TTg, Article 2.8(c).

126 Decision 27/2014/QĐ-TTg, Article 2.8(e).

127 Đức Huân and others (n27) 44-45.

128 Law 05/2007/QH12 of 21/11/2007 on Product Quality, Article 70.2(b).

129 Law 05/2007/QH12, Article 70.2(d).

130 Law 05/2007/QH12, Article 70.2(a).

In practice, since their elaboration is not legally required, there is no control plan and hence no technical standards and quality criteria upon which state authorities in charge of the external quality controls, or associations and managing organisations responsible for internal controls, can base their controls. The only exception is found for the Phú Quốc fish sauce that is subject to a detailed control plan.¹³¹ For all other GI initiatives, this legal vacuum leads to inconsistent, inefficient, non-transparent or even non-existent external quality controls. According to Đức Huấn, about 85% of the authorities in charge of the external controls and 75% of the collective organisations in charge of the internal control do not perform well.¹³²

Quality controls were reported to be an issue in all the initiatives under study. For instance, some producers of fried calamari from Hạ Long use more flour and less calamari than prescribed by the CoP,¹³³ and several rice farmers in Đông Triều allegedly mix sticky rice with normal rice that is easier and less costly to grow,¹³⁴ without subsequent adequate controls from the authorities.

If fraudulent practices primarily aim to reduce production costs, they may also stem from a disagreement with the requirements of the CoP, such as in the case of conical hats from Huế, or a misunderstanding as per the meaning and function of a GI, as with star anise from Lạng Sơn. In the first case, according to the CoP, only conical hats made of coconut-palm leaf with three stitches per 1cm knitted down from the top brim to the 15th brim, can be sold with the GI label,¹³⁵ thereby excluding other categories of hats made of a lower quality leaf and allowing more space between stitches. However, the producers' association, i.e. the managing organisation, sells all types of conical hats with the GI label because it actively supports its use on all categories of hats.¹³⁶ These practices allegedly led to tensions with the local DOST,¹³⁷ showing a conflict between the organisation who registered the GI and drafted the CoP (DOST) and the organisation who manages it (the producers' organisation).

131 Đức Huấn and others (n27) 42.

132 *ibid* 45.

133 Interviews V-C1, V-C3 and V-C5.

134 Interviews V-A4 and V-A5.

135 Document describing the characteristics of conical hats from Huế (GI application), 8.

136 Interview V-E1.

137 Interview V-E6.

In the second case, one of the two companies entitled to use the GI was found to affix the logo not only on the packaging of star anise products, but also on that of cinnamon products. This practice was justified by the manager of the company on the basis that ‘the GI logo enables [their] consumers to identify that the products are sold by [his] company’.¹³⁸ In using the GI label to identify the commercial origin of its products, whether they be cinnamon or star anise products, as if the GI were its private trade or commercial name, this company shows a lack of misunderstanding of the very meaning and function of a GI. The staff of STAMEQ in charge of the quality control of star anise from Lạng Sơn admitted not having inspected the shops where the GI-labelled star anise is sold.¹³⁹ These case studies illustrate the inefficiency or inexistence of the quality control systems.

Picture 3.3

The use of the GI logo ‘Lạng Sơn’ for star anise on the cinnamon product



Broadly speaking, the associations and authorities in charge of quality controls lack the necessary equipment, funding, staff and technical expertise,¹⁴⁰ while the effects of combination of functions also emerge as an important issue.¹⁴¹ Further, the lack of technical standards and quality criteria upon which to base quality controls greatly contributes to the inconsistency of the control systems. Consequently, while the pre-registration phase of the IP titles appears to be well circumscribed by the law although it generates criticism for disregarding the role of

138 Interview V-G4.

139 Interview V-G3.

140 Interviews V-C13 and V-G3.

141 Đức Huân and others (n27) 44.

producers, the post-registration stage appears much weaker and not adequately organised at both the regulatory and practical levels. The silence of the IP Law as regards internal and external quality controls tends to suggest that the registration system was established before the practical organisation of the quality controls was even thought of, although they are generally considered to be at the core of an efficient GI system.

3.3.3 Institutional quality and non-transparent practices

Considering the Vietnamese state-driven, top-down approach to GIs, the role and conduct of public authorities is critical to the success of GI initiatives. However, the over-involvement of the state in the GI protection system is considered as a serious impediment to the smooth operation of the initiatives as it brings along bureaucratic and complex institutional procedures while creating opportunities for non-transparent practices at both the central and local levels.

Poor institutional quality and non-transparent practices are first observed at the central level. According to an interviewee,¹⁴² the substantive examination procedures carried out during the application phase by NOIP officers last about eighteen months in practice while, according to the law, they should last no more than nine months in the case of trade marks and six months in the case of *sui generis* GIs from the date of publication of the application.¹⁴³ The length of the European procedure for the scrutiny of the applications has also been criticised (see Chapter 2). In Vietnam, the reasons for long examination procedures generally lie in the bureaucracy and non-transparent practices on the part of public officials of NOIP. In particular, while the examination fees are fixed (around US\$100),¹⁴⁴ the NOIP officers were reported to drag the process out and unofficially increase the fees. In the words of the Director of an IP Law firm, ‘the NOIP is a state agency that operates on a receiving-and-granting principle. Its officers take the right to manage the procedure the way they want. The only thing we can do is to pay them what they ask for and wait for their reaction.’¹⁴⁵ The procedure to receive funding from the NOIP under Programme 68 also appears to be bureaucratic, non-transparent and time-consuming. For instance, it took three years after the registration of the certification mark for

142 Interview V-H5.

143 IP Law, Article 119.

144 Circular 22/2009/TT-BTC of 4/02/2009 on the rates, collection, remittance, management and use of industrial property fees and charges, Appendix.

145 Interview V-H5.

Cát Hải fish sauce for the project leader to receive funding for the implementation of the project.¹⁴⁶

There is also evidence of such practices at the Province and District levels. Some stakeholders reported that consultants had to ‘give envelopes’ to local authorities so as to receive funding from the regional programme,¹⁴⁷ with the amount of each envelope varying between US\$25 and US\$50. This is a significant sum in a country where the average monthly wage is about US\$150 in the two largest cities and even lower in smaller towns and villages.¹⁴⁸ These practices lead to a vicious situation in which project leaders provide rent to individual public officials for their own personal gain in order to receive public funding for the continuation of the job they were recruited for. All these accounts illustrate the low institutional quality and the opacity of the system of accountability, reporting and allocation of public resources.

These practices also affect local producers, farmers and other stakeholders, especially when local authorities exercise their direct authority, i.e. during the controls of the products. The high number of state agencies involved in external quality controls with unclear, undefined or redundant functions and responsibilities, combined with the lack of a legal requirement to elaborate control plans, poses problems of transparency, efficiency and coordination. In one initiative, some producers reported they were inspected more than ten times a year by state delegations soliciting ‘envelopes’ that altogether can amount up to about US\$500/year.¹⁴⁹ As explained by a trader, ‘when they open the envelope, they would still say that it is not enough to share among members of the delegation, so they usually ask for more. I cannot refuse to pay them because they can pretend to find any negligence in my shop if they want to. I could even be forced to close the shop, so I have to pay and run my business as usual. These practices are like a law’.¹⁵⁰ Finally, these practices may also occur in more uncertain situations. For example, in another initiative, District authorities appear to regularly seize packages of the labelled goods without paying the price to producers so as to give them as presents to higher ranking civil servants.¹⁵¹

146 *ibid.*

147 Interviewees requested absolute anonymity.

148 *ibid.*

149 Interviewees requested absolute anonymity.

150 Interviewee requested absolute anonymity.

151 *ibid.*

As evidenced by the case studies, non-transparent practices are an endemic problem in Vietnam that not only undermines the smooth functioning of the initiatives but more generally erodes the rule of law and weakens citizens' trust in both the central and local state institutions. These practices are embedded in the institutional environments in which the initiatives take place, which may 'entrench the powers of local elites, or subject communities to greater state surveillance'.¹⁵²

Conclusion

The purpose of this chapter was to provide an overview of the Vietnamese legal framework for the protection of GIs, including the *sui generis* and the trade mark systems. In contrast to the pivotal role of the producers' collective action provided by the law in France, Vietnam has adopted a state-driven approach to GIs. From this perspective, these two countries illustrate some of the different roles that the state can play in the identification, support and legal protection of GIs.¹⁵³ Further, unlike in France where there are significant differences and a clear distinction between the two systems of protection, in Vietnam the management processes and practices of both systems share common characteristics. These include the rigid interpretation of the law, the policy intervention for the identification of potential GIs, the state's (direct or indirect) control over GIs, the occasional arbitrariness in the choice of the means of protection, the lack of efficient quality controls, and the prevalence of bureaucratic and non-transparent practices.

If the Vietnamese legal framework for the protection of GIs was adopted for the political purpose of accessing the WTO, its rapid internal implementation has resulted in a two-tier system in which the registration phase of the IP titles is ahead of the post-registration phase as illustrated by the silence of the law on quality control. The incompleteness of normative GI frameworks as regards the implementation of the post-registration phase has been observed in many other countries that have only recently provided protection for GIs.¹⁵⁴

152 R.J. Coombe, S. Schnoor and M. Ahmed, 'Bearing Cultural Distinction: Informational Capitalism and New Expectations for Intellectual Property' (2007) 40 University of California-Davis Law Review 891, 896-897.

153 Marie-Vivien and Biénabe (n8).

154 D. Barjolle, P. Bernardoni and O. Renard, 'Etude du potentiel de la commercialisation des produits agricoles des pays ACP utilisant les indications géographiques et les marques avec origine' (Study by REDD SA Lausanne, AGRI-2012-EVAL-05, 2013).

Most importantly, the Vietnamese top-down approach to GIs has resulted in a positive dynamic observed in the increased number of registered GIs in the past few years. However, this approach also leaves little room to local stakeholders to take ownership of the initiatives. Indeed, the political choice made by the state to control the management of the initiatives and accelerate the implementation of the law through expertise runs counter the ability of local stakeholders to ‘appropriate the collective process’,¹⁵⁵ understand the concept of GIs and participate meaningfully in the decision-making processes that affect them the most. These observations call for a reconsideration of the respective roles of the state and local stakeholders. In this regard, Marie-Vivien reports that discussions to amend the IP Law and provide more space to local authorities and local stakeholders are ongoing,¹⁵⁶ which stresses the need to continue research activities in this country.

The understanding of the Vietnamese legal framework for GIs as provided in the present chapter is particularly useful to the analysis of our empirical findings. The impact of Vietnam’s top-down approach to GIs on collective action dynamics and the involvement of local stakeholders in the GI initiatives will be addressed in the following chapter. In practice, this approach also contributes, among other factors, to a low use of the GI labels, if at all, which will be dealt with in Chapter 6.

155 D. Barjolle and B. Sylvander, ‘Some factors of success for ‘origin labelled products’ in agri-food supply chains in Europe: market, internal resources and institutions’ (2002) 36 (9-10) *Economies et sociétés* 1441, 1551.

156 Marie-Vivien (n4) 30.

Actors' strategies and collective dynamics

This chapter investigates the processes of collective action in relation to GIs. More specifically, it draws upon our twelve case studies to analyse actors' strategies for initiating the GI protection process and the collective dynamics involved in the creation and operation of GI collectives. In doing so, this chapter will shed light on the 'inner side' of GI initiatives, i.e. their internal organisation, as opposed to their 'outward face', including marketing and commercial aspects, which will be studied in the subsequent chapters.

Analysis of the collective dimension of GIs is particularly relevant to the issues dealt with in this thesis. Although ignored in TRIPS, collective action dynamics involved in designing the product specifications and managing the initiatives have emerged as critical factors for directing their effects,¹ as they can contribute to bring about economic benefits and positive dynamics of territorial development.²

As already mentioned, GIs signal origin and thus have close ties with places. The elaboration of local products typically relies on the local resources, knowledge, skills, history and culture of a community of operators within a specific geographical area,³ which is presented as if it were organic (see Chapter 2). Chapter 1 explained that GIs protect the producers' and brand's reputation, which results from a collective process of value addition⁴ and can allow producers to capture an economic rent based on the product differentiation.⁵ From a legal perspective,

1 D. Barjolle and B. Sylvander, 'Some Factors of Success for Origin Labelled Products in Agri-food Supply Chains in Europe: Market, Internal Resources and Institutions' (2002) Working Paper for Les Cahiers de l'ISMEA, 16-17 <<http://www.origin-food.org/pdf/partners/bs19%20fev02.pdf>> accessed 03/09/2018.

2 A. Tregear 'From Stilton to Vimto: using food history to re-think typical products in rural development' (2003) 43(2) *Sociologia Ruralis* 91.

3 G. Belletti and A. Marescotti, 'Link Between Origin Labelled Products and Rural Development' (Dolphins Final Report, WP3, 2002) 6.

4 Barjolle and Sylvander (n1).

5 F. Addor and A. Grazioli, 'Geographical Indications beyond Wines and Spirits: A Roadmap for a Better Protection for Geographical Indications in the WTO/TRIPS Agreement' (2002) 5 *JWIP* 865, 870.

GIs are usually considered as a form of collective legal monopoly right that can only be used by those stakeholders who are located inside the region and who satisfy the standards defining the product in its CoP.⁶ Put differently, GIs are ‘the collective property of the beneficiaries and can only be managed collectively’.⁷

One consequence is that GIs both require and justify a form of mobilisation, coordination and organisation among local stakeholders for the elaboration, control and observance of voluntary, locally-agreed social norms.⁸ Social norms, or else ‘bottom-up law’,⁹ include production rules, quality standards, cultural conventions and governance structures, and aim to protect the common good, i.e. the reputation. They often pre-exist the legal form of GIs,¹⁰ which highlights their importance as governance and enforcement mechanisms where there is no positive law.¹¹ From that perspective, GI initiatives lend themselves to Ostrom’s theory on common property regimes for governing shared resources such as fisheries and grazing pastures.¹² Of particular interest is Ostrom’s suggestion that cooperation among local actors arises out of a ‘lattice of interdependence’ to use, share and protect the common good.¹³ In this context, the activation of strategies and legal processes to protect GIs should aim to ‘back up’ existing social norms and conventions.

The French Comté cheese (PDO since 1996) provides an example of successful collective management of a GI product. Torre shows that three factors contribute to the well-functioning of the Inter-professional Committee for the Management of the Comté cheese: (1) contractual relations that reduce uncertainty and opportunistic behaviour regarding the product quality and price policy; (2) a democratic internal governance structure that represents all categories of stakeholders; and (3) mechanisms of organisational trust that help maintain cohesion between local producers and their commitment to common objectives.¹⁴ One positive outcome is that

6 L. Bérard and P. Marchenay, ‘Tradition, regulation and intellectual property: local agricultural products and foodstuffs in France’, in S.B. Brush and D. Stabinsky (eds.) *Valuing Local Knowledge: Indigenous Peoples and Intellectual Property Rights* (Island Press, 1996) 230.

7 A. Torre, ‘Collective action, governance structure and organizational trust in localized systems of production: the case of the AOC organization of small producers’ (2006) 18(1) *Entrepreneurship and Regional Development* 55, 59.

8 *ibid.*

9 R.P. Merges, ‘From Medieval Guilds to Open Source Software: Informal Norms, Appropriability Institutions, and Innovation’ (2004) 5 SSRN < <http://ssrn.com/abstract=661543> > accessed 17/08/2018.

10 D. Rangnekar, ‘Geographical Indications and Localisation: A Case Study of Feni’ (ESRC Report, 2009) 17.

11 E. Rosenblatt, ‘A Theory of IP’s Negative Space’ (2011) 34(3) *Columbia Journal of Law & the Arts* 338.

12 E. Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (CUP, 1990).

13 *ibid.* 38.

14 Torre (n7) 67-68.

the production of Comté cheese offers better remuneration to farmers, processors and other stakeholders in the supply chain than many other GIs.¹⁵

This chapter is divided into three parts. Section 4.1 explores the actors' strategies and motivations for initiating the GI protection process. As will be seen, these reflect different visions and understandings of GIs and are based either on voluntary collective action or state intervention depending on each context. Section 4.2 turns to the creation process of GI collectives, with a focus on the process used to establish them as derived from the broader legal and institutional environment; the methods arising from such process to elaborate the CoP as part of the GI application; and the objectives of GI collectives. Finally, Section 4.3 analyses the operation of GI collectives, including the organisational models and rules of governance, which raises questions of inclusion and participation.

4.1 Actors' strategies for initiating the GI protection process

This section explores the actors' motivations and strategies for initiating collective action. By presenting the environment of the case study products and the reasons for starting collective action through narrative accounts, it will illustrate the diversity of meanings, values and interests attached to the legal protection of GIs.

As seen in the previous chapters, the French and Vietnamese GI legal frameworks assign different roles to local stakeholders and state authorities. This leads to formulate different questions in relation to the actors' motivations and strategies in each context. In France, it is relevant to investigate the reasons for the initiation of collective action by local stakeholders, who decide on both the application for GI protection and their own association to the initiative. In Vietnam, it is more appropriate to question the political objectives associated with the GI legal protection as part of a project funded by state authorities or external sources.

As argued by Révillon and Chappuis, reasons for the mobilisation of stakeholders are primarily economic and commercial.¹⁶ Yet the analysis of our case studies outlines the need for a more

¹⁵ Barjolle and Sylvander (n1) 13-14.

¹⁶ S. Révillon and J.-M. Chappuis, 'Geographical Indications: Collective Organization and Management' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 45, 47.

nuanced understanding of stakeholders' motivations. As will be seen, French producers view GIs as a legal and economic protection tool primarily to fight against unfair business practices, but also to support the survival and growth of production activities, promote territorial development, and preserve traditional practices. Vietnamese authorities tend to use GIs as a marketing tool to build the product's reputation on the market and improve its quality and productivity.

4.1.1 Legal and economic protection

Before the initiation of the GI protection process, the environments of all the products studied in France were characterised by a pronounced economic slowdown that threatened their viability. Besides, the name of all the products except wood from the Alps, which is the only non-consumer product among the case studies, was increasingly being used by actors outside the area of origin. In this context, it is the perception of a common risk derived from a challenging context and, for most products, free-riding on the established reputation of the name in the marketplace, that led local actors to reflect on the opportunity of a GI protection.

4.1.1.1 Marginalisation of the areas of origin and misuse of the name

Before the PDO qualification, the economic contexts of Pélardon cheese and bouchot mussels from Mont-St-Michel Bay were characterised by the marginalisation and depopulation of the areas where the products come from. Subsequently, concerns related to usurpation and misappropriation of the name prompted local stakeholders to trigger the process of legal protection of the name.

(i) Pélardon cheese

The Pélardon cheese is produced in the Cévennes area (Languedoc-Roussillon Region). As one of the oldest goat cheeses in Europe,¹⁷ it was used in the 16th Century as an exchange

17 C. Corniaux, V. Baritoux, S. Madelrieux, 'Entre (re-)localisation et globalisation : analyse des stratégies spatiales des laiteries dans six bassins laitiers' (8èmes Journées de Recherches en Sciences Sociales, Grenoble, France, December 2014) 9.

currency.¹⁸ The Cévennes area covers very isolated valleys and experienced a massive rural exodus in the 20th Century,¹⁹ especially in the 1960s with the end of the traditional silk worm breeding in the region due to the fierce competition from China.²⁰ Until then, the production of Pélardon cheese was essentially for family consumption. Following the 1968 revolts in France, a few ‘neo-rurals’, i.e. urban people who decided to move to rural areas in the search for alternative ways of life as a sign of protest against dominant social and political values, decided to set up in the Cévennes and promote and produce Pélardon cheese.²¹ These newcomers created the first dairy cooperative and rapidly increased the production of the cheese in the 1970s, which gradually evolved toward specialised livestock farming.²² After an overproduction crisis in the 1980s which led cooperatives to stop collecting milk and breeders to start processing milk themselves, regional authorities decided to promote the production of the cheese by elaborating technical regulations defining its method of production and adopting the regional brand ‘Pélardon Languedoc-Roussillon’.²³ However, it was found that the name ‘Pélardon’ was increasingly being used on goat cheeses produced in Spain and other parts of France where production costs were lower, which resulted in cheeses sold as ‘Pélardon’ with rock-bottom prices.²⁴

Producers started discussing the usefulness of an official quality sign as early as 1987 when they created a union for the defence of Pélardon cheese, which later became the producers’ association for the defence of Pélardon in 1993. In 1994, the association decided to apply for a GI (French AOC before European PDO), which they considered to be the only certification system able to protect the geographical origin while certifying the product specificity.²⁵ The primary objective pursued through the legal protection of the name was to fight against unfair business practices.²⁶ Other important objectives cited by producers were to reduce the risk of

18 CoP ‘Pélardon’, Article 2 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=529>> accessed 26/06/2018.

19 In 1975, the population in the Cévennes area is 40,545 down by 66% from 118,500 in 1846, which is one of the highest depopulation rates in France. See C. Crosnier and C. Granger, ‘Le parc national des Cévennes, la population à l’épreuve de la gestion des milieux ouverts’ in M. Picouet and others (eds.), *Environnement et sociétés rurales en mutation: approches alternatives* (IRD, 2004) 165-184.

20 B. Dedieu, ‘Exode rural et mutations des systèmes de production ovins en Cévennes’ (1984) 162 *Economie Rurale* 14.

21 A. Benkahla, J. P. Boutonnet, and M. Napoléone, ‘Proximité et signalisation de la qualité: approches croisées pour l’étude d’une AOC, Le cas du Pélardon’ (4e Journées de la Proximité, Marseille, France, June 2004) 4.

22 M. Napoléone and J.P. Boutonnet, ‘L’AOC Pélardon, fédératrice de nouvelles dynamiques individuelles et collectives’ (6th International Livestock Farming System Symposium, Benevento, Italy, 26-29/08/2003).

23 *ibid.*

24 Benkahla, Boutonnet and Napoléone (n21) 4.

25 *ibid.*

26 Interviews F-B2 and F-B7.

overproduction by controlling the supply and quality of the labelled products; promote the territory; attract new breeders; and defend ‘neo’-traditional pastoral and grazing practices.²⁷

(ii) Bouchot mussels from Mont-St-Michel Bay

The very start of mussel bed farming in the Mont-St-Michel Bay originally emerged from the strong political will of the then mayor of the Vivier-sur-Mer commune, a fish merchant, who was seeking to maintain local population by creating new economic activities in the 1950s.²⁸ After the Second World War, Vivier-sur-Mer, where 90% of the current mussel production activities are located, suffered from depopulation – 600 inhabitants in 1950 down from 900 in 1938 and 2,000 in 1900 – and a drop in economic activities.²⁹ Mussel farming on vertical stakes (so-called ‘bouchot’) emerged as a promising economic activity since it had been found that mussels were attaching themselves naturally to the wooden palisades of the fixed fisheries and were growing well.³⁰ The development of the mussel bed farming in the area required authorisation from state authorities due to the fact that the Mont-St-Michel Bay is a Public Maritime Domain (PMD).³¹ Established by Decree in 1852,³² the PMD belongs to the state, hence is inalienable. Economic activities that take place on the PDM are defined by state authorities and subject to prior authorisation. As research institutes had established that the area would provide an adequate environment, national authorities approved the development of mussel farming activities. They were especially eager to promote this activity to limit imports as there was no such product on the French market.³³ Mussel breeding areas expanded quickly from the creation of two small plots of 12 km in 1954 to 78 km in 1957, 166 km in 1963 and 270 km in 2018.³⁴

27 Interviews F-B1, F-B4 and F-B6.

28 K. Frangoudes, ‘L’occupation du domaine public maritime par des cultures marines, le cas de la Baie du Mont-Saint-Michel’ (1999) Coastman Working Paper n°11 <http://coastman.free.fr/wp/Coastman_WP11.pdf> accessed 03/09/2018.

29 P. Delacotte and B. Cornu, *Les hommes de la Baie – Mont Saint-Michel* (Ouest & Compagnie, 2011).

30 Frangoudes (n28) 10.

31 *ibid.*

32 *Décret du 21 février 1852 sur la fixation du domaine public maritime* (Decree of 21 February 1852 regulating the public maritime domaine).

33 Frangoudes (n28) 10.

34 R. Mongruel, A. Davaine and O. Thébaud, ‘Private adaptation to ecological constraints in a rights-based management system: the strategies of mussel growers in the Mont-Saint-Michel Bay (France)’ (Multidisciplinary Scientific Conference on Sustainable Coastal Zone Management Rights and Duties in the Coastal Zone, Stockholm, Sweden, 12-14 June 2003) 2.

The growing number of vertical stakes led to production and sustainability issues in the 1960s-1970s.³⁵ This prompted producers to initiate collective action by creating a first professional union in 1971 to request a decrease in their number. Restructuring projects aimed at reducing the number, density, and the maximum mussel bed fertilisation rates, as well as reorganising the location of the vertical stakes, were adopted in 1975, 1980, 1983 and 2002.³⁶ Further, second and third professional unions were created in the 1980s and early 2000s to defend different views and interests as regards the various restructuration projects. It is in this context that producers started noticing in the 1980s that 20,000-30,000 tonnes of mussels were sold every year under the name ‘Mont Saint-Michel’ while only 10,000-12,000 tonnes were – and still are – grown and harvested in the area.³⁷ Despite the rivalry among them, producers belonging to different professional unions gathered to discuss the utility of a PDO protection. The primary objective attached to the PDO was to protect against the misuse and misappropriation of the name.

4.1.1.2 International competition and loss of production

The economic hardships resulting from international competition and importation of same-type products were encountered in the case studies of green lentils from Berry and wood from the Alps.

(i) Green lentils from Berry

Green lentil is a dried seed that belongs to the leguminous plant family *Lens culinaris* of the ANICIA variety that comes from Puy region. The cultivation of green lentils started in the 1950s with the introduction of this variety in the area known as the ‘Champagne Berrichonne’ where clay-limestone soils combined with a temperate climate with regular rainfall in the spring and high temperatures at the end of the growing cycle in the summer are particularly well-suited for growing the crop.³⁸ The production was at its peak in 1983 when it represented

35 Frangoudes (n28) 11.

36 Interviews F-C1, F-C3 and F-C6.

37 *ibid.*

38 CoP ‘Green lentils from Berry’, 17 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=396>> accessed 15/08/2018.

79% of the total production of lentils in France.³⁹ As the lentil market became more competitive at the international level, lentils from other countries especially Canada started flooding the French market at very low prices, which led French farmers to abandon this production. Consequently, the production area decreased to 109 hectares in 1997 down from 7,200 hectares in 1983.⁴⁰

A few passionate producers, concerned about preserving the cultivation of green lentils in the area, decided to group together with the aim to save the industry. This marked the shift from individual to collective action. In 1994, they created a producers' association to discuss and coordinate their activities; established the commercial entity *Cibèle (Compagnie interprofessionnelle du Berry pour la lentille)* to promote and market their production; harmonised prices; and invested jointly in a sorting unit and a packaging facility. Producers also felt the need to build the reputation of the lentils by ensuring high-quality standards and guaranteeing origin. To this aim, they obtained the French *Label Rouge* qualification in 1996. The Label Rouge is an official sign highly regarded among French consumers that refers to products which by their terms of production or manufacture have a higher level of quality compared to other similar products.⁴¹ Subsequently, producers applied for a PGI, registered in 1998, as a growing number of competitors outside the area of origin were free riding on the name's reputation.⁴² The legal protection of the name primarily aimed to protect producers and consumers' interests. Around the same time, producers of Puy green lentils (based on the same ANICIA variety) applied for an AOC (obtained in 1996 before the PDO in 2008). The decision of producers of green lentils from Berry to apply for a PGI and not a PDO was based on two reasons.⁴³ First, they wanted to differentiate themselves from Puy producers. Second, they feared that they would not qualify for the more stringent PDO protection because the production of lentils in Berry area is more recent, less traditional and smaller as compared with that of lentils in Puy area, where the original variety comes from, and which had been protected as an appellation of origin since 1935.⁴⁴

39 *ibid.*

40 *ibid.* 17-18.

41 Rural and Maritime Fishing Code, Article L641-1. See INAO's website < <https://www.inao.gouv.fr/eng/Official-signs-identifying-quality-and-origin/Label-Rouge-Red-Label> > accessed 21/06/2018.

42 Interviews F-D2 and F-D3.

43 Interviews F-D1, F-D2 and F-D4.

44 Tribunal civ. 1ère instance Puy, 17/01/1935.

(ii) Wood from the Alps

Before the start of the registration process of the certification mark, sawmills in the Alps faced stiff international competition with a sharp increase in imports of sawn wood from Germany and Finland.⁴⁵ Small and medium enterprises also had difficulties in adjusting to the new European classification standards adopted in the 1980s and 1990s.⁴⁶ As a result, over 50% of sawmills in the Alps have disappeared since 1980.⁴⁷ Besides, according to the French National Federation of Wood, China's substantial imports of European timber without local processing, due to the fact that it is the world's largest construction market, could result in a loss of thousands of jobs and that of added value of €800 million for local sawmills in France.⁴⁸

In this context, local public authorities concerned with the development of the wood industry and the protection of the territory approached the Regional Inter-professional Federation for Wood and Forest to raise awareness of local actors.⁴⁹ This highlights the strong political dimension of the initiative. As a result, a commission composed of local stakeholders and authorities was established, leading to the creation of an association.⁵⁰ Concurrently, the labelling process was planned by the Alps Committee, the governing body of the Alps region which gathers public authorities and professional representatives and associations.⁵¹ Arising from its Interregional Programme for the Management and Development of the Alps,⁵² and articulated as Measure 2.2 of the implementing Interregional Convention for the Alps for 2015-2020,⁵³ the origin labelling process was seen as a strategy to add value to local wood and develop the industry while contributing to the sustainable development of the territory.

45 Association 'Bois des Alpes', 'La démarche', available here: <http://boisdesalpes.net/association.php> accessed 16/08/2018.

46 Interview F-E1.

47 Union Régionale des Associations de Communes Forestières, 'Schéma stratégique forestier pour le Massif des Alpes' (2006) 4 (on file with author).

48 Fédération nationale du bois, 'Exportation des bois ronds, Manifestation de la FNB devant l'Assemblée nationale' (2014) 4 (on file with author).

49 Interview F-E1.

50 *ibid.*

51 The Alps Committee (*Comité du Massif des Alpes*) was established by the law n°85-30 of 9 January 1985 relative to the development and protection of mountains.

52 The Alps Committee, 'Schéma interrégional d'aménagement et de développement du massif des Alpes', adopted in 2006 and revised in 2013 (on file with author).

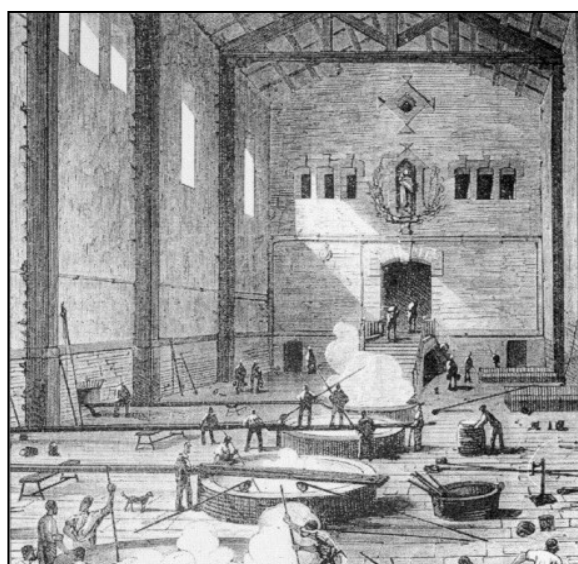
53 *Convention Interrégionale du Massif des Alpes for 2015-2020 du 4 septembre 2015* (Interregional Convention of the Alps region of 4 September 2015) 8. The Convention is the primary policy lever through which action is taken for the management and development of the Alps region.

4.1.1.3 Modernisation of ways of life and loss of market

The first soap-maker in Marseille was identified in 1371 and soap factories started to appear in the 15th Century.⁵⁴ In the 17th Century, the appellation ‘savon de Marseille’ became a common name to designate soaps produced in the area. The composition and rules of production of Marseille soap were established by the Edict of Colbert of 5 October 1688. According to this text, the Marseille soap is based on soda ash and vegetable oils only, thereby excluding dye, fragrance, animal fat, additive or processing aid.⁵⁵ They are made (‘saponified’) in a cauldron following five processing steps according to the so-called ‘Marseille method’.⁵⁶

Picture 4.1

Cauldron room of a soap factory in Marseille



Engraving ‘Les merveilles de l’industrie’ by Louis Figuier, 1873-1877

At the end of the 18th Century, soap manufacturing was the largest industry in Marseille with 35 soap factories. A few producers started producing similar soaps outside Marseille, in Salon-de-Provence, Toulon and Arles.⁵⁷ A decree adopted by Napoleon on 28 December 1812 aimed at protecting the geographical origin of the soap – not the name as such – by creating a mark consisting of a pentagon indicating the composition (olive oil), the name of the producer and

54 P. Boulanger, *Le savon de Marseille* (Eds Equinoxe, 2013) 18.

55 *ibid* 21.

56 The five steps are: saponification or paste producing; rinsing/salting-out; heating/cooking; cleansing/washing; and liquefying.

57 Boulanger (n54) 24.

the name of Marseille.⁵⁸ Only producers based in Marseille had the exclusive right to use the pentagon mark.

Picture 4.2

The pentagon mark of Marseille soap



As olive oil became rare and expensive in the 19th Century, producers started mixing it with imported seed oils such as copra and palm oils. Two types of soaps emerged: a white soap made up of copra and palm oils (for washing laundry); and a green soap made up of olive oil and copra or palm oil (for body and face cleansing).⁵⁹ With a port at the crossroads of oil trade routes (olive oil from Mediterranean countries, copra oil from Africa and palm oil from Africa and Asia), Marseille was considered the ideal location for soap production. The industry was particularly successful in the 19th Century when Marseille soap was granted the ‘Golden Crown’ at the Universal Exhibition in Paris in 1855.⁶⁰ Producers started affixing the stamp ‘72%’ on soaps to indicate the content of vegetable oil as a sign of quality.

In the 19th and beginning of the 20th Centuries, Marseille soap played an increasingly important role in the household economy due to the emergence of the consumer society coupled with the

58 ibid 35.

59 ibid 38.

60 ibid 43.

growing attention paid to domestic hygiene and comfort.⁶¹ About 180,000 tonnes of Marseille soap were produced in 1913 compared with 22,000 in 1789 and 70,000 in 1863.⁶²

Picture 4.3

Advertising billboards for Marseille soap at the beginning of the 20th Century



Production dropped dramatically after the Second World War primarily because of the rapid development of synthetic detergents in the 1950s and the increasing use of electric washing machines and powders.⁶³ Today, five passionate soap factories still produce about 2,000 tonnes/year of traditional Marseille soaps, down from ninety in the beginning of the 20th Century.⁶⁴ Further, the name of the soap has been popularised and widely used on the market for products made outside Marseille and/or that do not comply with the traditional method (see Chapter 6).

In this context, the five 'genuine' producers decided to defend their common heritage by creating an association in 1998 (*Groupement des Savonniers de Provence*) which became the UPSM (*Union des Professionnels du Savon de Marseille*) in 2011. The UPSM, which now has four members accounting for 90% of the total production of the genuine product, is centered around the promotion of the traditional soap and the protection of its collective mark. Its

61 For more on the history of soap and advertising, see the work of A. McClintock, 'Soft-soaping Empire – Commodity racism and imperial advertising' in N. Mirzoeff (ed.) *The Visual Culture Reader* (Routledge, 1999) 506.

62 Boulanger (n54) 63.

63 *ibid* 98.

64 *ibid* 105.

registration in 2012 primarily aimed to help consumers identify the genuine soap produced by members of the UPSM.

Yet as mentioned in Chapter 2, the protection of the soap name as an IGPIA is currently at the heart of a legal dispute between three producer associations. The AFSM (*Association des Fabricants du Savon de Marseille*), created in 2014 among twelve producers including the global group *L'Occitane*, submitted an IGPIA application in June 2015. This association supports the introduction of innovations and product diversification to meet the needs and tastes of today's consumers for coloured and perfumed soaps. The UPSM submitted an IGPIA application in December 2015 for a product corresponding to the traditional Marseille method, thereby excluding the use of animal fat, colorants and perfumes. A third association, the ASDMF (*Association Savon de Marseille France*) created in December 2017, which gathers 95% of French soap producers outside Marseille region, is planning to submit a GI application for the name 'Savon de Marseille France'.⁶⁵ It argues that so-called Marseille soaps can be produced anywhere in France and it defends the right to use the name in relation to a manufacturing process only, regardless of any specific geographical location as long as it takes place on the French territory.⁶⁶

4.1.2 Marketing and product development

In presenting the context of each case study, the section will show that the protection of almost all Vietnamese products under study was primarily associated by state authorities with market and product development objectives. Considering that most Vietnamese local products do not have a well-established reputation that could be subject to unfair competition, GIs are not primarily conceived of in legal terms but rather as a marketing tool to build the reputation of the name and increase the competitiveness of the product on the market. This is the case for many local products in other developing and emerging countries.⁶⁷ A few notable exceptions

65 ASDMF, 'Qui sommes-nous?' <http://savondemarseillefrance.fr/SAVONS_MARSEILLE_WEB/FR/presentation-association-savon-marseille-france.awp> accessed 4 June 2018.

66 *ibid.*

67 J. Hughes, 'Coffee and Chocolate: Can We Help Developing Country Farmers through Geographical Indications?' (Report prepared for the IPI, 2009) 7.

to the lack of reputation of Vietnamese local products include Phu Quoc fish sauce,⁶⁸ Thieu lychee from Thanh Ha,⁶⁹ mint honey from Mèo Vạc,⁷⁰ Buôn Ma Thuột coffee⁷¹ and, among our case studies, fried calamari from Hạ Long, which will be dealt with last. Besides, as many local production systems face quality issues, GI projects provide the opportunity to codify quality and production standards, which has led to product improvement or innovation in at least two case studies.

At the policy level, the association of GI protection with market and product development objectives is reflected in the NOIP's Guides on GI projects.⁷² According to these guides, GIs should aim to increase the economic value and competitiveness of the products, expand the market, promote scientific and technological innovations, and enhance producers' standards of living by increasing incomes.⁷³ Economic and market development objectives with an emphasis on export markets are also clearly articulated in the support programmes, including the state-level Programme 68⁷⁴ and local support programmes, such as that of the Quang Ninh Province.⁷⁵ The focus on export products and international markets is not surprising considering that Vietnam has made support to export and integration into the global market a priority of its agricultural policy since the 1990s.⁷⁶ Other countries have adopted a similar strategy linking legal protection to international marketing. For instance, India's Foreign Trade

68 D.H. Dao 'Institutions de gestion de la qualité : action collective et apprentissage organisationnel. le cas de l'Indication Géographique (IG) "Nuoc mam de Phu Quoc" au Vietnam' (Master's thesis, Essor: Développement des territoires ruraux, Ecole Nationale Supérieure Agronomique de Toulouse, 2011) 58.

69 C. Durand 'L'émergence des indications géographiques dans les processus de qualification territoriale des produits agroalimentaires - Une analyse comparée entre l'Indonésie et le Vietnam' (PhD Thesis, Institut national d'études supérieures agronomiques de Montpellier - SupAgro Montpellier, 2016) 347.

70 *ibid* 351.

71 C. Durand C. and S. Fournier, 'Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies' (2015) 93 *World Development* 98.

72 NOIP, 'Guide à la construction du projet "Gestion et Développement des IGs"'; 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques collectives utilisées pour les spécialités locales"'; 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques de certification utilisées pour les spécialités locales"' (NOIP, 2009).

73 See for instance NOIP, 'Guide à la construction du projet "Gestion et Développement des IGs"' 5.

74 Decision 68/2005/QĐ-TTg of 4 April 2005 establishing the Programme 68, Article 1.1b).

75 Decision PPC 273/QĐ-UBND establishing a 'Brand development programme for agricultural products of Quang Ninh Province by 2015', Article 1.

76 X. Dung Cao and T.D. Tran, *Transition et ouverture économique au Vietnam : une différenciation sectorielle* (2005) 4(104) *Economie Internationale* 27.

Policy Statement for 2015-2020 has established a programme to promote the branding, marketing and export of GI products.⁷⁷

4.1.2.1 Revitalisation of the production

Conical hats have long been used by Vietnamese farmers as an essential protection from rain and sunshine when working in the fields. In the dynastic period, conical hats were also worn for prayers and temple visits, mostly by women. In the 20th Century, especially during the Vietnam War, they became part of soldiers' uniforms.⁷⁸

Picture 4.4

Soldiers wearing conical hats



The production of conical hats in Thừa Thiên–Huế Province, where the GI conical hat from Huế originates, started under the Nguyễn dynasty in the early 19th Century, as Huế attracted many well-known artisans from across the country in a wide range of industries.⁷⁹ Today, conical hats are produced in many different places across Vietnam. They are regarded as a national emblem that is closely linked to the traditional agriculture of the country and are widely used in traditional women's costumes.⁸⁰ For older Western tourists who remember the images of soldiers wearing conical hats, they are also icons of Vietnam's struggle for

77 R.W. Sharma and S. Kulhari 'Marketing of GI Products: Unlocking their Commercial Potential' (Research Study for the Centre for WTO Studies and Indian Institute of Foreign Trade, 2015) 3.

<<http://wtocentre.iift.ac.in/Papers/Marketing%20of%20GI%20Products%20Unlocking%20their%20Commercial%20Potential.pdf>>
accessed 03/09/2018.

78 K. Thirumaran, M.X. Dam. C.M. Thirumaran, 'Integrating souvenirs with tourism development: Vietnam's challenges' (2014) *Tourism Planning and Development* 57, 59.

79 Document describing the characteristics of conical hats from Huế (GI application), 9.

80 Thirumaran and others (n78).

independence.⁸¹ The national symbolic status of conical hat is recognised in the document detailing the characteristics of conical hats from Huế as part of the GI application.⁸²

Modernisation of ways of life, coupled with increased industrialization and rapid urbanization have led to the progressive disappearance of the hats, at least in urban areas. This is because the number of motorised two-wheelers has grown exponentially in the past two decades (representing 95% of all vehicles registered in Vietnam in 2017),⁸³ and because the use of helmets on all roads has been mandatory for all motorcycle drivers and passengers since 2007,⁸⁴ thereby replacing conical hats.⁸⁵ Conical hats are now mainly used by farmers in the fields or bought in Huế by tourists, taking into account that Huế Imperial City was listed as a World Heritage Site in 1993 and attracts thousands of visitors every year.⁸⁶

While three categories of conical hat are produced in Thừa Thiên–Huế Province, the GI-qualified hat involves the most expensive and time-consuming production process. Most producers are small households whose production is limited and hence who have other jobs to increase their incomes.⁸⁷ This explains why they have gradually switched to the production of the cheapest categories of hats to save time and money.⁸⁸ Consequently, the production of the genuine conical hat from Huế has decreased rapidly.

Against this backdrop, the decision of the authorities to protect the name of conical hats from Huế, which became the first-ever GI handicraft product in Vietnam, addressed the need to revitalise its production. More specifically, considering that conical hats are an emblematic product produced across the country, the GI aims to identify the specific characteristics of the product made in Huế and build its reputation on the market.⁸⁹ The GI protection is also seen as

81 *ibid.*

82 Document describing the characteristics of conical hats from Huế (GI application) 10.

83 J. Bao and others, 'Trends in motorcycle helmet use in Vietnam: results from a four-year study' (2017) 144 *Public Health* 39, 40.

84 Government Resolution 32/2007/NQ-CP of 29/06/2007 on a number of urgent measures to curb traffic accidents and traffic jams, Article 6.

85 In 2014, there were over 37 million registered motorcycles (for a total population of 90 million) up from 25 million in 2008, 11 million in 2003 and 1.8 million in 1992. See D.V. Hung, M.R. Stevenson and R.Q. Ivers 'Prevalence of helmet use among motorcycle riders in Vietnam' (2006) 12(6) *Injury Prevention* 409.

86 UNESCO World Heritage List, 'Complex of Huế Monuments' <<http://whc.unesco.org/en/list/678>> accessed 18/09/2017.

87 Interview V-E1.

88 Interviews V-E3, V-E4 and V-E5.

89 Interview V-E1.

a means to promote cultural preservation and craftsmanship.⁹⁰ From that perspective, the GI should aim to convey a narrative about the cultural values embodied in the hat, which is all the more important considering its economic importance as a sought-after touristic product. Finally, the GI is also considered as a tool to create stable jobs, promote the role of women producers and increase producers' incomes.⁹¹ In that respect, the President of the association explained that 'those who make conical hats are small-scale producers so it is very hard for them to survive and make a living from conical hats only. At the same time, it was necessary to find a way to preserve this traditional product. This responsibility devolves on public authorities and is not a matter for producers only'.⁹²

Interestingly, the President of the association is also the President of the Provincial Women's Union, whose involvement was justified by the need to protect the rights and interests of producers who are mostly women in all stages of the production process.⁹³ This tends to support Parasecoli's suggestion that GIs should contribute to promote the socio-economic role of women considering that GI products often involve work done and traditions transmitted by women.⁹⁴

4.1.2.2 Rural industrialisation policy

Đông Triều craft village, in Quảng Ninh Province, is one of the 2,000 craft villages in Vietnam. These are defined as settlements with more than 20% of households engaged in craft production or more than 20% of household income derived from handicrafts.⁹⁵ The ceramic products from Đông Triều are jars of particular size and heavy weight that have been produced in the area since the 16th Century following traditional methods of production. These involve the mixing of clay and sand, the use of traditional kilns and a high-temperature fire of 1280-1300°C.⁹⁶

90 *ibid.*

91 *ibid.*

92 Interview V-E1.

93 Document describing the characteristics of conical hats from Huế (GI application) 30.

94 F. Parasecoli, 'The Gender of Geographical Indications: Women, Place, and the Marketing of Identities' (2010) 10(6) *Cultural Studies/Critical Methodologies* 467, 468.

95 K. V. Gough, J. Rigg, 'Reterritorialising rural handicrafts in Thailand and Vietnam: a view from the margins of the miracle' (2012) 44 *Environment and Planning A* 169, 171.

96 Association 'Production and commercialisation of pottery from Đông Triều', 'Management system of the collective mark' (Đông Triều, 2013), Foreword, 3.

Picture 4.5

The traditional pottery from Đông Triều



Although handicraft activities have taken place in the area for over four centuries, most rural householders were traditionally farmers who engaged occasionally in the production of ceramics during the dry season to increase incomes, as was the case in other rural regions of Vietnam.⁹⁷ The industrialisation of handicraft activities in Đông Triều is fairly recent and dates back to the 1950-1960s when the first family production workshop was established before expanding to a cooperative of several other family production workshops.⁹⁸ The expansion of handicraft activities in the area has been supported by local authorities as part of Vietnam's rural industrialisation strategy. This strategy aims to reduce rural poverty by promoting non-agricultural activities and creating jobs, stimulate demand for consumer products and reduce rural-urban migration.⁹⁹ In that respect, the MARD adopted policies to encourage the production of handicrafts in rural areas, with each village focusing on one particular handicraft.¹⁰⁰ This follows a similar model to the 'One Tambon (*subdistrict*) One Product' initiative introduced in Thailand in 2001.¹⁰¹ At the local level, Quang Ninh Province adopted a resolution in 2010 to build new rural activities¹⁰² and which emphasises the economic and cultural importance of handicraft villages. Today, about 2,000 producers, of which more than

97 Gough and Rigg (n95).

98 Interview V-B1.

99 Gough and Righ (n95) 170.

100 Interview V-H1.

101 Gough and Righ (n95) 171.

102 Resolution 39/2010/NQ-HDND 'Building new rural activities for Quang Ninh Province' of 10/12/2010, Article 1.4.

90% are women, are involved in pottery production in Đông Triều,¹⁰³ which highlights again the role of women in the production of local products.¹⁰⁴

In this context and unlike the other Vietnamese case studies, the producers' association was established in 2004, i.e. before the registration of the trade mark in 2012, on the initiative of its current President, who was then an official at the Provincial DARD. The objectives of the association were to reduce competition among potters, structure the industry and provide a platform for the exchange of good practices and information on modern production techniques.¹⁰⁵ Interest in the protection of the name emerged later, once again on the initiative of the President of the producers' association. The main objective attached to the collective mark was to build the product's reputation on the market.¹⁰⁶ Local authorities were eager to support this project in the broader context of Vietnam's rural industrialisation policy.

4.1.2.3 Livelihoods approach

The production systems of H'mong beef and star anise from Lạng Sơn are embedded in difficult economic environments. This context contributes to explain the 'livelihoods approach' of the externally-funded projects that were implemented to protect the product name in both cases.

(i) H'mong beef from Cao Bằng

The H'mong cow is an indigenous breed producing high quality beef. It has been produced since the 1960s in the Province of Cao Bằng, along the border with China, by the ethnic H'mong group, one of the eight minorities living in the area who represents about 10,000 households or 52,250 people, i.e. 10% of the total population of the Province.¹⁰⁷ Cattle raising contributes to about 60% of the total income of the H'mong people,¹⁰⁸ who use traditional

103 Interview V-B1.

104 Parasecoli (n94).

105 Interview V-B1.

106 *ibid.*

107 Email from Mr Xuan, Project leader, CASRAD, to author (1 June 2017).

108 T.A. Dao, T. Van Tuan and T. H. Xuan, 'Value chain development for mountainous areas: Relation between animal breed and territory. The case of H'mong beef in Cao Bang' (116th EAAE Seminar *Spatial Dynamics in Agri-Food Systems: Implications for Sustainability and Consumer Welfare*, Parma, Italy, October 2010).

breeding practices.¹⁰⁹ These include keeping the cattle in cowsheds and feeding them with natural grass, elephant grass, and ground corn cooked as porridge, which gives the beef its specific taste.¹¹⁰

From an economic perspective, Cao Bằng is among the poorest and most remote provinces, with over 80% of the population living in rural areas and working in agriculture, especially among the ethnic minorities.¹¹¹ Noting that Vietnamese statistics differ from those of the World Bank, the following figures need to be taken with caution. In Cao Bằng, over 25% (according to the Vietnamese statistics)¹¹² or 50% (according to the World Bank)¹¹³ of the population is poor. By way of comparison, according to the World Bank, the national poverty headcount ratio at US\$1.90 a day (percentage of the population living on less than \$1.90 a day at 2011 international prices) is 2.6% in 2014 down from 52.9% in 1992.¹¹⁴

Considering the contribution of beef production to the livelihoods of the H'mong people, two cooperation projects were implemented to increase production, improve market linkages and reduce poverty. First, the 'SuperChain' project, funded by IFAD and implemented in Vietnam in 2007-2009 for three products including H'mong beef from Cao Bằng,¹¹⁵ aimed at strengthening supply chains by linking small-scale farmers to supermarkets and other quality chains.¹¹⁶ Subsequently, the 2008-2014 project 'Developing Business with Rural Poor in Cao Bang', financed through a loan from IFAD and co-funding from Luxembourg and Germany, sought to empower poor rural households by improving their organisation and enhancing their participation in the value chain.¹¹⁷ As part of this project, an agricultural expert was recruited to create the producers' association and prepare the trade mark application. The primary

109 T.H. Xuan and others, 'H'mong cattle systems in Ha Quang, Cao Bang Province' (2017) *Journal of Animal Science and Technology* 89, 89.

110 Dao, Van Tuan and Xuan (n108) 1.

111 General Statistics Office of Vietnam <https://www.gso.gov.vn/default_en.aspx?tabid=783> accessed 2 May 2017.

112 *ibid.*

113 World Bank, 'Well Begun, Not Yet Done: Vietnam's Remarkable Progress on Poverty Reduction and the Emerging Challenges' (Vietnam Poverty Assessment, 2012) 96.

114 See World Bank indicators here: <<https://data.worldbank.org/indicator/SI.POV.DDAY?locations=VN>> accessed 27 April 2018.

115 The two other products that were the focus of the SuperChain project were the 'safe' vegetables in Hanoi Province and the Hoa Vang sticky rice from Hai Duong Province.

116 P. Moustier, T.A. Dao and S. Sacklokham, 'Linking small-scale farmers to supermarkets and other quality chains' (Final Superchain report) <https://agritrop.cirad.fr/553967/1/document_553967.pdf> accessed 03/09/2018.

117 The website of the project is available here: <https://asia.ifad.org/web/dbrp-caobang/resources/-/resource_library/2724/work-tools> accessed 30 April 2018.

objective of the collective mark was to build the reputation and economic value of the beef to increase producers' incomes.¹¹⁸ Other objectives were to guarantee the product's quality, origin and traditional breeding practices. The construction of the only slaughterhouse operating within the producers' association was also funded externally through a loan by the Asian Development Bank.¹¹⁹

(ii) Star anise from Lạng Sơn

Star anise is a dark-grey spice that has 6-8 equal, separate petals arranged in a star shape. It is commonly used in the cooking of East Asian countries, India and China, as well as in European countries. It is also used in cosmetics and medicine where the shikimic acid found in the fruit is one of the most important ingredients of the antiviral medicine Tamiflu that aims to treat the H5N1 avian/bird flu virus.¹²⁰

Vietnam is the second largest producer of star anise in the world after China. The Province of Lạng Sơn, located in northern Vietnam, is the largest production site of star anise in the country. It is also one of the poorest and most remote provinces. Over 16% (according to the Vietnamese statistics)¹²¹ or 45% (for the World Bank)¹²² of the population live below the poverty line. Livelihoods are heavily reliant on agriculture and forest land resources with over 80% of the population working in agriculture.¹²³ The star anise production area occupies a total of 35,575 hectares, i.e. about 60% of the total cultivated area of 58,500 hectares at the country level.¹²⁴ The production of star anise in Lạng Sơn is estimated to be between 6,000 and 10,000 tons/year¹²⁵ and represents up to 50% of farmers' incomes.¹²⁶ The process of planting and harvesting star anise is mainly based on traditional know-how and experience, including the

118 Interviews V-F1, V-F2 and V-F8.

119 Interview V-F1.

120 The Catholic Organisation for Relief and Development Aid (CORDAID) & the Netherlands Development Organisation (SNV), 'Leveraging the Spice Sector for Poverty Reduction in Northern Vietnam (Star Anise Market Research and Value Chain Analysis, Project Report, February 2013).

121 General Statistics Office of Vietnam (n111).

122 World Bank (n113) 96.

123 *ibid.*

124 CORDAID and SNV (n120) 32.

125 *ibid.*

126 Interviews V-G5 and V-G6.

use of manual techniques. There are traditionally two value chains: dry star anise and star anise oil.

Considering the economic importance of star anise production to the livelihoods of poor farmers in the area and, generally, to the global trade of the spice, funding was provided through the Swiss-Vietnamese Intellectual Property Project (2001-2010) to register the GI.¹²⁷ The objectives were to promote the product and increase its production with a view to improve the livelihoods of smallholder farmers.¹²⁸

4.1.2.4 Product development

In the case studies of vermicelli from Bình Liêu and rice from Đông Triều, the projects implemented to protect the product names also aimed to change production practices and improve the quality and productivity of both products through the introduction of new varieties and modern equipment. This tends to support Durand and Fournier's claim that GIs are used in Vietnam to promote agricultural modernisation,¹²⁹ which Vietnam has adopted as a national priority since the 1960s to address the need to feed its growing population.¹³⁰ The use of improved varieties or modern equipment to meet new social, environmental or market conditions, which may require amending the quality and production standards,¹³¹ has been observed for many other origin products, for instance Porto wine,¹³² Tequila,¹³³ and Basmati rice.¹³⁴

127 See the description of the project here:

<https://www.ige.ch/fileadmin/user_upload/recht/entwicklungszusammenarbeit/factsheet_vietnam_a4all.pdf> accessed 20/08/2018.

128 Interview V-G2.

129 Durand and Fournier (n71).

130 N.H. Bui and T.N. Duc, 'Le développement de l'agriculture vietnamienne au cours des 15 dernières années' (2002) 3(2) VertigO – la revue électronique en sciences de l'environnement, <<https://journals.openedition.org/vertigo/3738>> accessed 20/08/2018.

131 G. Allaire, 'Applying economic sociology to understand the meaning of "Quality" in food markets' (2010) 41(1) Agricultural Economics 167.

132 J. Robinson, 'The port trade's calling card' *Financial Times* (London, 30/05/2009) Life & Arts 4.

133 S. Bowen, A. Zapata, 'Geographical indications, terroir, and socioeconomic and ecological sustainability: The case of tequila (2009) (25)1 Journal of Rural Studies 108.

134 D. Marie-Vivien, 'From Plant Variety Definition to Geographical Indication Protection: A Search for the Link Between Basmati Rice and India/Pakistan' (2008) 11(4) JWIP 321.

(i) Vermicelli from Bình Liêu

Vermicelli is a popular Vietnamese product that has been traditionally produced in Bình Liêu, a rural and mountainous district of Quảng Ninh Province.¹³⁵ Arrowroot tubers, the raw material, are traditionally harvested and processed by hand by smallholder farmers. The manual processing method has been reported to be of low productivity while resulting in uneven quality and quantity across farmers, which makes it difficult for the product to be competitive in the market.¹³⁶

In this context, local authorities viewed the certification mark as a marketing tool that could provide higher economic value to the product and enhance its quality through the definition of processing, production and quality standards.¹³⁷ The authorities have also supported the introduction of improved varieties that offer higher yields and the use of modern processing equipment, including milling, grinding, washing and drying machines that have now replaced the traditional manual processing process for the largest part.¹³⁸

(ii) Sticky rice from Đông Triều

As a staple part of the diet of Vietnamese people, rice is a major food crop that greatly contributes to Vietnam's food security and rural economy. At the global level, Vietnam is the fifth largest rice producer and the second biggest rice exporter.¹³⁹ Vietnam's agricultural economy is primarily based on rice which is cultivated on 82% of the country's arable land, particularly in the Mekong and Red River deltas.¹⁴⁰ One of the specific objectives of Resolution 63/NQ-CP of 23 December 2009 on National Food Security is to step up intensive rice farming. In this Resolution, rice is considered as a 'principal task' that is associated with national objectives of industrialisation and modernisation.¹⁴¹

135 CASRAD, 'Project Proposal on 'Building, Managing and Developing the Certification Mark vermicelli from Bình Liêu' (CASRAD, 2012) 5.

136 *ibid* 6

137 Interviews V-D2 and V-D3.

138 *ibid*.

139 Ricepedia, 'Vietnam' <<http://ricepedia.org/index.php/vietnam>> accessed 20/07/2017.

140 International Rice Research Institute, 'Vietnam' <<http://irri.org/our-work/locations/vietnam>> accessed 20/07/2017.

141 Resolution 63/NQ-CP of 23 December 2009 on National Food Security, Section III.1a).

Sticky rice, a short grain variety of rice, has been grown by generations of farmers in Đông Triều District. The productivity and economic value of sticky rice are about 50-75% higher than for normal rice. This has led many farmers to mix sticky rice with low-quality ‘normal’ rice and sell their production at the price of pure sticky rice to get higher margins.¹⁴² The product quality was thus uneven across farmers. Further, the sticky rice from Đông Triều does not have specific characteristics nor a reputation on the market.¹⁴³

In this context and considering the national objectives of industrialisation and modernisation, the trade mark project aimed to build the product’s reputation while improving its quality and productivity. In this regard, it introduced an improved rice variety with a better resistance to pests and increased productivity of about 10% to 40 quintal/ha compared to the old variety.¹⁴⁴

4.1.2.5 Fight against misuse of the name

The fried calamari from Hạ Long is a typical product of Hạ Long City, the capital city of Quảng Ninh Province. They have been produced by traditional family units since 1946.¹⁴⁵ Their specific taste and characteristics derive from the high quality of the calamari found in the Gulf of Tonkin and the producers’ technical know-how. This product, which has long enjoyed an excellent reputation among local consumers, was listed among the 50 most delicious dishes in Vietnam in 2012 and the 100 most delicious dishes in Asia in 2013.¹⁴⁶ Their production and reputation also benefit from the millions of tourists drawn each year to the nearby Hạ Long Bay, a UNESCO World Heritage Site (increased from 1.2 million in 2002 to approximately 3.9 millions of tourists inland in 2014).¹⁴⁷ Evidence of their strong reputation is the widespread use of the name on squid products that do not come from Hạ Long City, particularly in the neighbouring Quang Yên District.¹⁴⁸ In this context, the main objective of the GI was to fight

142 Interview V-A1.

143 *ibid.*

144 *ibid.*

145 Document describing the characteristics of fried calamari from Hạ Long (GI application), Section 3.1.3.

146 Interview V-C2.

147 CASRAD, ‘Building and Developing the Geographical Indication “Hạ Long”’ (Project Report, 2014) 108.

148 *ibid.* 38.

against the misuse of the name.¹⁴⁹ This has also been the case for other well-known Vietnamese products such as Thieu lychee from Thanh Ha¹⁵⁰ and mint honey from Mèo Vạc.¹⁵¹

4.2 Creation of GI collectives

This section will explore the way GI collectives were created with a focus on: the process used to establish them; the methods arising from such process to elaborate the CoP as part of the GI application; and the objectives of GI collectives. In doing so, it will emphasise the contrasting active and passive roles of local stakeholders in the creation process of GI collectives in each country, as derived from France's bottom-up versus Vietnam's state-driven approach to GIs.

It should be kept in mind that these different approaches do not necessarily determine the way collective action starts out nor its future development. For instance, in the case of the Vietnamese Buôn Ma Thuột coffee in Vietnam (GI since 2005), local stakeholders have gradually taken over the management of the GI initiative that was initiated by local authorities.¹⁵² Conversely, in the case of the Austrian Mostviertel Perry (PGI since 2011), producers did not participate actively in the establishment of the initiative (led by the Regional Management Office), never used the PGI and even decided to withdraw from its protection.¹⁵³

4.2.1 Process

As will be discussed, the law in each country determines the process used to establish the GI collectives. In French/European law, the GI registration process is based on the collective and participatory action of local stakeholders. In Vietnam, the GI registration process is usually led by a technical expert under the supervision of public authorities, which typically provides little space for collective action to develop on its own.

149 Interview V-A1.

150 Durand (n69) 349.

151 *ibid* 353.

152 Durand and Fournier (n71) 98.

153 X.F. Quiñones-Ruiz and others, 'Insights into the black box of collective efforts for the registration of Geographical Indications' (2016) 57 *Land Use Policy* 103, 109-110.

4.2.1.1 Participatory

As explained in Chapter 2, in French law the registration process of PDO/PGIs involves a participatory process led by local stakeholders who must group together within one ODG. The ODGs must ensure the representativeness of the different professional groups involved in the production, processing, elaboration and packaging of the PDO/PGI product.¹⁵⁴

In practice, collective action dynamics preceded the creation of ODGs in all three PDO/PGI initiatives under study. As seen in Section 4.1.1, Pélardon producers created a first union in 1987 which became an association in 1993, before they decided to apply for a PDO recognition in 1994. Similarly, lentil producers created an association in 1994, two years before they decided to apply for a PGI. In both cases, the producers' association became the ODG, which required amending its charter to change the association's name, missions and membership. For example, to be recognised as the representative ODG for green lentils from Berry, the association created in 1994 among a dozen farmers opened its membership to three other types of stakeholders: storage silos; wholesalers-packers; and the sorting centre.¹⁵⁵ In the initiative of the PDO mussels, prior to the registration of the AOC in 2006, producers interacted and defended different interests in three professional unions created between 1971 and 2002. The PDO process brought together producers from the three unions in one ODG created in 2003 which thus emerged as a unifying association.

In involving interaction and decision-making processes, the pre-existence of producer organisations has emerged in the GI literature as a factor facilitating the GI registration process, such as was the case for the Colombian coffee.¹⁵⁶ However, if the registration process for green lentils from Berry was unproblematic, it was long and complex for the two other initiatives, as will be shown in Section 4.2.2.

Turning to trade marks, Chapter 2 showed that, in France, the registration of collective trade marks must be processed by the association of producers/traders while local actors are not required to create an association in the case of certification marks. In the Marseille soap case study, interviews confirmed that anterior interaction among producers within the association

¹⁵⁴ Rural Code, Article L.642-18.

¹⁵⁵ Interview F-D2. See also the Charter of the ODG 'Lentilles vertes du Berry', Article 5.

¹⁵⁶ Quiñones-Ruiz and others (n153) 10.

Groupement des Savonniers de Provence created in 1998 facilitated the creation of the UPSM in 2011.¹⁵⁷ In the case of wood from the Alps, even in the absence of legal requirement, local stakeholders decided to create an association after they had been approached by local authorities to find ways to address the economic challenges facing the local wood industry.¹⁵⁸ In this initiative, support from public authorities in instigating the creation process compensated the lack or limited pre-existing collective action dynamics, as was the case for other European products, including the Tuscan extra virgin olive oil and the Sorana bean from Italy.¹⁵⁹

Unlike for PDO/PGIs, the French/European law does not require associations established within trade mark initiatives to be representative of the different professional groups involved. The choice to include such requirement is thus left to the discretion of each association. On the one hand, the membership of the association established for wood from the Alps is representative of the four professional groups involved with wood products (Table 4.1).¹⁶⁰ On the other hand, the membership of the UPSM is reduced to four soap factories and excludes the providers of the vegetable oils that come from other countries, whereas the AFSM has twelve producer members and the ASDMF gathers 95% of French soap producers outside Marseille area. This leads to question the extent to which these competing associations could be considered as representative of the profession which, as seen in Chapter 2, is a legal requirement for the ODGs established for IGPIAs.¹⁶¹

4.2.1.2 Technocratic

As seen in Chapter 3, in Vietnam, the right to register a *sui generis* GI has always been exercised by state authorities and there is no legal obligation to create a collective organisation. However, according to the NOIP, the establishment of a collective organisation is ‘necessary’ to assist the managing organisation.¹⁶² Yet it has been reported that only half of the *sui generis* GIs registered so far in the country, including all those supported by the Programme 68, have

157 Interviews F-A1, F-A2 and F-A5.

158 Interview F-E2.

159 Quiñones-Ruiz and others (n153) 114.

160 Charter of the association ‘Bois des Alpes’, Article 5.

161 IP Code, Articles L.721-4 and L.721-6, 4°.

162 NOIP, ‘Guide à la construction du projet “Gestion et Développement des IGs”’ 7.

seen the creation of a producers' association.¹⁶³ The creation of producer organisations is, however, mandatory in the case of collective trade marks but not for certification marks, as in French law. In practice, an association was established in all seven Vietnamese case studies.

According to the NOIP, local actors involved in the production and trade of the product create collective organisations 'voluntarily'.¹⁶⁴ However, these are usually set up by an external consultant recruited from an IP law firm or an agricultural research institute who must 'propose a plan to establish the collective organisation of producers and traders'¹⁶⁵ in the case of *sui generis* GIs, or 'identify the correct organisation who will be the owner of the collective mark'.¹⁶⁶ In this context, collective action dynamics do not usually precede the creation of associations but rather are instigated by an external expert under the supervision of state authorities. The creation process of producers' associations is thus largely technocratic following a top-down, state-driven approach to GIs.

As mentioned in Chapter 3, top-down approaches are common in countries who have only recently adopted GI provisions to comply with TRIPS¹⁶⁷ such as India,¹⁶⁸ Indonesia,¹⁶⁹ and West and Central African countries.¹⁷⁰ In countries with weak institutional structures, it is generally contended that the involvement of external experts can successfully contribute to the creation of producers' associations and accelerate the GI registration process.¹⁷¹

The establishment of producers' associations through a top-down approach comes with two main pitfalls. First, membership rules may exclude some types of stakeholders, resulting in a lack of representativeness or, conversely, include stakeholders against their will. For instance, the association of producers of fried calamari from Hả Long excludes fishermen who provide

163 Durand (n69) 291.

164 NOIP (n162).

165 *ibid* 15.

166 NOIP, 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques collectives utilisées pour les spécialités locales"' 10.

167 G. Sautier, E. Biénabe and C. Cerdan, 'Geographical Indications in Developing Countries' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 138, 142.

168 E. Biénabe and D. Marie-Vivien, 'Institutionalizing Geographical Indications in Southern Countries: Lessons Learned from Basmati and Rooibos' (2017) 98(C) *World Development* 62.

169 Durand and Fournier (n71) 96.

170 D. Marie-Vivien and E. Biénabe, 'The multifaceted role of the state in the protection of geographical indications: A worldwide review' (2017) 98(C) *World Development* 1, 6.

171 Quiñones-Ruiz and others (n153) 114.

the fresh calamari.¹⁷² In the initiative of sticky rice from Đông Triều, it was decided that the production area should be undivided across the different land parcels to facilitate irrigation and pest control and promote the collective use of pesticides and fertilizers.¹⁷³ This led to the exclusion of many farmers who felt a sense of injustice as they claim to provide the same quality rice. In the words of a non-member farmer, ‘many people are jealous and do not understand why they were excluded from the project. It should have included everyone. The quality of our rice is the same’.¹⁷⁴ At the same time, when the project started, many farmers, who are now members, did not want to join the association and grow sticky rice variety because there is only one planting season per year instead of two for normal rice and because the sticky rice flower is more easily infected by pests. As summarised by a non-member farmer, ‘some would like to be part of the association but are not members. Some don’t want to be part of the association but are members’.¹⁷⁵

Another example of ‘forced’ inclusion is provided by the case study of vermicelli from Bình Liêu. In this initiative, the President of the association was pressured by local authorities to lead the association because of his large production capacities which account for 50% of the total production of vermicelli in the whole District. Prior to the start of the project in 2012, he had registered his private trade mark in 2007 and made a huge investment to build its reputation.¹⁷⁶ As such, he was not willing to abandon it for the origin certification mark. As he explained, ‘[m]y trade mark has an excellent reputation, why should I change and use a new certification mark?’.¹⁷⁷ He ultimately took this position because, in his own words, ‘if [he] do[esn’t] follow the instructions of the authorities, they can cause serious difficulties’.¹⁷⁸

A second drawback of top-down approaches is that they carry the risk of a negative impact on local stakeholders’ awareness, understanding and willingness to participate actively in the initiatives.¹⁷⁹ In the case studies of sticky rice from Đông Triều and vermicelli from Bình Liêu, some farmers are not aware of the existence of the association or of their own membership,

172 Charter of the association ‘Production and commercialisation of fried calamari from Hạ Long’, Article 8.

173 Interview V-A1.

174 Interview V-A8.

175 *ibid.*

176 Interview V-D1.

177 Interview V-D3.

178 *ibid.*

179 G. Belletti, A. Marescotti and J-M Touzard, ‘Geographical Indications, Public Goods, and Sustainable Development: The Roles of Actors’ Strategies and Public Policies’ (2017) 98(C) World Development 45, 53.

and do not show interest in the initiative. When asked about this, the project leader for vermicelli from Bình Liêu explained that ‘it was impossible to visit every household to inform them of the project, farmers easily forget what they are told, and awareness in this region is very low’.¹⁸⁰ In fact, a large majority of origin-labelling initiatives in Vietnam show little interest and commitment of local actors, as confirmed by other recent empirical studies, for instance a study concerning Cao Phong oranges.¹⁸¹ In analysing eight case studies in Vietnam, a project funded by the French Agency for Development also found that almost 90% of producers were not aware that a GI had been registered for their product.¹⁸²

4.2.2 Method

Arising out of the process used to establish the GI collectives in each country, the methods adopted to elaborate the product specifications as part of the GI application are different in each context. In France, their elaboration results from negotiations and reconciliation of different, sometimes conflicting, interests or, put differently, the social construction of compromise¹⁸³ among local stakeholders. These collective processes typically lead to negotiated constructions over concepts of tradition, heritage and local identity, which are open to interpretation,¹⁸⁴ as well as over methods of production, product name and boundaries,¹⁸⁵ which may reflect stakeholders’ strategic objectives and have exclusionary effects.¹⁸⁶ In Vietnam, local stakeholders usually have a consultative role.

180 Interview V-D1.

181 C. Alexandre, ‘Impacts et perspectives de développement de l’indication géographique Orange de Cao Phong’ (Master’s thesis, Spécialité MOQUAS, IRC de spécialité, Montpellier SupAgro, 2017) 19.

182 Đ. Đức Huân and others, ‘Rapport - Etude des modèles de gestion des indications géographiques du Vietnam’ (NOIP/AFD, 2017) 56.

183 M.T. Letablier and C. Delfosse, ‘Genèse d’une convention de qualité. Cas des appellations d’origine fromagère’ in G. Allaire, R. Boyer (eds), *La Grande Transformation de l’Agriculture* (INRA Economica, 1995).

184 L. Bérard and P. Marchenay, ‘Lieux, temps, et preuves: la construction sociale des produits de terroir’ (1995) 24 *Terrain* 153.

185 A. Tregear and others, ‘The impact of territorial product qualification processes on the rural development potential of small-scale food productions’ (XI World Congress of Rural Sociology Trondheim, Norway, 25-30 July 2004) 3.

186 G. Belletti and A. Marescotti, ‘Origin products, geographical indications and rural development’ in B. Sylvander and E. Barham (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 75, 82.

4.2.2.1 Negotiations

As seen in Chapter 2, in French law, local stakeholders lead the elaboration of the product specifications as part of the application process. This requirement provides local actors with a space to engage in negotiations and discuss their own vision of the product, including its quality, characteristics and production process, with a view to adopt common standards and hence formalise, confirm or modify pre-existing social norms.¹⁸⁷ In our case studies, the negotiation phase took between one and fifteen years, depending on the initiatives and the nature of the conflicting interests at stake. In the case of PDO/PGI initiatives, the intervention of INAO authorities as mediators was usually required.

For both green lentils from Berry and Marseille soap, the main point of contention among producers was the delimitation of the geographical area. In the first case, a soil investigation led to the exclusion of bordering areas where soil types were found to be different.¹⁸⁸ The same CoP was adopted for both the Label Rouge and the PGI and all producers have adhered to both qualifications. In the Marseille soap case study, a dispute among members of the UPSM arose between a soap factory located in Salon-de-Provence (about 50km away from Marseille), which had been producing ‘genuine’ Marseille soaps since 1900, and a Marseille-based producer, who considered that only soaps produced in Marseille could be called Marseille soaps in accordance with Napoleon’s Decree.¹⁸⁹ An agreement was finally reached to include the department ‘Bouche-du-Rhône’, where both Marseille and Salon-de-Provence are located, as the geographical production area, which was later reflected in the IGPIA application. Interestingly, in the IGPIA application submitted by the AFSM, the geographical area is wider and encompasses four departments.¹⁹⁰

In the case study concerning wood from the Alps, the negotiation process took about five years and dealt with the delimitation of the geographical area, the definition of technical standards for the wood drying process, and the adoption of eco-certification such as the Programme for the Endorsement of Forest Certification Scheme (PEFC).¹⁹¹ While processing companies were

187 Belletti, Marescotti and Touzard (n179).

188 Email from Ms Taillandier, Commercial Director of Cibèle, to author (13/07/2018).

189 Interviews F-A2 and F-A9.

190 AFSM, GI application ‘Savon de Marseille’, Article 7.

191 PEFC <<https://www.pefc.org/>> accessed 2 August 2018. See Charter of the association ‘Bois des Alpes’, Article 2.

defending loose standards, specifiers and service providers supported a set of strict criteria, which were ultimately adopted.¹⁹²

In the Pélardon cheese initiative, negotiations lasted over ten years.¹⁹³ They mainly focused on the delimitation of the geographical area, the specificity of the cheese and its link to the territory. Negotiations required conducting complementary ethnological surveys and environmental studies. These involved producers, ethnologists, and cheese and livestock technicians, while INAO acted as a mediator.¹⁹⁴ Similar mediation and extension services were provided during the registration process of the Sorana bean (PGI since 2002) and the Styrian pumpkinseed oil (PGI since 1996).¹⁹⁵ In the Pélardon case study, it was finally agreed that 500 communes spread over five departments,¹⁹⁶ covering a much wider area than the region of origin with a very diverse vegetation,¹⁹⁷ should be included. Yet the link between the cheese and the territory is closely defined through goat feeding, in particular the obligation to take the goats out on the territory for a minimum number of days¹⁹⁸ to make them feed on local plants and herbs such as thyme, acacia, or hazelnut. Consequently, the *terroir* connection allows for sensory variety across cheeses. As explained by the coordinator of the producers' association, 'we cultivate diversity within the same appellation. Cheeses can vary; they may have blue moulds, be creamy, white or have a hazelnut taste. All this diversity is linked to our *terroir* while we have minimum criteria that all cheeses must meet'.¹⁹⁹ Product variety within the same appellation is not uncommon, particularly for cheese products whose characteristics derive from specific animal production systems such as the Fiore Sardo cheese (PDO since 1996).²⁰⁰

The negotiations among mussel producers proved to be the most complex among the case studies. According to one producer, they started in the early 1980s and dealt with 'every single aspect of the CoP because many producers didn't want to have restrictions and rules to

192 Interview F-E9.

193 Interview F-B6.

194 Interviews F-B6 and F-B7.

195 *ibid* 109-110.

196 CoP 'Pélardon', Article 2 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=529>> accessed 26/06/2018

197 Napoléone and Boutonnet (n22) 2.

198 At least 210 days per year for the goat farms located at less than 800 meters of altitude and 180 days for those located at a higher altitude. CoP 'Pélardon', Article 3 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=529>> accessed 26/06/2018.

199 Interview F-B6.

200 M.F. Scintu and G. Piredda, 'Typicity and biodiversity of goat and sheep milk products' (2007) 68(1-2) *Small Ruminant Research* 221.

respect'.²⁰¹ Some producers even opposed the protection process and especially the registration of this specific name which they wanted to remain available to all. Contestation of the GI qualification process has been observed in other initiatives. For instance, some sub-regional farmers' groups contested the protection of the Tuscan extra-virgin olive oil as a regional GI.²⁰² In our case study, negotiations proved so difficult that they even stopped between 1996 and 1999. When they started again with INAO as a mediator, compromises were made which have allegedly driven the product quality towards lower standards. Besides, the INAO instructed the ODG to register this specific name as it was found to be the oldest and most common name in use in relation to the product since 1956.

Picture 4.6

Old labels with the name 'Mont-St-Michel'



Once the ODG had submitted its application to the INAO, it took years of negotiations with the European Commission to establish the link to the territory before it became the first ever PDO seafood product. This is because the raw materials, i.e. the mussel spats, originate from the neighbouring region of Normandy because the temperature of the water of the Mont-St-Michel Bay is too low for spats to develop. This explains why the CoP includes a farming, preparation and packaging area but doesn't mention where the larvae must come from.²⁰³ The

201 Interview F-C3.

202 Quiñones-Ruiz and others (n153) 108.

203 CoP 'Bouchot mussels from Mt-St-Michel Bay', Article 3.

<<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=10203>> accessed 10/06/2018.

CoP, however, specifies that the spats must not be longer than two millimetres to ensure their repatriation to the Bay at the earliest possible time.²⁰⁴ In the words of one producer, ‘mussels from Mont-St-Michel Bay have a strong link to *terroir*. It is here that they grow and feed by filtering local water which has a specific planktonic composition. It is precisely through their feeding that mussels acquire their specific characteristics, and whether the spats come from here or there does not impact on the final product’.²⁰⁵

Overall, our findings confirm previous studies showing that, while group heterogeneity bears the risk of conflicting interests and longer negotiations,²⁰⁶ the main issues of contention during the negotiation process are the definition of the link between the product and the territory, the elaboration of more or less stringent production standards, and the delimitation of the geographical area.²⁰⁷ As explained by Barham, ‘[d]efining the exact boundaries and definition of a [GI] can be controversial among producers... neighbours who follow slightly different processing methods may find that one of them is included while the other is not’.²⁰⁸

As a result, the CoPs can include higher or looser standards depending on each initiative. For instance, the standards adopted for green lentils from Berry are rather flexible. As explained by the President of the association, ‘we didn’t want to raise the bar too high, otherwise it would have been very difficult to step back. If you start too high, you will be penalised. We need room for manoeuvre.’²⁰⁹ Likewise, for bouchot mussels from Mont-St-Michel Bay, an interviewee mentioned that ‘producers included the minimum norms they could easily respect and which do not necessarily reflect the quality they can really provide’.²¹⁰ By contrast, the production standards of the three other products are considered as high and stringent. In effect, they aim to defend time-consuming and/or costly traditional practices and artisanal processing methods (for Marseille soap and Pélardon cheese) and preserve environmental sustainability (wood from the Alps) in line with the actors’ strategies for initiating the protection process as analysed in Section 4.1.1. As shall be seen in Chapter 7, the traditional and/or environmentally-

204 CoP ‘Bouchot mussels from Mt-St-Michel Bay’, Article 5.

205 Interview F-C3.

206 D. Dentoni, D. Menozzi and M.G. Capelli, ‘Group Heterogeneity and Cooperation on the Geographical Indication Regulations: The Case of the Prosciutto di Parma Consortium’ (2012) *Food Policy* 207.

207 F. Galtier, G. Belletti and A. Marescotti, ‘Factors Constraining Building Effective and Fair Geographical Indications for Coffee: Insights from a Dominican case study’ (2013) 31(5) *Development Policy Review* 597.

208 E. Barham, ‘Translating terroir: the global challenge of French AOC labeling’ (2003) 19 *Journal of Rural Studies* 127, 136.

209 Interview F-D2.

210 Interview F-C13.

friendly production rules included in the CoPs can powerfully direct the effects of the initiatives outside the market.

Interestingly, in the initiatives of Pélardon cheese and bouchot mussels from Mont-St-Michel Bay, a few producers within the collective are still challenging the rules included in the CoP, either because they are considered as too strict or too loose, which undermines the quality of collective action and social cohesion within the group. For example, in the Pélardon initiative, the obligation to take goats out on the territory to feed on local herbs for a minimum number of days is opposed by those farmers who produce hay in large quantities and who view this obligation as too burdensome.²¹¹ In the mussel initiative, a producer stated his opposition to the way in which the PDO is used as a quality standard whereas, according to him, the quality is very uneven across producers and production standards are not high enough.²¹²

Generally speaking, it has been recognised that stricter standards usually involve higher implementation costs and techniques, which may exclude small or poorly-equipped producers,²¹³ such as for the Cantal cheese (PDO since 1996).²¹⁴ By contrast, looser rules facilitate the implementation process and increase the number of potential users, as with the Gruyère cheese (PGI since 2013).²¹⁵ At the same time, stricter standards are more likely to strengthen the product's reputation and increase consumer confidence than looser rules.²¹⁶

4.2.2.2 Consultations

The fact that outside actors are primarily responsible for the application process in Vietnam means that local actors do not negotiate the rules of production in the construction phase of the initiative. However, they are usually consulted either directly or through their representatives

211 Interview F-B1. See also M. Napoléone and J.P. Boutonnet, 'AOC Pélardon: du compromis vers l'émergence d'actions collectives. Dynamiques de systèmes de production et des stratégies de commercialisation' (Séminaire SFER, Les systèmes de production agricoles: performances, évolutions, perspective, Lille, France, 18–19/11/2004) 3. Another challenged rule is the prohibition of sale of the cheese before 11 days of maturation after curdling, Article 6.

212 Interview F-C7.

213 Galtier, Belletti and Marescotti (n207).

214 D. Barjolle and J. Philippe, 'Raising Rivals' Costs Strategy and Localised Agro-Food Systems in Europe' (2012) 3(1) *International Journal of Food System Dynamics* 11, 15.

215 *ibid* 17.

216 G. Belletti, A. Brazzini and A. Marescotti, 'To use or not to use protected geographical indications? An analysis of firms' strategic behavior in Tuscany' (Paper presented at the 3rd AIEAA Conference, Alghero, Italy, 25-27 June 2014).

as part of the surveys, data collection and meetings that the external consultant must organise in the pre-application phase.²¹⁷ In most cases, the participation of local stakeholders is limited to approving the pre-drafted production rules, the charter of the association and the choice of the logo,²¹⁸ thereby pointing to a lack of meaningful consultations. By contrast to most CoPs in France, the CoPs in Vietnam are elaborated in a few months only and generally reflect the main recommendations of agricultural research and services from where the external consultant is recruited.

Consultations of stakeholders were held for all the initiatives under study except for star anise from Lạng Sơn. In this initiative, the association was established in 2008, i.e. one year after the registration of the GI and the elaboration process of the CoP did not involve consulting local stakeholders. As a result, some stakeholders reported not being aware of its content or of the GI logo itself.²¹⁹ Similarly, the GI for Buôn Ma Thuột coffee was registered in 2005 but the association was established in 2010 only.²²⁰

In some initiatives, consultations proved to be a successful way of getting local producers engaged with the project and having their voice heard. For instance, in the case of the pottery from Đông Triều, the logo initially proposed by local authorities represented a vase but, producers successfully suggested that it should be a jar resembling the traditional product.²²¹ In other initiatives, a general concern relates to the lack of participation of some of stakeholders in the consultation phase, resulting in their low awareness of the functioning of the initiative which itself threatens its sustainability. This issue has already been raised by scholars working on GIs in Vietnam. For instance, in the case of Muntok white pepper, the consultation process involved the farmers' association but no other local stakeholder.²²² For conical hats from Huế, only the largest traders were consulted on the choice of the logo.²²³ In the case of H'mong beef, no farmer participated in the consultations. The only trader participant opposed the logo proposed by the consultant, albeit unsuccessfully as the trade mark application had already

217 NOIP, 'Guide à la construction du projet "Gestion et Développement des IGs"' 10 - 13.

218 Durand (n69).

219 Interview V-G6.

220 Durand and Fournier (n71) 98.

221 Interview V-B2.

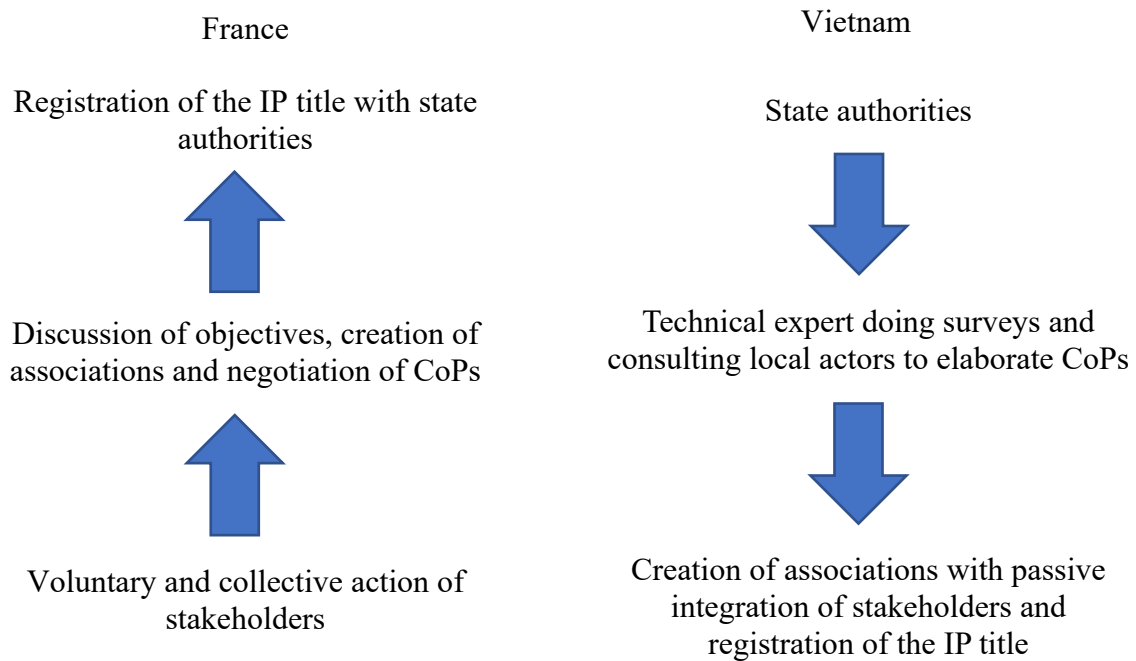
222 Durand and Fournier (n71) 97.

223 Interview V-E4.

been prepared.²²⁴ Turning to fried calamari from Hả Long, although the quality and origin of the calamari are specified in the CoP,²²⁵ fishermen were excluded from the initiative and hence from the consultations, as was also the case for Phu Quoc fish sauce. This confirms Marie-Vivien's general observation that providers of raw materials do not usually participate in the construction phase of the Vietnamese GI initiatives, which may lead to quality control issues.²²⁶ Indeed, as reported by Marie-Vivien, a survey found that 50% of Phu Quoc fish sauce manufacturers believe that the quality control cannot be efficient without the involvement of fishermen.²²⁷

Figure 4.1

Bottom-up versus top-down process



224 Interview V-F11.

225 Regulations on the management and use of the GI for fried calamari from Hả Long, Article 9.

226 D. Marie-Vivien, 'The protection of Geographical Indications in Vietnam', draft chapter in I. Calboli (ed.) *The protection of Geographical Indications in ASEAN* (expected, publisher unknown) 16.

227 *ibid.*

4.2.3 Objectives

In France, the ODGs pursue objectives of general interest that are largely centred around the defence and management of the appellation. By contrast, in Vietnam, producers' associations are resolutely market-oriented, in line with the association of GIs with product competitiveness and market development objectives.

4.2.3.1 Defence of the appellation

In France, the objectives of the ODGs established within the PDO/PGI initiatives mirror the terms used in Article L642-22 of the Rural Code. They are supposed to contribute to the 'mission of general interest of preservation and promotion of *terroirs*, local traditions and know-how as well as of products derived thereof'.²²⁸ More specifically, they should:

- (i) elaborate the CoP and contribute to its implementation;
- (ii) submit a proposal to INAO as to the selection of the certification body;
- (iii) participate in the elaboration of the control plan in collaboration with the certification body;
- (iv) participate in the implementation of the control plan (*internal control*);
- (v) identify and update the list of local operators and ensure the periodic transmission of this information to both INAO and the certification body;
- (vi) participate in activities related to the defence and management of the appellation, the product and the *terroir* as well as in the promotion of the product and in the statistical knowledge of the sector;
- (vii) implement the relevant decisions of INAO's national committee; and
- (viii) provide INAO with any information collected in connection with their missions, upon request.²²⁹

The law does not prevent the ODGs from adding optional objectives to address other interests. In practice, only the association of producers of green lentils from Berry has done so through

²²⁸ Charters of the ODGs 'Lentilles vertes du Berry' and 'Pélardon', Article 2.

²²⁹ Charters of the ODGs 'Lentilles vertes du Berry', 'Moules de Bouchot de la Baie du Mont-Saint-Michel' and 'Pélardon', Article 2.

the inclusion of objectives related to research and improvement of cultivation techniques, development of new by-products derived from the lentils and varietal research.²³⁰

Although the missions of the ODGs are laid down by the law, the objectives of the associations established in the trade mark initiatives can be freely debated and decided by their members. Both the UPSM and the association ‘Bois des Alpes’ aim at promoting, managing and defending the trade mark in the same way than the ODGs.²³¹ They also have more detailed objectives related to economic development and preservation of cultural heritage which reflect the specific challenges faced by each industry. For instance, the goals of the UPSM include promoting the product history and the traditional know-how of its members to the general public.²³² Among the objectives of the association ‘Bois des Alpes’ are to strengthen relationships and cooperation among local actors, develop new modes of exploiting and marketing wood and enhance the visibility of wood on the local and international market.²³³ The charter of the association also makes an explicit reference to eco-certification of wood products and sustainable territorial development through job creation.²³⁴ The association’s proactive approach and commitment to contribute to local sustainable development is also reflected in the socio-economic, environmental and governance standards (called ‘issues of sustainable development’)²³⁵ that have been introduced for the evaluation of applicants by the external certification body.²³⁶ As will be seen in Chapter 7, this has important consequences on the ability of the initiative to generate effects outside the market.

4.2.3.2 Market development

In Vietnam, producers’ associations established within both the *sui generis* GI and trade mark are clearly market-oriented. While they must ‘enforce principles of willingness, equality and sharing of risks and benefits’,²³⁷ producers’ associations should, according to the NOIP:²³⁸

230 Charter of the ODG ‘Lentilles vertes du Berry’, Article 2.2.

231 Charter of the association ‘Bois des Alpes’, Article 2; Charter of the UPSM, Article 4.

232 Charter of the UPSM, Article 4.

233 Charter of the association ‘Bois des Alpes’, Article 2.

234 *ibid.*

235 Rules governing the certification mark ‘Bois des Alpes’, 7.

236 *ibid.* 3.

237 NOIP ‘Guide à la construction du projet “Gestion et Développement des IGs” 15.

238 NOIP ‘Guide à la construction du projet “Gestion et Développement des IGs” 15-16. For trade marks, see for instance Charter of the association ‘Production and commercialisation of sticky rice from Đông Triêu’, Article 4.

- (i) coordinate the purchase and distribution of the products of the members of the association;
- (ii) organise promotion and marketing activities;
- (iii) manage, monitor, guide and control the cultivation, processing and marketing processes (*internal control*);
- (iv) manage the use of the logos and packaging;
- (v) strengthen the solidarity among producers and traders;
- (vi) support the diffusion of scientific and technical innovations in the production and processing of products; and
- (vii) cooperate with other organisations and individuals to exchange experiences, coordinate the production and marketing to enhance the competitiveness, quality and economic efficiency of the products.

Some producers' associations are also responsible for printing the logos and producing the packaging in exchange of the payment of a fee by users. This is the case for the pottery from Đông Triều²³⁹ and conical hats from Huế.²⁴⁰ In other initiatives, the printing of the logos is the responsibility of individual stakeholders as with Hạ Long fried calamari.²⁴¹ Local authorities who act as the managing authority of the initiatives can also be in charge of printing the logos as is the case of star anise from Lạng Sơn²⁴² and vermicelli from Bình Liêu.²⁴³

4.3 Operation of GI collectives

This section will explore the operation of GI collectives, including the three main organisational models and the rules of governance. As will be seen, these are characterised by the oversight of local actors in France as compared with state control in Vietnam.

239 Regulation on the management and use of the collective mark for the pottery from Đông Triều, Article 8.

240 Regulation on the management and use of the GI for conical hats from Huế, Article 13.

241 Regulation on the management and use of the GI for fried calamari from Hạ Long, Article 19.

242 Interview V-G7.

243 Regulation on the management and use of the certification mark for vermicelli from Bình Liêu, Article 4.

4.3.1 Organisational models

In France, the ODGs usually take the legal form of an association, as with Pélardon cheese, green lentils from Berry,²⁴⁴ and the two trade mark initiatives. It can also take the legal form of a professional union, as in the PDO mussel initiative.²⁴⁵ In Vietnam, collective organisations may be established in the form of an association, as is the case in all our case studies, or a cooperative, or any group linking producers and traders working with the product.²⁴⁶ The size of the collective organisation varies greatly across the initiatives, from four members (for the UPSM) to over 700 members (for star anise from Lạng Sơn). However, these numbers do not necessarily reflect how many stakeholders are engaged in the production of the GI product. For instance, over 2,500 planters are involved in the cultivation of arrowroot for vermicelli from Binh Lieu.²⁴⁷

Following Révion and Chappuis's analysis,²⁴⁸ three main types of organisational models can be distinguished depending on the categories of members and type of activities of the collectives, i.e. inter-professional associations; professional associations; and cooperatives. Table 4.1 provides details on the organisational model of each initiative under study.

4.3.1.1 Professional associations

Professional associations gather one type of actor who operate at the same level of the supply chain. This model is very common in PGI initiatives which typically gather processors only.²⁴⁹ It was also adopted by producers of Parma ham (PDO since 2008).²⁵⁰ Within our case studies, this type of one-level association is found for the Marseille soap and fried calamari from Hà Long. In both initiatives, only producers, who are also traders, are members of the association, thereby excluding providers of the raw material – oil producers for Marseille soap and fishermen for fried calamari.

244 Charters of the ODGs 'Lentilles vertes du Berry' and 'Pélardon', Article 1.

245 Charter of the ODG 'Moules de Bouchot de la Baie du Mont-Saint-Michel', Article 1.

246 NOIP 'Guide à la construction du projet "Gestion et Développement des IGs" 7

247 Interview V-D8.

248 Révion and Chappuis (n16) 53.

249 *ibid* 54.

250 Dentoni, Menozzi and Capelli (n206).

This type of organisation typically serves as a catalyst for coordination and concerted action at the horizontal level. At the same time, local actors may still have competing commercial interests. For instance, all the members of the association for fried calamari from Hả Long sell their production on the two same markets in Hả Long City. This has led to fierce competition among them.²⁵¹ By comparison, members of the UPSM use different marketing channels (large retail outlets, boutiques, local market stalls and/or factory shop) and hence are not in direct competition.²⁵² This contributes to explain their strong cohesion, notwithstanding their external conflict with the AFSM and the ASDMF.

4.3.1.2 Inter-professional associations

Inter-professional associations are the most common organisational model.²⁵³ This is the model of the Interprofessional Committee for the Comté cheese (*Comité Interprofessionnel de Gestion du Comté*), comprising farmers, cheese-makers and ripeners, and the General Confederation of ewe's milk producers and producers of Roquefort cheese (*Confédération générale des producteurs de lait de brebis et des industriels de Roquefort*). This model usually fosters horizontal and vertical cooperation between local actors.²⁵⁴ Inter-professional associations have a large membership as they gather different types of actors at various levels of the supply chain, yet they have no commercial activity.

Among our case studies, eight initiatives follow this model (Table 4.1). These initiatives are characterised by the heterogeneity of their members in type, size and economic terms. For instance, the ODG for bouchot mussels from Mont-St-Michel Bay includes 85 lease holders ('concessionnaires'), 43 producer-packagers ('operators') and six packagers, taking into account that all the concessionnaires are part of the structure of an operator. Packagers are commercial entities of different sizes that represent altogether about 80% of the total production in 2017 up from 57% in 2009, and whose shareholders are producers.²⁵⁵ In total, about thirty operators supply these commercial entities. Besides, the two largest operators account for about 18% of

251 Interviews V-C4, V-C5 and V-C11.

252 Interviews F-A1, F-A2 and F-A5.

253 Révion and Chappuis (n16) 53.

254 J. S. Cañada and A.M. Vazquez, 'Quality certification, institutions and innovation in local agro-food systems: Protected designations of origin of olive oil in Spain' (2005) 21 *Journal of Rural Studies* 475, 478.

255 Interview F-C11.

the total production of PDO mussels.²⁵⁶ In the case of Pélardon cheese, the ODG includes 57 farm producers, who both process and sell the cheese, 17 dairy farmers who produce milk and/or curd that they sell to collectors for processing, and three larger commercial entities, including one refiner and two processors, one of which represents about 35% of the total production of Pélardon cheese.²⁵⁷ Among the 40 members of the association for vermicelli from Bình Liêu are farmers, processors and traders, including three cooperatives and one company which accounts for 50% of the total production.²⁵⁸

As with professional associations, members of inter-professional associations cooperate to protect the reputation of the GI while pursuing their own commercial interests. For example, according to mussel producers, the two largest commercial entities are in fierce competition with one representing 40-45% of the total production of PDO mussels and aiming at a monopolistic position.²⁵⁹ There is also strong competition between Pélardon producers with the use of different references and additional signals to consumers, including price.

Our findings further confirm that the heterogeneity of members' characteristics, assets and strategies can have a negative impact on the effectiveness of collective action.²⁶⁰ In particular, a conflict between generations stemming from divergent objectives has been noticed in the case of mussels from Mont-St-Michel Bay and Pélardon cheese. In the first case, the interviewees revealed that the youngest generation seeks to associate the PDO label with a luxury product and create a niche market, whereas the older generation insists that the PDO mussel 'is not a luxury product but a product with a traditional know-how and methods of production; [their] aim was not to make money but to preserve a traditional job and a traditional know-how'.²⁶¹ Similarly, in the second case, interviewees mentioned that the older generation, who 'was driven by a genuine willingness to safeguard their patrimony, territory and know-how and to fight collectively for [the] product' has interests different from the new generation who 'might engage in the PDO initiative by self-interest only'.²⁶² This is especially true considering that some young farmers left the PDO initiative as soon as they had received

256 *ibid.*

257 Email from Ms Podeur, coordinator of the ODG, to author (12/03/2018).

258 Interview V-D8.

259 Interview F-C3.

260 Dentoni, Menozzi and Capelli (n206).

261 Interview F-C4.

262 Interview F-B6.

financial support to join it. This opportunistic behaviour and lack of engagement from the younger generation shows there is an issue of inter-generational trust.

In Vietnam, although the mandate of the associations includes the strengthening of the vertical and horizontal links among local stakeholders, two factors hinder the realization of these objectives. The first factor is concerned with the sheer number of members and the lack of coordination and cooperation among them, as is the case for the association of producers of star anise from Lạng Sơn which counts over 700 members. In this initiative, there is no direct link between farmers and buyers with collectors and wholesalers acting as intermediaries. Further, there do not seem to be established relationships between collectors and farmers at the village and commune levels either,²⁶³ while the coordination roles of the association and the managing organisation (Provincial DOST) have been reported to be weak or non-existent.²⁶⁴ Consequently, there are no vertical links among actors of the supply chain. Farmers and collectors make a new relationship for each transaction whereas buyers are not able to instruct farmers about the product quality they want. The same issue is found in other large GIs, for instance in the coffee sector, especially country-wide GIs such as Kenyan coffee (certification mark since 2010). In this initiative, the value chain is characterised by a large number of intermediaries, weak coordination among actors, lack of involvement of coffee growers, heterogeneous production practices and uneven quality of coffee bean.²⁶⁵

The second factor lies in the inactivity and general inefficiency of the Vietnamese producers' associations because of the scarcity of resources and equipment as well as the lack of leadership ability from the presidents. This typically results in the associations' lack of activity, weak or inexistent links among local stakeholders and quality issues, thus highlighting the failure of the associations to serve as a platform for collective action.

4.3.1.3 Cooperatives

By contrast to the models discussed above, cooperatives have a commercial activity. This model is rare and usually involves centralisation and mutualisation of costly assets,²⁶⁶ thereby

263 CORDAID and SNV (n120).

264 Interviews V-G5, V-G6 and V-G7.

265 Belletti, Marescotti and Touzard (n179) 51.

266 Révion and Chappuis (n16) 54.

reducing or eliminating competition among members. For instance, the cooperative created for L'Etivaz cheese (PDO since 2000) facilitates cheese storage and ripening.²⁶⁷ Both the initiatives relating to green lentils from Berry and sticky rice from Đông Triều follow this model.

In the first case, producers created the commercial entity Cibèle at the same time as they established the association (now ODG) in 1994. Although they are separate entities with different managers, Cibèle is also a member of the ODG. As an institutional actor, the ODG interfaces with INAO and is responsible for the defence of the appellation and internal quality and production controls. Contrastingly, as a commercial actor, Cibèle is in charge of sorting, packaging and marketing the PGI-labelled lentils under its own commercial brand. To this end, every year, producers make a contract with Cibèle for the number of hectares to be cultivated. In return, Cibèle buys the total production of lentils at the same price from all farmers. This system provides farmers with security of payment. This mode of organisation not only means that Cibèle is the only possible user of the PGI label. It has also led to the adoption of strict internal 'pre-labelling' inspection mechanisms to prevent free-riding within the collective. Inspections occur throughout the production cycle, including the phase of sowing seeds, the flowering season, and the period just before harvesting when eligible parcels are pre-labelled.²⁶⁸

Farmers have a strong common interest in the commercial success of Cibèle as one-third of the capital is directly held by farmers with the other two-thirds held indirectly by the same farmers via a grain company. This structure has fostered a high degree of horizontal coordination. According to a farmer, 'there is a strong cohesion among us because we are aware that if one producer makes a single mistake, this would impact on the whole sector. We are all dependent on each other because our lentils are ultimately sold by Cibèle and not by an identified producer. All producers, be they small or big, are equal. We need to preserve our collective approach and cooperative spirit'.²⁶⁹

Similarly, in the case of sticky rice from Đông Triều, farmers sell their production to the producers' association which is subsequently responsible for packaging and marketing the rice

²⁶⁷ *ibid.*

²⁶⁸ Interview F-D3.

²⁶⁹ Interview F-D4.

with the origin label. The association is therefore the only body that can actually use the label. The project leader justified this structure by reference to farmers' lack of skills in sales and management and the increase in the regulatory costs that the sale of labelled rice by farmers would incur.²⁷⁰ Despite having a broadly similar structure to that which controls green lentils from Berry, the Đông Triều sticky rice initiative does not have the same impact on collective action and social cohesion. This is mainly due to the lack of resources and incentives to make the initiative work and the very high number of farmers involved in it.

²⁷⁰ Interview V-A1

Table 4.1
Organisational models

Product	Professional groups among members	Membership	Right-holders (by law)	Organisational model
Marseille soap (UPSM)	Producers; traders	4	Compliant members	Professional association
Fried calamari from Hạ Long	Producers; traders	24	Compliant members with working experience of three years	Professional association
Wood from the Alps	Forestry producers and managers; harvesting and processing companies; specifiers and service providers; inter-professional and institutional organizations	26	Compliant sawyers, dryers, carpenters, constructors, industrial manufacturers, woodworkers, traders, distributors	Inter-professional association
Pélardon cheese	Farm and milk producers; processors; refiners	77	Compliant members	Inter-professional association
Bouchot mussels from the M.S.M. Bay	Concessionaries; mussels growers; mussels cleaners/scrubbers; packagers	49	Compliant members	Inter-professional association
H'mong beef from Cao Bằng	Farmers; slaughterhouses; traders	46	Compliant members	Inter-professional association
Conical hat from Huế	Processors; producers; traders	200	Compliant producer/trader	Inter-professional association
Pottery from Đông Triều	Producers; traders	85	Compliant members	Inter-professional association

Product	Professional groups among members	Membership	Right-holders (by law)	Organisational model
Star anise from Lạng Sơn	Farmers; processors; collectors; traders	700	Compliant producer/trader	Inter-professional association
Vermicelli from Bình Liêu	Farmers; processors; traders	36	Compliant producer/trader	Inter-professional association
Sticky rice from Đông Triều	Farmers	650	Association	Cooperative
Green lentils from Berry	Farmers; storage silos; wholesalers-packers; sorting centres (Cibèle)	50	Cibèle	Cooperative

4.3.2 Governance

This section will analyse the governance of GI collectives. In this regard, Larson stresses the need for collective organisations with strong institutional mechanisms and governance systems.²⁷¹ These aspects are particularly important if one is to address issues of democratic representation and participation in the internal decision-making processes while raising the question of whether the management of the collectives is representative of the whole chain. In France, members are directly involved in the governance of GI collectives whereas in Vietnam collective organisations are generally controlled by state authorities.

²⁷¹ J. Larson, 'Relevance of geographical indications and designations of origin for the sustainable use of genetic resources' (Study prepared for the Global Facilitation Unit for Underutilized Species, FAO, 2007) 58.

4.3.2.1 Local control

As discussed earlier, in France the ODGs must ensure both the representativeness and the balanced representation of the different professional groups involved.²⁷² To this aim, all three ODGs have established two bodies that ensure their democratic functioning through stakeholders' control and participation in decision-making processes.

The first body is a general assembly that meets at least once a year and whose main aim is to approve financial statements and agree budgets. It is composed of all the members and takes decisions by a simple majority vote,²⁷³ based on a system of weighting of votes that reflects the relative importance of each professional group in the lentils' and the mussels' ODGs. In the Pélardon ODG, by contrast, each member has a vote.²⁷⁴

This system of weighting of votes, although initially considered democratic, has proved to be problematic in the case of bouchot mussels from Mont-St-Michel Bay. In the general assembly of this ODG, each member has one vote per tonne of PDO mussels produced the previous year with a maximum of 600 votes.²⁷⁵ According to producers, the heterogeneity among producers in production terms, combined with the growing number of producers who are shareholders of commercial entities, has progressively led to a situation in which the largest producers increasingly control the decisions of the general assemblies, and in particular assert their own economic and commercial interests (or those of the commercial entity they belong to) over collective issues such as quality of the product.²⁷⁶

Another issue relates to the geographical spread of an initiative that can impact negatively on the members' participation in the general assemblies. This is the case for the Pélardon initiative which covers five departments. Geographical distances have been reported to hinder the participation of farmers located at more than 2.5 hours driving distance, which undermines the quality of collective action and social cohesion.²⁷⁷ In this respect, it is interesting to note that,

²⁷² Rural Code, Article L.642-18.

²⁷³ Charters of the ODGs 'Lentilles vertes du Berry', 'Pélardon' and 'Moules de Bouchot de la Baie du Mont-Saint-Michel', Articles 9, 15 and 11, respectively.

²⁷⁴ Charters of the ODG 'Pélardon', Article 15.

²⁷⁵ Charter of the ODG 'Moules de Bouchot de la Baie du Mont-Saint-Michel', Article 11.

²⁷⁶ Interview F-C13.

²⁷⁷ Interview F-B6.

in economic geography, physical proximity has emerged as a key factor behind the success of territorial innovation systems such as the Silicon Valley,²⁷⁸ which supports the proposal that geography matters ‘even where distance technology is at its most advanced’.²⁷⁹

The second body is a management board that meets when convened by its Chair for all three initiatives, as well as at the request of one, five or half of its members for the Pélardon, mussels’, and lentils’ initiatives respectively, and in any case at least twice a year in the mussels’ initiative.²⁸⁰ The management board has the broadest powers to administer the association, except for those expressly devolved to the general assembly.²⁸¹ While the Charter of the ODG for the PDO mussels is silent on the professional composition of the board,²⁸² those of the two other ODGs are composed of a minimum number of members elected per relevant professional group.

As in the case of ODGs, the structures of the UPSM and the association ‘Bois des Alpes’ comprise a management board composed of all four members of the association for the former,²⁸³ and of a minimum number of members per each of the four professional groups for the latter.²⁸⁴ The management board meets as often as needed and at least once (UPSM) or twice a year (‘Bois des Alpes’) at the invitation of its Chairperson or at the request of half (UPSM) or five (wood from the Alps) of its members.²⁸⁵ Besides, both associations include a general assembly open to all members that meets at least once a year and which take decisions by an absolute majority of votes cast.²⁸⁶

278 K. Morgan, ‘The Exaggerated Death of Geography: Learning, Proximity and Territorial Innovation Systems’ (2004) 4 *Journal of Economic Geography* 3, 12.

279 J. Brown and P. Duguid, *The Social Life of Information* (HBS Press, 2000) 169.

280 Charters of the ODGs ‘Lentilles vertes du Berry’, ‘Pélardon’ and ‘Moules de Bouchot de la Baie du Mont-Saint-Michel’, Articles 8.3, 10 and 10, respectively.

281 Charters of the ODGs ‘Lentilles vertes du Berry’, ‘Pélardon’ and ‘Moules de Bouchot de la Baie du Mont-Saint-Michel’, Articles 8.4, 11 and 9, respectively.

282 Charter of the ODG ‘Moules de Bouchot de la Baie du Mont-Saint-Michel’, Article 8.

283 Charter of the UPSM, Article 18: the management board must comprise at least four members.

284 Charter of the association ‘Bois des Alpes’, Article 11.

285 Charter of the association ‘Bois des Alpes’, Article 12; Charter of the UPSM, Article 20.

286 Charter of the association ‘Bois des Alpes’, Article 15; Charter of the UPSM, Article 10.

4.3.2.2 State control

In Vietnam, collective organisations are characterised by the strong involvement and control of the state authorities. As a principle, all associations in Vietnam are subject to a ‘unified state management of associations nationwide’ under the authority of the Ministry of Home Affairs.²⁸⁷ Consequently, the establishment of associations must be licensed and their charters approved by state authorities – either by the Ministry of Home Affairs for national or inter-provincial associations²⁸⁸ or by the President of the provincial People's Committee for provincial associations.²⁸⁹ Further, associations must report annually on their organisation and operation to the competent state agency.²⁹⁰

Importantly, as observed by the Director of an IP law firm, state authorities control the producers’ activities through their involvement in the governance and management of the associations, either directly or indirectly.²⁹¹ In effect, the presidents of the associations are often former local public officials or representatives from institutions affiliated to the CPV. These include the Women’s Union, the Youth Union and the Farmers’ Union, as well as the Cooperatives, which are the state agencies at the village level. As shown in Table 4.2, state authorities are involved in the management of all the associations under study, except for the vermicelli from Bình Liêu and fried calamari from Hạ Long. However, in the first case, although the association is chaired by the Deputy Director of the largest producing company, the main shareholders of the company are the Vice-Chairman of the District-level People’s Committee and representatives of the CPV – notwithstanding the prohibition on public officials to engage in business activities²⁹² – who were reported to control the activities of the association indirectly. In the second case, the first President of the producer association was an official at the District-level Market Control Department (under the authority of the Ministry of Industry and Trade) before he was replaced by the largest producer. This shows that, in this case study, producers have gradually taken over the management of the GI initiative, with the help and support of the managing organisation.

287 Decree 45/2010/ND-CP of 21/04/2010 on the establishment, operation, and management of associations, Articles 1.1 and 36.

288 *ibid* Article 14.1.

289 *ibid* Article 14.2.

290 *ibid* Article 24.7.

291 Interview V-H5.

292 Business Law 60/2005/QH11 of 25/11/2005, Article 13.1(b).

Table 4.2
Management systems in the Vietnamese case studies

Product	IP title	Owner of the IP title	Managing organisation	President of the producer association
Sticky rice from Đông Triều	Collective mark	Association	Association	Leader of the Cooperative
H'mong beef from Cao Bằng	Collective mark	Association	Association	Former official at the Department of Finance
Pottery from Đông Triều	Collective mark	Association	Association	Former official at the DARD
Vermicelli from Bình Liêu	Certification mark	District People's Committee	District Economic Department	Deputy Director of the largest company
Star anise from Lạng Sơn	<i>Sui generis</i> GI	Provincial People's Committee	Provincial DOST	Commune-level Secretary of the CPV
Fried calamari from Hạ Long	<i>Sui generis</i> GI	District People's Committee	Economic Department of Hạ Long City	Largest producer
Conical hat from Huế	<i>Sui generis</i> GI	Provincial People's Committee	Association	President of the Province-level Women's Union

The structure of the Vietnamese associations is complex and includes a large number of boards and special committees. Among the most important boards are:²⁹³

- a general assembly composed of all the members of the association and whose functions are broadly similar to those of the general assemblies of the French associations;
- an executive or management board whose members are elected by the general assembly and whose mandates are broadly similar to those of the management boards in France. In addition, the executive board is responsible for receiving and examining the applications for the right to use the IP title (for *sui generis* GIs and trade marks), and for either granting the right to use (for collective trade marks) or advising the managing authority on whether to grant the right to use (for *sui generis* GIs and certification trade marks);
- an inspection board, in charge of the internal quality control and the implementation of the regulations of the association; and
- a board of finance, in charge of the budget and other accounting activities.

Other units may be created to focus on marketing, awareness raising, technology and production activities.²⁹⁴

Importantly, two issues may raise concerns as to the genuine, equal and balanced participation of local stakeholders in the decision-making processes of the associations. First, the general assemblies of the Vietnamese associations under study are required to meet once every five years only.²⁹⁵ Considering that the general assembly is the only body open to all members, this prompts questions about their usefulness and about the role of local stakeholders in the governance of the initiatives. It also illustrates the lack of meaningful consultations with local actors after the IP title is registered, as is the case during the application process. However, our case studies may not account for all Vietnamese producers' associations and further research is needed in this area to confirm or challenge our findings. Second, the respective importance of the different professional groups is not taken into account in the composition of the various Boards nor in the voting systems or decision-making process. While this does not automatically mean that the representation of the different professional groups is unbalanced in practice, there

293 Charters of the associations 'Production and commercialisation of fried calamari from Hạ Long', Articles 12-19; 'Production and commercialisation of sticky rice from Đông Triều', Articles 11-15; and 'Production and commercialisation of vermicelli from Bình Liêu', Articles 12-16.

294 Charters of the associations 'Sticky rice from Đông Triều', Articles 16; and 'Vermicelli from Bình Liêu', Article 19.

295 Charters of the associations 'Sticky rice from Đông Triều', Article 12; 'H'mong beef from Cao Bằng', Article 12; 'Fried calamari from Hạ Long', Article 13; and 'Vermicelli from Bình Liêu', Article 13.

is a risk that the functioning of the associations hinders empowerment and participation of local stakeholders while entrenching power imbalances.

Conclusion

The aim of this chapter was to analyse the processes of collective action involved in the twelve case studies, including the actors' strategies for initiating the GI protection process and their role in the establishment and operation of GI collectives. Our findings primarily illustrate the variety of objectives and meanings associated with the GI protection, the diversity of forms of collective action dynamics and internal organisational structures, and the contrasting roles played by local actors in the creation and operation of GI collectives in France and Vietnam.

In relation to the actors' strategies for initiating the GI protection process, this chapter suggests the need to consider two factors. The first factor, well-studied in the GI literature,²⁹⁶ is the profile of the products themselves, including whether their reputation precedes the legal protection. The more the reputation and specificity of a product are acknowledged by consumers, the more likely its name may be usurped and misappropriated.²⁹⁷ In such instances, as seen in Chapter 1, the GI protection is used as a legal tool to protect the collective reputation attached to the product and fight against unfair competition practices,²⁹⁸ as for most French products under study. However, when the product does not have a well-established reputation before the legal protection, as is widespread in Vietnam, the strategy behind the GI protection is to build such reputation through its differentiation and increase the market.²⁹⁹ The GI protection is thus thought of as a marketing (rather than legal) tool aimed at establishing a quality convention upon which the product's reputation will gradually be built.³⁰⁰

296 See for instance G. Belletti and others, 'The Roles of Geographical Indications (PDO/PGI) on the Internationalisation Process of Agro-food products' (105th EAAE seminar on international marketing and international trade of quality food products, Bologna, Italy, March 2007).

297 G. Belletti, 'Origin labelled products, reputation, and heterogeneity of firms' in B. Sylvander, D. Barjolle, F. Arfini (eds.), *The socio-economics of origin labelled products in agro-food supply chains: spatial, institutional and co-ordination aspects* (INRA, Série Actes et Communications, 2000) 17(1) 239, 239.

298 C. Bramley, E. Biénabe and J. Kirsten, 'The economics of geographical indications: towards a conceptual framework for geographical indication research in developing countries' in *The Economics of Intellectual Property: Suggestions for Further Research in Developing Countries and Countries with Economies in Transition* (WIPO, 2009) 109.

299 A. Pacciani and others, 'The Role of Typical Products in Fostering Rural Development and the Effects of Regulation (EEC) 2081/92' (73rd Seminar of the European Association of Agricultural Economists, Ancona, Italy, June 28-30 2001).

300 Durand (n69) 162.

The second factor is the broader socio-economic and institutional environment in which local products are embedded. For example, the socio-economic context of all the French products were (and most still are) challenging when local actors decided to initiate the protection process in a collective attempt to defend their activities and promote the development of their territory. In Vietnam, rural poverty and state policies and strategies, including Vietnam's export-oriented agricultural policy, rural industrialisation strategy and national objectives of industrialisation and modernisation, contribute to explain the market and product development objectives associated with the GI protection. Despite the widespread use of the concept of embeddedness³⁰¹ in the literature on agri-food networks,³⁰² few authors have studied its importance in relation to GIs.³⁰³ Our findings demonstrate the need for more research on the impact of both horizontal embeddedness, which refers to local social and cultural relations,³⁰⁴ and vertical embeddedness, i.e. the wider socio-economic, institutional, political and cultural environment,³⁰⁵ on the strategies underpinning the GI protection process, as well as on the creation and operation of GI collectives.

To further highlight the importance of vertical embeddedness, the analysis of our case studies also confirm the role of the legal and institutional environment in influencing and shaping the forms and processes of collective action in each country, regardless of the means of protection. Whereas there is a small emerging literature on collective action efforts during GI registration processes,³⁰⁶ there is a need for more systematic research of the relationship between such efforts and legal processes. In France, local actors strategically initiate the protection process, actively negotiate the pre-existing social norms defining the product identity and manage the initiatives in a participatory manner which leads to their empowerment. In Vietnam, local actors are usually integrated passively within initiatives designed by external consultants and managed by state authorities. This approach typically provides them with little or no space to

301 M. Granovetter, 'Economic action and social structure: the problem of embeddedness' (1985) 91(3) *American Journal of Sociology* 481.

302 S. Bowen, 'The importance of place, re-territorialising embeddedness' (2011) 51(4) *Sociologia Ruralis* 325, 325.

303 *ibid.*

304 R. Sonnino, T. Marsden, 'Beyond the divide: rethinking relationships between alternative and conventional food networks in Europe' (2006) 6(2) *Journal of Economic Geography* 181.

305 R. Sonnino, 'Embeddedness in action: saffron and the making of the local in southern Tuscany' (2007) 24(1) *Agriculture and Human Values* 61.

306 X.F. Quiñones-Ruiz and others, 'Why early collective action pays off: evidence from setting Protected Geographical Indications' (2016) *Renewable Agriculture and Food Systems* 179; M. Paus, S. Réviron, 'Crystallisation of Collective Action in the Emergence of a Geographical Indication System' (116th Seminar, Parma, Italy, October 2010).

contribute to the decision-making processes in a meaningful way and take ownership of the collectives.

This does not preclude the possibility that Vietnamese stakeholders may gradually associate themselves with the initiatives, take over their management, or at least place some hope in the possibility to benefit from them. Examples of top-down and bottom-up approaches leading to successful and unsuccessful collective mobilisation of local actors, respectively, have been mentioned above. Besides, a bottom-up and participatory approach typically involves long and complex negotiations, especially if there is a great heterogeneity among stakeholders, which may result in the adoption of lower or higher quality standards that may still be contested after the GI registration. By contrast, a top-down approach might be useful in countries that lack strong institutional structures to kick off collective action dynamics and accelerate the GI registration process.

At the operation level, most Vietnamese initiatives feature little interest, understanding and commitment of local actors and remain purely ‘administrative’ with a very low use of the GI labels, if at all, which will be addressed in Chapter 6. The lack of involvement of stakeholders is further exacerbated by limited resources and equipment of the associations, inadequate leadership ability from their presidents, and weak or inexistent links among local stakeholders. Recent literature on GI-labelled coffee also points to the failure of top-down processes to mobilise local actors because of their lack of empowerment and little knowledge of both the characteristics of their own product and the meaning of the GI protection, among others.³⁰⁷

Overall, some initiatives show a great level of social cohesion as a result of their organisation model, governance systems and stakeholders’ adherence to both formal standards and informal ethical rules. In others, conflicts between private and common interests and ongoing contestation of the rules adopted at the local level are likely to undermine the quality of collective action. This suggests a need to conduct further research on stakeholders’ understanding and adherence to local formal rules as well as informal ethical or moral rules within the group, as these may have impact on the quality of collective action and social cohesion. The impact of the broader legal and institutional framework, the internal structure and functioning of GI collectives should also be looked at.

307 Belletti, Marescotti and Touzard (n179) 53.

Factors influencing the value of GIs on the market

This chapter aims to identify the factors influencing the value and benefits of GIs in the marketplace. Among our twelve case studies, the commercial use of origin labels can be observed in six initiatives, including two in Vietnam and four in France, although with varying degrees of success. These are the fried calamari from Hạ Long, vermicelli from Bình Liêu, bouchot mussels from Mont-St-Michel Bay, Pélardon cheese, green lentils from Berry, and wood from the Alps. By contrast, there has been no or very little use of the origin labels in the six other initiatives. The market environment of these six other products will be studied in Chapter 6 so as to provide a separate and detailed analysis of the factors involved in the lack of use of the origin labels.

As seen in Chapter 1, the primary role of GIs is best seen in a marketplace context, where they provide information to consumers as per the geographical origin of the goods and contribute to protect the product's reputation as derived from specific territorial values, including local natural resources and know-how.¹ Building upon the economics of product differentiation,² scholars generally agree that, in turn, the product's reputation can lead to increased consumer demand which drives higher production volumes and advances the economic and commercial interests of local stakeholders by the capturing of private economic benefits arising from the use of GIs. These include price premiums and greater market access resulting from successful

1 F. Thiedig and B. Sylvander, 'Welcome to the Club? An Economical Approach to Geographical Indications in the European Union' (2000) 49 *Agrarwirtschaft* 428; D. Rangnekar, 'The Socio-Economics of Geographical Indications: A Review of the Empirical Evidence from Europe' (UNCTA/ICTSD Issue Paper No. 4, 2004) 13–16; C. Bramley and J.F. Kirsten, 'Exploring the Economic Rationale for Protecting Geographical Indicators in Agriculture' (2007) 46 *Agrekon* 69.

2 C. Bramley, 'A Review of the Socio-economic Impact of Geographical Indications: Considerations for the Developing World' (WIPO Worldwide Symposium on Geographical Indications, Lima, Peru, 22–24 June 2011).

marketing.³ The market remuneration of GIs,⁴ which corresponds to ‘the mechanisms by which society pays producers for the services associated with the origin-linked product’,⁵ thus involves three distinct steps: (1) the establishment of the product’s reputation; (2) increased consumers’ demand and higher production volumes; (3) greater market access and higher prices linked to marketing strategy and channels.

The potential of GIs to bring about economic and commercial benefits has gained particular importance, especially in the EU where the promotion of GIs has been increasingly linked to rural development, including by improving farmers’ incomes through price premiums.⁶ As explained by van Ittersum and others,⁷ the existence of price premiums which, according to the European Commission, is ‘often one of the first aims of supporting a strategy for an origin-linked product’,⁸ greatly depends on the consumers’ appreciation of origin labels and their consequent willingness to pay a higher price.

This chapter explores the market remuneration of GIs by looking at each the three steps mentioned above. Section 5.1 first considers the ways in which the reputation of origin products was established in the marketplace, both before and after the labelling processes. In doing so, it will argue that GIs cannot only be an instrument to protect an established reputation but also a tool to build and strengthen the product’s reputation when coupled with collective promotion efforts and marketing investments. Section 5.2 analyses the effects of GIs on consumer demand and production capacity. In particular, it will show that, while consumer demand for the six products has generally increased, the potential of the initiatives to match supply and demand depends not only on their growth capacity and dynamism but also on the market environment and institutional context in which they are developing. Finally, Section 5.3 explores the commercial approaches and marketing strategies. It will argue that, if the types of marketing

3 C. Bramley and E. Biénabe, ‘Developments and considerations around geographical indications in the developing world’ (2012) 2 (1) Queen Mary Journal of Intellectual Property 14.

4 E. Vandecandelaere and others, ‘Linking People, Places and Products: A Guide for Promoting Quality Linked to Geographical Origin and Sustainable Geographical Indications’ (FAO and SENER-GI, 2009) 118.

5 *ibid* 5.

6 Council Regulation (EEC) 2081/92 of 14 July 1992 and Council Regulation (EC) 510/2006 of 20 March 2006 (EC), Recitals 2. See also Council Regulation (EU) No 1151/2012 of 21 November 2012, Recital 4.

7 K. van Ittersum and others, ‘Consumers’ Appreciation of Regional Certification Labels: A Pan-European Study’ (2007) 58 *Journal of Agricultural Economics* 1.

8 European Commission, ‘Workshops on Geographical Indications - development and use of specific instruments to market origin-based agricultural products, making particular use of GIs in African ACP countries’ (European Commission, 2011) <http://ec.europa.eu/agriculture/events/2014/gi-workshops/training-brochure_en.pdf> accessed 30 March 2018.

channels impact on the commercial value of GIs and the economic benefits derived from their use, they do not impact in the same way across the initiatives. The analysis of the six case studies will therefore provide an illustration of the diversity of factors influencing the use and value of GIs in the marketplace, as well as the benefits derived from them, depending on the actors' strategies, product specificities and features of the institutional and market environment in which the GI initiatives are developing.

5.1 Product reputation

A well-established reputation in the market has been identified as a key factor for commercial success of origin products.⁹ Conversely, the lack of collective reputation undermines the potential of GIs to realise economic (and other) benefits, as has been observed with many origin coffees,¹⁰ and most products that are analysed in Chapter 6.

Building upon our case studies, this section will show that there are many ways in which the product's reputation is built or maintained and operates in the market. These depend on the history of the production and the cultural and territorial values embodied in the product.¹¹ The various perspectives (local, national or international), the diversity of audiences (tourists, local consumers or distant buyers) and the type of processes and actors involved in the advertising and promotion activities (single stakeholder, collective of producers or state authorities) should also be considered as they contribute to different branding strategies. As noted by GI scholars,¹² the reputation of GI products can either precede the GI registration, which requires efforts to maintain and protect it against unfair competition practices, or be built after the GI registration.

9 D. Barjolle and B. Sylvander, 'Some factors of success for 'origin labelled products' in agri-food supply chains in Europe: market, internal resources and institutions' (2002) 36(9-10) *Economies et sociétés* 1441; J.A. Winfree and J. McCluskey, 'Collective reputation and quality' (2005) 87 *American Journal of Agricultural Economics* 206.

10 F. Galtier, G. Belletti and A. Marescotti, 'Factors Constraining Building Effective and Fair Geographical Indications for Coffee: Insights from a Dominican Case Study' (2013) 31(5) *Development Policy Review* 597, 612.

11 Winfree and McCluskey (n9).

12 E. Biénabe, J.F. Kirsten and C. Bramley, 'Collective action dynamics and product's reputation' in C. Bramley, E. Biénabe and J.F. Kirsten (eds), *Developing geographical indications in the Sout : The Southern African experience* (Springer, 2013) 51, 54-55.

5.1.1 Reputation *ante* labelling process

The vermicelli from Bình Liêu, fried calamari from Hạ Long, bouchot mussels from Mont-St-Michel Bay and Pélardon cheese have all been popular on the market since well before the labelling process, yet three different reasons account for their long-established reputation among consumers.

First, the reputation of fried calamari from Hạ Long and of bouchot mussels from Mont-St-Michel Bay has been closely linked to the prestige of the places where they come from. Both products are produced in regions that have been protected as UNESCO World Heritage Sites since before the GI protection process¹³ and whose name is part of the product name. The choice of the product name is particularly strategic as it takes advantage of the renown linked to a place, which has allegedly contributed to increasing the commercial success of the products.¹⁴ This is because the UNESCO recognition has been attractive to distant domestic or foreign consumers who associate it with quality products and/or because the area of origin attracts a high number of tourists who add to the ‘local’ demand for the product. Other GI products have benefited from the tourism development in UNESCO-protected areas. For example, in Vietnam, this has also been the case for the mint honey of Mèo Vạc produced on the Dong Van Karst Plateau UNESCO Global Geopark (Hà Giang Province).¹⁵

In these instances, the region’s reputation is not built upon the marking of distinctive goods as it is generally assumed by GI advocates,¹⁶ and as experienced for instance in many wine regions through the growth of agro-tourism centered around the promotion of local wines.¹⁷ Rather, it is the region’s established reputation that is likely to support the promotion of local products. This would tend to confirm Marette’s view that consumers value the origin of the products *per*

13 UNESCO World Heritage List, ‘Hạ Long Bay’ <<http://whc.unesco.org/en/list/672>>; ‘Mont-Saint-Michel and its Bay’ <<http://whc.unesco.org/en/list/80>> accessed 18 September 2017.

14 Interviews V-C2 and F-C9.

15 C. Durand, ‘L’émérgence des indications géographiques dans les processus de qualification territoriale des produits agroalimentaires - Une analyse comparée entre l’Indonésie et le Vietnam’ (PhD Thesis, Montpellier SupAgro 2016) 351.

16 R.J. Coombe, S. Ives and D. Huizenga, ‘Geographical Indications: The Promise, Perils and Politics of Protecting Place-Based Products’ in M. David & D. Halbert (eds.) *The SAGE Handbook of Intellectual Property* (SAGE Publications, 2014) 207, 212.

17 Bramley and Bienabe (n3) 24.

se but not necessarily the origin labels in themselves,¹⁸ although it could also be argued that both the physical origin of the products and the origin labels contribute to reinforce each other's attractiveness. The promotion of local products may even be planned in the local tourism policy. In this respect, it is interesting to note that in Vietnam, the development of 'tourism products, respecting natural elements and local cultures' is a pillar of the 'Strategy on tourism development until 2020, vision to 2030'.¹⁹ This marketing strategy has been seen elsewhere; for example the use of a collective mark with the name of Matera, a World Heritage site since 1993, has been promoted by the local Chamber of Commerce to publicise Matera craft products.²⁰ It should be noted that the reputation of fried calamari from Hả Long, listed among the 50 most delicious dishes in Vietnam in 2012 and the 100 most delicious dishes in Asia in 2013 by the respective Guinness Books of Records,²¹ has further increased with the 'Vietnam Gold Agriculture Brand Award' received from the MARD in 2017.²²

Second, in the case of Pélardon cheese, which comes from a region that has become an UNESCO World Heritage Site *after* the GI protection process,²³ most of the production has traditionally been sold on local markets through traditional distribution channels, either on-farm or in local markets. Geographic proximity between consumers and producers has contributed to increasing consumer knowledge and awareness while building the reputation of both the product and individual producers through trust and personal interaction within the production area.²⁴ However, as will be further discussed in Section 5.3, it is precisely because personal knowledge and trust are the most important marketing arguments at the local level that the origin label has little value inside the area of origin.

18 S. Marette, 'Can Foreign Producers Benefit from Geographical Indications under the New European Regulation?' (2009) 10(1) *Estey Centre Journal of International Law and Trade Policy* 70, 71.

19 Socialist Republic of Vietnam, Government Portal, 'Strategy on Vietnam's tourism development until 2020, vision to 2030' <<http://www.chinhphu.vn/portal/page/portal/English/strategies/strategiesdetails?categoryId=30&articleId=10051267>> accessed 21/08/2018.

20 C. Bortolotto, 'Globalizing Intangible Cultural Heritage? Between International Arenas and Local Appropriations' in S. Labadi and C. Long (eds.) *Heritage and Globalization* (Routledge 2010) 97, 99.

21 Interview V-C2.

22 Interview V-C13.

23 UNESCO World Heritage List, 'The Causses and the Cévennes, Mediterranean agro-pastoral Cultural Landscape' <<http://whc.unesco.org/en/list/1153>> accessed 18 September 2017.

24 A. Benkahla, J.-P. Boutonnet and M. Napoléone, 'Proximités et signalisation de la qualité: approches croisées pour l'étude d'une AOC. Le cas du Pélardon' (4th Congress on Proximity Economics: Proximity, Networks and Co-ordination, Marseille, 17-18 juin 2004) 11.

Third, the reputation of vermicelli from Bình Liêu within the area of production had been built up from the notoriety previously acquired by the main producer/trader who has since become the President of the producers' association. This producer, who accounts for 50% of the total production of vermicelli in Bình Liêu, had registered the collective mark 'vermicelli from Bình Liêu' for his own business in 2007, i.e. six years before the registration of the certification mark, and had made huge investments to build its reputation.²⁵ This explains why he was first reluctant to join the collective branding initiative and use the certification mark,²⁶ especially considering that his own reputation was allegedly impaired by the lower-quality vermicelli produced by other members of the association and marketed under the same brand.²⁷ Yet the fact that the collective packaging provides for the insertion of the producer's name has allowed his own customers inside the area of production to identify vermicelli produced by his company and marketed under the new certification mark.²⁸ The association of his name with the new certification mark has gradually contributed to increasing the reputation of the latter within the territory.²⁹ However, although local consumers are now aware of the existence of the certification mark, it remains unclear whether they value the certification mark *per se*, whoever the producer, or whether they look for the producer's name on the packaging without relying on the certification mark.

5.1.2 Reputation *post* labelling process

Unlike the previous products, green lentils from Berry and wood from the Alps did not have a strong reputation before the start of the origin labelling process. As seen in Chapter 4, the legal protection of the name, in both cases, aimed to increase the reputation of the product and develop the market as it is generally the case for origin-products that do not have an established reputation.³⁰ Different strategies were adopted to develop the reputation of these two products on the market. Collective action among producers has been instrumental to increase the reputation of green lentils from Berry through joint promotion, marketing and labelling.

28 Interviews V-D1 and V-D2.

26 Interview V-D1.

27 Interviews V-D3 and V-D8.

28 Interview V-D3.

29 *ibid.*

30 A. Pacciani and others, 'The Role of Typical Products in Fostering Rural Development and the Effects of Regulation (EEC) 2081/92' (73rd Seminar of the European Association of Agricultural Economists, Ancona, Italy, June 28-30 2001).

Conversely, the involvement of public authorities has been pivotal to building the image of the wood from the Alps.

According to producers,³¹ low market visibility of green lentils from Berry before the labelling process was due to fierce competition from green lentils from le Puy that have enjoyed a high reputation since their qualification as an appellation of origin in 1935.³² In effect, it took about ten years to build the reputation of the product on the market after the creation in 1994 of the producers' association and the company Cibèle, in charge of the collective promotion and marketing of the product.³³ According to producers, collective marketing investments have been instrumental in reviving production and promoting the product.³⁴ The French Label Rouge high-quality certification, granted in 1996 and better known than the European labels among French consumers, has greatly contributed to building the product's reputation (see Section 4.1.1.2). At the same time, the higher quality standards associated with the Label Rouge certification have increased consumer awareness of the PGI label which, by localising the production, has further enhanced the value of the product.³⁵

By contrast to producer-led collective efforts, the process for building the reputation of wood from the Alps was primarily driven by local public authorities concerned with the development and protection of the territory, thereby highlighting the strong political dimension of the initiative.³⁶ Indeed, if the involvement of public authorities has been pivotal in the construction phase of the certification mark (see Chapter 4), their role in the promotion of the use of the labelled, certified wood has also been essential for increasing the reputation of the wood and its use in construction projects. In fact, with only 10% of the projects using wood from the Alps being for private construction, the use of the certified wood results from competitive bids for the construction of public buildings for the largest part.³⁷ The overwhelming proportion of public construction projects derives from the desire of public authorities to show exemplarity in the use of local wood and encourage the local population to embrace the opportunities and benefits offered by the local wood industry. According to the coordinator of the producers'

31 Interviews F-D1, F-D2 and F-D4.

32 Tribunal civ. 1ère instance Puy, 17/01/1935.

33 Interview F-D2.

34 Interviews F-D1 and F-D2.

35 *ibid.*

36 Interviews F-E1 and F-E2.

37 Interview F-E9.

association, this strategy has greatly contributed to building the reputation of the local wood within the region.³⁸

5.1.3 Advertising and promotion

Important investments in advertising and promotion have been necessary in all the initiatives to enhance consumers' awareness and maintain or strengthen the product's reputation even for the four products whose reputation had been established before the GI protection. Advertising and promotion investments have proved especially useful for those products who only had a reputation inside the area of origin.

Collective communication and promotion activities are usually the largest item of expenditure of GI collectives.³⁹ In France, these activities are developed and implemented by the producers' associations, thereby ensuring the producers' participation. Collective communication and promotion activities are usually funded in two ways: public support received from the European Commission or the Regional authority; and producers' contributions to the collective budget of the association, which not only covers communication and promotion activities but also the costs of external controls. For instance, Pélardon producers contribute €0.8/goat and €0.012/cheese sold in addition to fixed annual fees of €70,⁴⁰ whereas mussel producers contribute €0.03/kg of mussels sold in addition to fixed annual fees of €150.⁴¹ For an average producer who sells 300 tonnes of mussels every year, the annual fees related to the use of the origin label thus amount to over €9,000. Although significant, this amount should be put in perspective with the cost of collective activities including promotional tools. As such, the last campaign video clip that promoted bouchot mussels from Mont-St-Michel Bay on three public channels in 2017 during 15 days for a total of 189 TV spots cost about €200,000.⁴²

38 Interview F-E1.

39 J.-S. Cañada and A.-M. Vazquez, 'Quality Certification, Institutions and Innovation in Local Agro-Food Systems: Protected designations of origin of olive oil in Spain' (2005) 2(4) *Journal of Rural Studies* 475, 480.

40 Interview F-D6.

41 Interview F-C11.

42 Interview F-C12. The campaign video clip is available here: <<https://youtu.be/aGVwVzm9wTA>> accessed 27 March 2018.

Picture 5.1

Example of promotional panel for green lentils from Berry



This illustrates how GI collectives allow producers to pool resources so as to implement collective action and achieve common goals that they would not be able to meet individually.⁴³ Generally speaking, while the activation of place-based marketing strategies involves higher expenses for the creation and marketing of a differentiated product image among consumers,⁴⁴ such expenses are usually compensated for by the lower transaction costs and the economies of scale achieved through the mutualisation of marketing and promotion costs (among others costs) within the GI initiatives.⁴⁵

The way in which promotion and advertising activities are funded and implemented in the Vietnamese initiatives contrasts with the French initiatives. In Vietnam, where producers have limited financial capacities, local state authorities are generally responsible for financing and implementing advertising and promotion activities which usually take place in local state-

43 B.A. Babcock and R. Clemens, 'Geographical Indications and Property Rights: Protecting Value-Added Agricultural Products' (MATRIC Briefing Paper 04-MBP 7, May 2004) 12; S. Révion and J.-M. Chappuis, 'Geographical Indications: Collective Organization and Management' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 45, 46.

44 Bramley (n2).

45 Bramley and Biénabe (n3); D. Barjolle and J.M. Chappuis, 'Transaction costs and artisanal food products' (Proceedings of the Annual Conference of International Society for New Institutional Economics, Tubingen, Germany, 22-24 September 2000).

owned magazines, radio, TV and exhibitions.⁴⁶ Generally speaking, in countries where local stakeholders have limited financial capacity, the involvement of external actors like the State, NGOs or other private agents in the promotion and advertising activities is usually welcome,⁴⁷ providing that they ensure the participation of local stakeholders in the governance of the initiative and the sharing of benefits.

5.2 Consumer demand and production capacity

As mentioned earlier, the product's reputation drives consumer demand which, in turn, may lead to higher production and sales volumes.⁴⁸ Generally speaking, the last few decades have witnessed a growing consumer demand for origin products in reaction to hyper-industrialisation, mass production, standardisation of 'placeless' food and the series of food scandals since the late 1970s.⁴⁹ Consumers' association of origin products with higher quality standards has in fact been well documented both in Europe⁵⁰ and Vietnam.⁵¹ A number of surveys, carried out predominantly in Europe, show that consumers are increasingly sensitive to the origin of products. For example, a Eurobarometer survey carried out in 2012 in the 27 EU Member States showed that 71% of interviewees consider origin as an important factor when buying food.⁵² In Vietnam, a survey conducted in 2005 shows that consumers in Hanoi and Ho Chi Minh City associate the place of origin with the product's higher quality.⁵³ However, it should also be kept in mind that, while there is generally a good recognition of origin labels among French consumers, the situation is more complex in Vietnam. Indeed, Vietnamese consumers reportedly lack confidence in origin and other state labels, particularly with regard to the efficiency of the control procedures carried out by state authorities.⁵⁴ They

46 Đ. Đức Huấn and others, 'Rapport - Etude des modèles de gestion des indications géographiques du Vietnam' (NOIP/AFD, 2017) 45-46.

47 D. Marie-Vivien and E. Biénabe, 'The multifaceted role of the state in the protection of geographical indications: A worldwide review' (2017) 98 *World Development* 1, 5.

48 J. Crespi and S. Marette, 'Some Economic Implications of Public Labeling' (2003) 34(3) *Journal of Food Distribution Research* 83.

49 D. Goodman, 'Rural Europe Redux? Reflections on Alternative Agro-Food Networks and Paradigm Change' 2004 (44)1 *Sociologia Ruralis* 3.

50 European Commission, 'Europeans' attitudes towards food security, food quality and the countryside' (Report, Special Eurobarometer 389, July 2012) <http://ec.europa.eu/public_opinion/archives/ebs/ebs_389_en.pdf> accessed 21/08/2018.

51 T.T. Tran and others, 'Les produits de terroirs vietnamiens: points de vue des consommateurs locaux' (Colloque International *Localiser les produits : une voie durable au service de la diversité naturelle et culturelle de Sud* ? 9-11 juin 2009, Paris, France).

52 European Commission, 'Europeans' attitudes' (n50) 4.

53 Tran and others (n51).

54 Durand (n15) 254.

also appear to be confused over the many different standards and labels in use in the country, especially considering there is no national GI logo yet (see Chapter 3).

In Europe, the impact of higher reputation on production volumes has been observed in many GI products. For example, the production of San Daniele ham, which was granted the PDO protection in 1996, grew from 1.7 million hams in 1997 up to 2.14 million in 2000 and to 2.6 millions in 2018.⁵⁵ Similarly, Giovannucci notes that the production of the Puy lentils increased almost four times between 1990 and 2002 arguably due to the French AOC protection obtained in 1996.⁵⁶ A recent report released by FAO also notes that the production of the Penja pepper from Cameroon (GI registered in 2013) grew by 328% between 2000 and 2015.⁵⁷

Despite these well-documented success stories in the GI literature, this section will argue that, while consumer demand for the products under study has generally increased, the initiatives demonstrate variable abilities and potentialities to match supply and demand depending not only on their growth capacity and dynamism but also on the market environment and institutional context in which they are developing.

5.2.1 Strategies to increase production capacity

In the case of fried calamari from Hạ Long, vermicelli from Bình Liêu and green lentils from Berry, the production capacity has expanded to better meet the growing consumer demand with different results across the initiatives. In general, expanding the production in the face of increasing consumer demand, usually through the increase in the membership of the producers' association, and/or the expansion of the production area, and/or the use of input-intensive cultivation systems, is a strategy that has been adopted for other famous GI products, including

55 C. Folkesson, 'Geographical Indications and Rural Development in the EU' (Master's thesis, Lunds University, 2005) 57. For the 2018 data, see the San Daniele ham official website: <<http://consorzio.prosciuttosandaniele.it/en/the-production-chain/>> Accessed 21/08/2018.

56 Giovannucci and others, *Guide to Geographical Indications: Linking Products and Their Origins* (International Trade Centre, 2009).

57 FAO and EBRD, 'Strengthening sustainable food systems through geographical indications - An analysis of economic impacts' (FAO, 2018) 16 <<http://www.fao.org/3/i8737EN/i8737en.pdf>> accessed 18/08/2018.

Blue Mountain coffee (Jamaica),⁵⁸ Tequila (Mexico),⁵⁹ Rooibos tea (South Africa),⁶⁰ Comté cheese (France),⁶¹ and Kona coffee (United States).⁶² For instance, Tequila production, which tripled between 1995 and 2008 from 104 million litres to 312 million litres and is now stable at about 250 million per year,⁶³ has experienced both an expansion of the cultivation area and a shift from traditional, labour-intensive cultivation practices to more chemical-intensive practices and expansion of the cultivation area.⁶⁴

Turning to our case studies, the production of fried calamari from Hả Long increased by 35% from about 50 tonnes in 2014⁶⁵ to 730 tonnes in 2017 and generally meets consumer demand,⁶⁶ especially considering that most of the production is consumed locally by visiting tourists. In the case of vermicelli from Bình Liêu, the total production was over 400 tonnes in 2017 up from about 300 tonnes in 2014, an increase of about 33% in three years. However, in this initiative, production levels have been reported to be insufficient to meet the growing demand.⁶⁷ For both products, the rise in production capacity results from the increase in the number of producers as well as, for vermicelli from Bình Liêu, the introduction of improved varieties that offer higher yields and the use of modern processing machines, including milling, grinding, washing and drying machines that have replaced the traditional manual processing process. This change in production practices would tend to support Durand and Fournier's claim that GI initiatives can be used in Vietnam as a way to promote agricultural modernisation, including through the substitution of traditional local techniques with modern ones and/or the use of improved varieties.⁶⁸

58 Giovannucci and others (n56) 170.

59 S. Bowen and A. Zapata, 'Geographical indications, terroir, and socioeconomic and ecological sustainability: The case of tequila' 2009 (25)1 *Journal of Rural Studies* 108, 111.

60 E. Biénabe and others, 'Linking farmers to markets through valorisation of local resources: the case for intellectual property rights of indigenous resources' (IPR DURAS Project Scientific Report, April 2011) 64.

61 S. Bowen, 'The importance of place, re-territorialising embeddedness' (2011) 51(4) *Sociologia Ruralis* 325, 338.

62 FAO and EBRD (n57) 16.

63 S. Bowen, *Divided Spirits: Tequila, Mezcal, and the Politics of Production* (University of California Press, 2015) 42.

64 Bowen and Zapata (n59) 111-115.

65 CASRAD, 'Building and developing the geographical indication "Hả Long" for fried calamari' (Project Final Report, CASRAD, 2014) 52.

66 Interview V-C14.

67 Interview V-D8.

68 C. Durand and S. Fournier, 'Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies' (2017) 98(C) *World Development* 93.

In the case of green lentils from Berry, the strategy was first to increase the size of the production area within the limits set by the CoP before attracting new producers. The higher reputation of the lentils, coupled with the recent contingent production problems in Le Puy area⁶⁹ where yields are generally half as high as in the Berry area,⁷⁰ have created conditions for the expansion of production. In the last few years, between 1,300 and 1,700 tonnes of green lentils were produced from a total production area of 880 hectares, up from 1,000 tonnes from a production area of 400 hectares in 2014.⁷¹ At the initiative level, the association has grown to 50 producers in 2018 up from 28 producers in 2014, hence an increase of 80% in four years only.⁷² This has led to a major increase in turnover from €1 million in 2015 to nearly €2 million in 2018.⁷³

Despite this positive dynamic, the production still does not meet the consumer demand in a context where the national production of lentils across the country – about 20,000 tonnes every year on a total production area of 18,000 hectares in 2016⁷⁴ – meets only about half of the national demand.⁷⁵ This explains why massive quantities of lentils are imported from other countries, especially Canada, which is the world's largest producer.⁷⁶ As explained by the President of the producers' association, '[t]oday we are too short. Demand is increasing because we have become famous and consumption has evolved toward heritage vegetables, however we cannot meet consumers' needs. We must attract new producers within our association because we need to produce more'.⁷⁷ At the producer level, the growth of the initiative has been limited by difficulties to improve crop productivity. In effect, the wastage rate is high – 12-25% depending on the year due to diseases⁷⁸ – whereas only a very small number of efficient crop protection products have been approved for use by farmers. While an informal rule limiting all production areas to 30 hectares has been imposed on producers with

69 Interview F-D6.

70 The average yield is 11 quintals per hectare for green lentils from Le Puy as compared with over 20 quintals per hectare for green lentils from Berry. See CoP 'Green lentils from Berry', 15 and 18 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=396>> accessed 15/08/2018.

71 Email from Ms Taillandier, Commercial Director of Cibèle, to author (12/07/2018).

72 *ibid.*

73 *ibid.*

74 *ibid.*

75 ANILS and ODG, 'Lentilles Vertes du Berry', 'Le Marché de la Lentille, Le Fonctionnement de l'ANILS, Ses activités techniques' (PowerPoint presentation, February 2017).

76 *ibid.*

77 Interview F-D2.

78 *ibid.*

the aim to reduce losses in the event of a poor harvest,⁷⁹ the development of new lines with higher and more reliable yields has become necessary to increase the production at the individual level. Yet, as Chapter 7 will show, crop breeding activities have been hindered until very recently by the lack of visibility and influence of this sector with public authorities.

5.2.2 Constraints to increasing production capacity

By contrast, it has been difficult for Pélardon cheese, and impossible for bouchot mussels from Mont-St-Michel Bay, to expand the production and satisfy consumer demand.

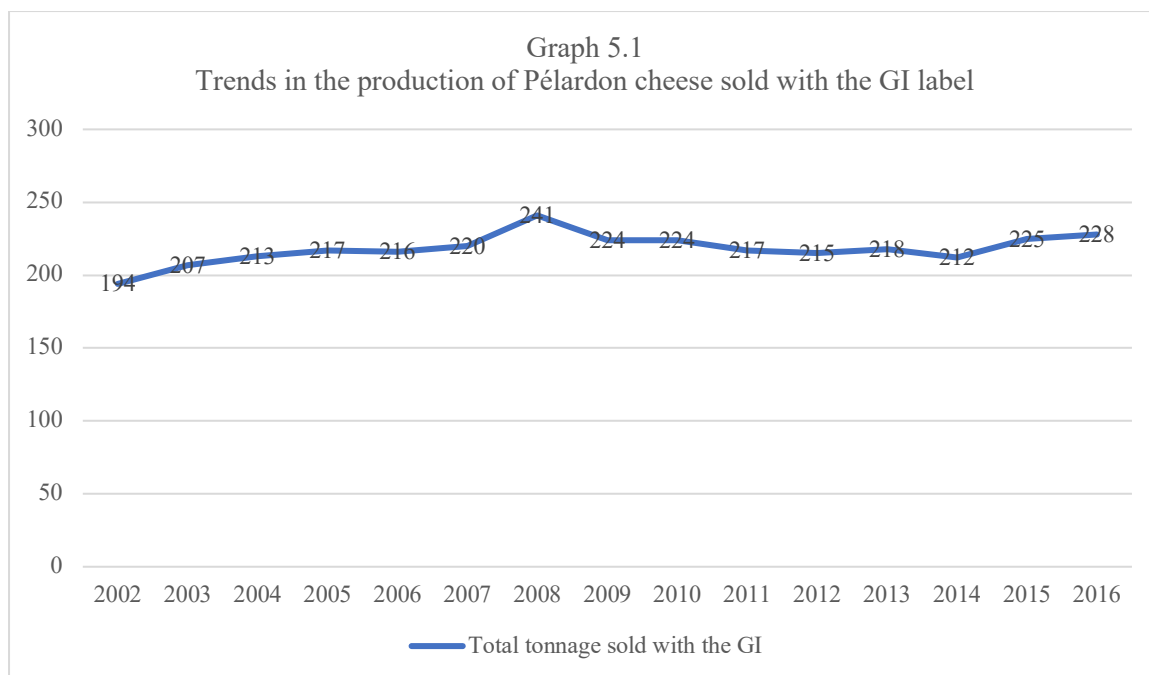
In the Pélardon initiative, consumer demand is now stable after having slightly increased, which may be partly linked to the competition of the many French labelled PDO or PGI cheeses in general (45 PDO and 9 PGI as of August 2018) and goat cheeses in particular (14 PDO as of August 2018).⁸⁰ On the supply side, the production has slightly increased by 7% in twelve years from 213 tonnes in 2004 to 228 tonnes in 2016 (equivalent to about 3.8 millions of cheeses),⁸¹ despite the fact that the number of producers has decreased over the years (see Chapter 7). However, the small increase in production, which is mainly explained by producers' higher technical skills coupled with the growing proportion of cheese production sold with the origin label,⁸² is not always sufficient to meet the demand. In effect, it remains difficult to attract new producers within the initiative. This is mainly due to the challenging access to, and very high costs of, land, and also because most of the cheese production is still sold inside the area of origin where the origin label has little value hence a lack of interest among local farmers to use it and join the initiative (see Section 5.3.1.2).

79 Interview F-D3.

80 INAO search database <<http://www.inao.gouv.fr/eng/Espace-professionnel-et-outils/Search-a-product>> accessed 21/08/2018.

81 Interview F-B8.

82 Email from Ms Podeur, coordinator of the ODG, to author (12/03/2018).



Source: Data provided by the coordinator of the ODG

Turning to bouchot mussels from Mont-St-Michel Bay, consumer demand has increased for bouchot mussels in general, whatever the origin. Bouchot mussels, including but not limited to those from Mont-St-Michel Bay, have acquired a growing reputation among consumers since they have been protected in France with the European traditional speciality guaranteed label (TSG) in 2013.⁸³ This label aims to ‘safeguard traditional methods of production and recipes by helping producers of traditional product in marketing and communicating the value-adding attributes of their traditional recipes and products to consumers’.⁸⁴ The growth of consumer demand for bouchot mussels, which are the only product protected as a TSG in France as of August 2018, was confirmed by a recent survey where French consumers were asked the type of mussels they are familiar with. While 60% mentioned bouchot mussels regardless of their origin, only 4% referred specifically to those from Mont-St-Michel Bay.⁸⁵

83 DOOR dossier number FR/TSG/0007/0048 <http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=10202> accessed 20/08/2018.

84 Council Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuff, Article 17. As of August 2018, a total of 58 products are protected as a TSG. See results of the DOOR database here:

<http://ec.europa.eu/agriculture/quality/door/list.html?&recordStart=0&filter.dossierNumber=&filter.comboName=&filterMin.milestone__mask=&filterMin.milestone=&filterMax.milestone__mask=&filterMax.milestone=&filter.country=&filter.category=&filter.type=TSG&filter.status=REGISTERED> accessed 21/08/2018.

85 FranceAgriMer, ‘L’image de la moule en France auprès des consommateurs de moules et des professionnels de la filière’ (Les Etudes de FranceAgriMer, 2014).

Despite the growing consumer demand, it is legally impossible to expand the overall production of the mussels from Mont-St-Michel Bay. About 10-12,000 tonnes of rope-grown mussels have been produced every year in the area since 1986 on a total area of 270 km of vertical stakes,⁸⁶ generating a turnover of more than €20 million.⁸⁷ This represents about 20% of the national production of bouchot mussels and 17% of the total production of mussels in France.⁸⁸ Although bouchot mussels from Mont-St-Michel Bay account for a large part of the national production of mussels, demand still exceeds supply. The reason for the insufficient supply in relation to consumer demand derives from the very nature of the Mont-St-Michel Bay which, as explained in Chapter 4, belongs to the PMD.⁸⁹ Consequently, the number and distribution mussel leases in the Mont-St-Michel Bay, as well as the number of, and distance between, piles of the vertical stakes have been established by Decree.⁹⁰ The density of vertical stakes on which mussels are bred has in fact been gradually reduced over the years.⁹¹ This is because overproduction and high density of cultured molluscs had contributed to the development of the parasite *Mytilicola intestinalis* which caused significant mussel mortality in the 1980s,⁹² hence the need to control and restrict production activities. The product specifications further specify the maximum mussel bed fertilisation rates – 55% or 65% by line of 100 linear meters depending on the location of the piles.⁹³ The very strict regulation of mussel aquaculture industry in the area thus explains why the production cannot meet the rising consumer demand.

86 R. Mongruel, A. Davaine and O. Thébaud, 'Private adaptation to ecological constraints in a rights-based management system: the strategies of mussel growers in the Mont-Saint-Michel Bay (France)' (Multidisciplinary Scientific Conference on Sustainable Coastal Zone Management Rights and Duties in the Coastal Zone, Stockholm, Sweden, 12-14 June 2003) 3.

87 Interviews F-C1, F-C11 and F-C12.

88 Interviews F-C2, F-C3, F-C5, F-C7 and F-C8.

89 K. Frangoudes, 'L'occupation du domaine public maritime par des cultures marines, Le cas de la Baie du Mont Saint-Michel' (Coastman Working Paper n° 11, 1999).

90 *Arrêté du 21 mai 1985 portant réglementation des installations de bouchots à moules en baie du Mont-Saint-Michel* (Order of 12 May 1985 regulating installations of bouchot mussels in the Mont-St-Michel bay) JO 08-06-1985 <https://www.legifrance.gouv.fr/jo_pdf.do?cidTexte=JPDF0806198500006346&categorieLien=id> accessed 18/07/2018.

91 Interviews F-C1, F-C3 and F-C10.

92 D. Gerla, 'Exemple de gestion d'un bassin mytilicole, la Baie du Mont St-Michel' (Rapports Internes de la Direction des Ressources Vivantes de l'IFREMER, 1990) 14.

93 CoP 'Bouchot mussels from Mont-St-Michel Bay', Article 5.1 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=10203>> accessed 10/06/2018.

5.2.3 Mechanisms to stimulate demand and increase production

Unlike other products, the wood from the Alps cannot be construed as a consumer product subject only to supply and demand conditions on the market. This is because, as already mentioned, the large majority of construction projects using the certified wood are for public buildings tendered through competitive bids. In this initiative, other mechanisms are in play to stimulate the demand and create opportunities for greater use of the certified wood in construction projects.

The first one resides in the way in which calls for tenders are drafted with an explicit reference to Bois des Alpes. To encourage this practice, a legal guide published in 2013 by the association with a view to provide guidance on how to draft the calls for tenders suggests to require explicitly that the wood be fully traceable according to a certification process ‘such as the certification process of wood from the Alps’.⁹⁴ Besides, the association has been actively involved in the training of contractors, authorities and wood specifiers or buyers (who advise on technical choices of materials) in the drafting of calls of tenders.⁹⁵

A second way to increase the use of the certified wood is found in the number of partnership agreements between the association and other institutions, including local and regional authorities and organisations, aimed at promoting the use of the certified wood. For instance, according to the 2014-2020 partnership agreement between the association and the Federation of French Alpine and Mountain Clubs, the latter shall undertake to prescribe the use of the certified wood in the construction, renovation and extension of its Alpine network of mountain huts.⁹⁶

Finally, subsidy and other support policies have been adopted to stimulate the demand for the certified wood. At the local level, these are regional subsidies associated with the use of the certified wood in construction projects, including from the Region Auvergne Rhone-Alpes and

94 Bois des Alpes and Communes Forestières, ‘Construire en Bois des Alpes, Etapes clés pour insérer une fourniture de bois certifiée “Bois des Alpes” dans la commande publique’ (Guide pratique, 2013) <<http://www.boisdesalpes.net/doc/guide-juridique-boisdesalpes.pdf>> accessed 15/07/2018.

95 Email from Mr Portier, coordinator of the producers’ association, to the author (21/02/2018).

96 Partnership Agreement between the association Bois des Alpes and the Fédération française des Clubs Alpains et de Montagne, Article 2 (January 2014) on file with author.

the Drôme Department.⁹⁷ At the European level, the European Regional Development Fund (ERFD) provides €6 million under the 2014-2020 interregional operational programme ‘Massif des Alpes’ to increase the use of the certified wood from the Alps.⁹⁸ Companies who want to benefit from this support must use a minimal percentage of certified wood every year.

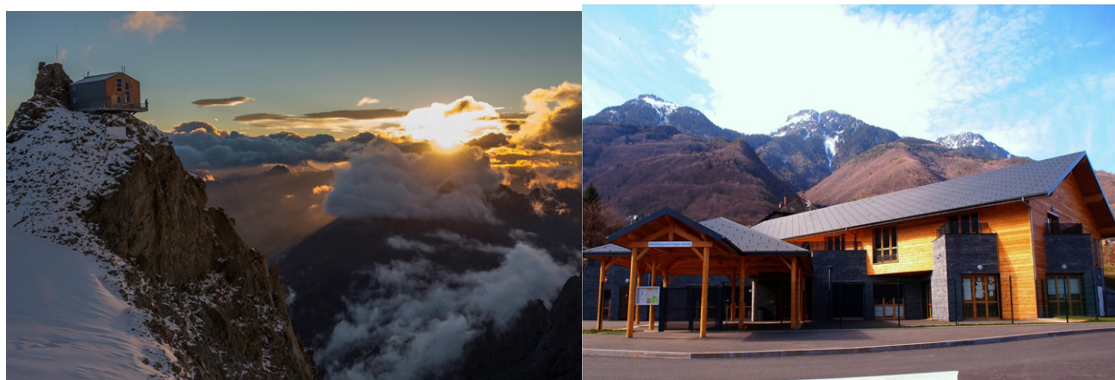
As a result, there has been a sharp increase in the number of projects involving the use of the certified wood from 23 pilot buildings in 2014 (representing over 2,200 m³ of certified wood)⁹⁹ up to about 75 buildings constructed or ongoing and 50 other buildings planned as of July 2018.¹⁰⁰ Over 7,000 m³ of certified wood have been used since 2013, taking into account that the market potential is about 190,000 m³/year.¹⁰¹ Public buildings that have been constructed with the certified wood have important social functions and include gymnasiums, schools, resorts, mountain huts, training centres, swimming pools, municipal halls, tourism centres, sheepfolds, among others.¹⁰²

Picture 5.2

Examples of public buildings using the certified wood from the Alps

Mountain hut of Aigle

School Saint Rémy de Maurienne



Source: Association Bois des Alpes

97 Email from Mr Portier, coordinator of the producers’ association, to the author (21/02/2018).

98 European Commission, ‘Interregional Programme Alps 2014-2020’ <http://ec.europa.eu/regional_policy/en/atlas/programmes/2014-2020/2014-2020/2014fr16rfop001> accessed 13/07/2018.

99 Réseau des bâtiments pilotes en Bois des Alpes, ‘Présentation de la certification Bois des Alpes’ (PowerPoint presentation, 15/10/2015).

100 Interview F-E9.

101 *ibid.*

102 The list of projects achieved so far is available here: <<http://boisdesalpes.net/realisations.php>> accessed 02/09/2018.

5.3 Marketing channels and value of origin labels

As argued in the GI literature, marketing strategies and trade issues have emerged as important factors for understanding the economic effects of GI initiatives.¹⁰³ In the context of growing concerns over food safety, ecology and animal welfare in both developed and transitional economies,¹⁰⁴ both consumers and producers are showing increasing interest in ‘alternative’ distribution systems, within which GIs are considered to fit.¹⁰⁵ Such distribution systems ‘short-circuit the long, complex, and rationally organised industrial chains’¹⁰⁶ by redefining producer-consumer relationships around the clear signalling of the origin, quality or other characteristics of products. Different types of supply chains can be distinguished which impact differently on the value of origin labels and hence on the economic benefits that stakeholders derive from their use.

To start with, the fried calamari from Hả Long and Pélardon cheese involve highly local marketing channels inside the area of production for the largest part of the production. For the purpose of this research, highly local marketing channels, which cover a variety of trade circuits from farms shops to farmers markets to agricultural fairs, to name a few,¹⁰⁷ are defined as either direct sales between the producer and the consumer or involving at most one intermediary and operating inside the area of origin. By contrast, the distribution of both bouchot mussels from Mont-St-Michel Bay and green lentils from Berry is characterised by the dominant position of mass retailers outside the area of production, which has important consequences on the bargaining power of producers. Finally, the marketing of vermicelli from Bình Liêu is determined by physical and institutional constraints whereas the use of wood from the Alps inside the area of origin both derives from, and contributes to, the strong territorial development objective of the initiative as supported by local authorities.

103 Bramley and Biénabe (n3).

104 D.E. Goodman, E.M. Dupuis and M.K. Goodman, *Alternative food networks: knowledge, practice and politics* (Routledge, 2012); P. Moustier, ‘Short urban food chains in developing countries: signs of the past or of the future?’ (2017) 1(25) *Natures, Sciences, Sociétés* 7.

105 T. Marsden, J. Banks and G. Bristow, ‘Food supply chain approaches: exploring their role in rural development’ (2000) 40(4) *Sociologia ruralis* 424.

106 *ibid* 425.

107 H. Renting, T.K. Marsden and J. Banks, ‘Understanding alternative food networks: exploring the role of short food supply chains in rural development’ (2003) 35 *Environment and Planning* 393, 399-400; Y. Chiffolleau, ‘Les circuits courts de commercialisation en agriculture : diversité et enjeux pour le développement durable’ in G. Maréchal (ed.), *Les circuits courts alimentaires* (Educagri, 2008) 21.

This leads us to identify four main types of short marketing channels although it is important to keep in mind that most producers use a combination of them, thereby suggesting not only their complementarity but also the increasing diversity and complexity of producer-consumer interfaces.¹⁰⁸ The section below will first present the reasons why highly local marketing channels inside the area of production have benefited fried calamari from Hả Long but not Pélardon cheese. Subsequently, it will consider the benefits and drawbacks relative to the use of spatially extended marketing channels outside the area of origin for green lentils from Berry and bouchot mussels from Mont-St-Michel Bay. Finally, although vermicelli from Bình Liêu and wood from the Alps also involve spatially extended channels and highly local ones, respectively, these cases will be studied separately. This is because the channels involved in these initiatives are less the result of free entrepreneurship as with other initiatives. If physical constraints explain why most of the production of vermicelli from Bình Liêu is marketed outside the area of origin, the sustainable development objective attached to the wood from the Alps certification account for the short circuits adopted in this initiative.

5.3.1 Highly local marketing channels

The largest part of the production of fried calamari from Hả Long and that of Pélardon cheese are processed and sold inside the area of production through highly local marketing channels. In both initiatives, most of the producers have limited material, human and organisational capacities, which generally contributes to explaining the adoption of local marketing channels.¹⁰⁹ Yet this section will show that the effects of highly local marketing channels vary greatly between the two products. On the one hand, physical proximity between producers and consumers has contributed to building the reputation of fried calamari from Hả Long while providing producers with a stronger negotiating power and increasing the benefits arising out of the use of the origin label. On the other hand, the local clientele has a personal knowledge and experience of both Pélardon cheese and its producers, which weakens the communicative function of the origin label inside the area of production.

¹⁰⁸ Marsden, Banks and Bristow (n105) 426.

¹⁰⁹ M. Aubert and G. Enjolras, 'Déterminants de la commercialisation en circuits courts : quels exploitants, sur quelles exploitations?' (Paper presented at the 7th Journées de Recherches en Sciences Sociales SFER-INRA, Angers, France, 12-13 December 2013); R. Gasson and others, 'The farm as a family business: A review' (1988) 39 *Journal of Agricultural Economics* 1; F. Gale, 'Direct farm marketing as a rural development tool' (1997) 12(2) *Rural Development Perspectives* 19.

5.3.1.1 Proximity with consumers as a means to promote the origin label

About 95% of the volume of traded fried calamari from Hả Long is sold through highly local marketing channels inside the area of production.¹¹⁰ The very nature of the product (i.e. fried) combined with the size and capacity of local actors, who are all small-scale producers, explain why most of the production is sold on local markets. Specifically, all members of the association are involved in direct sales to final consumers on the two main local markets ('Hả Long I market' and 'Hả Long II market') either for immediate consumption or packaged for take-out. Face-to-face interactions and direct sales represent about 50% of the total trading volume.¹¹¹ The large majority of customers in the local markets are tourists visiting the Hả Long Bay UNESCO World Heritage Site who are made aware of the specific attributes of the product at the point of sale. In addition, the sale of fried calamari to restaurants, hotels, and retailers located in Hả Long City via short marketing channels inside the GI area and involving one middleman at most represent about 45% of the total trading volume.¹¹² Finally, about 5% of the production is sold 'pre-fried'¹¹³ in vacuum-sealed packages to final consumers in the main cities of other Provinces (such as Ho Chi Minh City and Hanoi) through a number of middlemen including distributors, supermarkets, food stores, and retailers in urban areas.¹¹⁴

As a result, three types of packaging are used:

- (1) a transparent plastic bag with *no* GI logo when fried calamari are sold to final consumers for immediate consumption (Picture 5.3);
- (2) a packaging *with* the GI logo when fried calamari are sold to final consumers for take-out or to restaurants, hotels and retailers located in Hả Long City (Picture 5.4); and
- (3) a vacuum-sealed packaging *with* the GI logo when fried calamari are sold 'pre-fried' outside Hả Long City (Picture 5.5).

Although it is difficult to provide a detailed estimate, it is reasonable to assume that a significant percentage of fried calamari is sold for immediate consumption i.e. without the GI logo. However, the GI logo can usually be seen on the front of the producers' market stalls (Picture 5.5) as well as on a large banner in the centre of the market (Picture 5.6).

110 CASRAD, 'Building and developing the GI "Hả Long"' (n65) 104–05.

111 *ibid.*

112 *ibid.*

113 Fried calamari sold in vacuum-sealed packages were fried one time. Customers must fry them one more time before consumption. According to producers, this process does not affect the quality and taste of fried calamari (interviews V-C4, V-C5 and V-C10).

114 CASRAD 'Building and developing the GI "Hả Long"' (n65) 106.

Picture 5.3

The sale of fried calamari on Hả Long I market for immediate consumption



Picture 5.4

The sale of fried calamari for take-out or to restaurants, hotels and retailers in Hả Long City



Picture 5.5

The sale of fried calamari in vacuum-sealed labelled packages



Picture 5.6

The GI logo on the front of the producers' market stalls



Picture 5.7

The GI logo on a large banner in the centre of the market



As explained in Chapter 4, the high concentration of traders in the two markets of Hạ Long City has led to fierce competition among producers. At the same time, direct sales and proximity with consumers – mostly tourists – have contributed to promoting the origin label, taking into consideration that the GI label was first tested by three pilot families at the start of the origin labelling project in 2014¹¹⁵ before being used by all the producer members of the association in 2017.¹¹⁶ The wider use of the GI label, including on the producers' market stalls, has in turn strengthened the product's reputation and contributing to higher prices – 13-17% increase since the GI labelling process.¹¹⁷ According to Van Thinh, the price of the GI product is about 20% to 110% higher than the non-GI product depending on the place of production (Graph 5.2).¹¹⁸ Direct sales, which involve less transaction costs, have also provided producers with greater flexibility in setting selling prices, whereas longer marketing routes outside the area has led to lower profit margins for producers. This is shown in the higher prices charged by producers who sell directly on the markets with no middlemen (about \$15/kg in July 2017

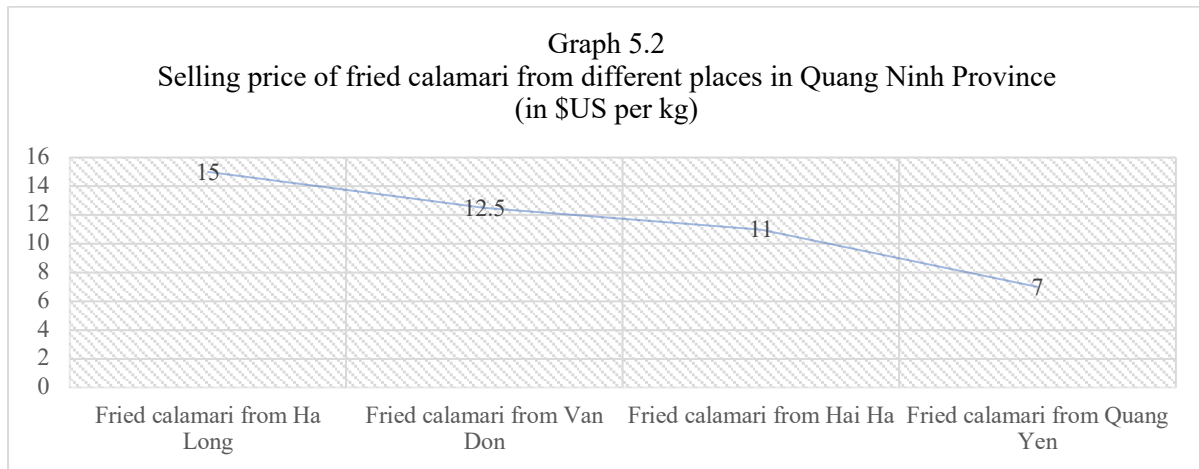
115 Interview V-C2.

116 Interview V-C13.

117 Interview V-C14.

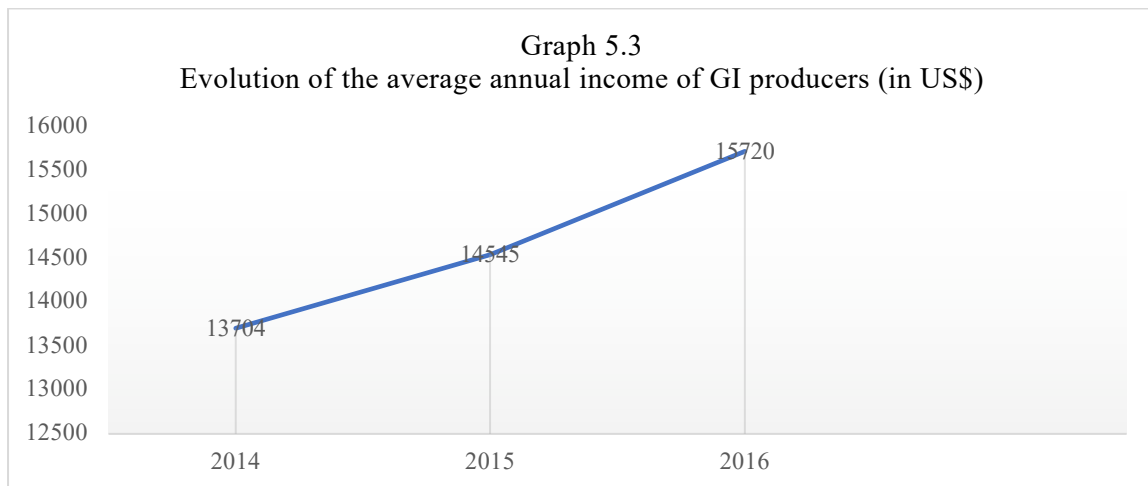
118 N. Van Thinh, 'Analysis of factors affecting the income of households making GI products: a case study of Hạ Long grilled squid - Quang Ninh Province' (Proceedings of the International Conference for Young Researchers in Economics and Business, Da Nang, Vietnam, October 2017) 267.

up from less than \$US9/kg in 2007) compared to the lower prices charged by producers who are involved in longer marketing channels with middlemen (about \$US14/kg).¹¹⁹



Source: Van Thinh – citing the People’s Committee of Quang Ninh Province as his own source

According to Van Thinh, the increase in the selling prices has translated into higher incomes (Graph 5.3), whereas the average annual income of non-GI producers was about \$US9,300 in 2016, or 60% of that of GI producers.¹²⁰



Source: Van Thinh

119 CASRAD ‘Building and developing the GI “Hạ Long”’ (n65) 268. Prices were confirmed during interviews V-C4, V-C5, V-C6, V-C7, V-C10 and V-C13.

120 Van Thinh (n118).

Despite the economic benefits associated with the use of the GI, the institutional environment in which this initiative operates, especially given the lack of transparency of the quality controls, has emerged as an important constraint limiting the efficiency of the initiative.

5.3.1.2 Proximity with consumers as an impediment to using the origin label

The largest part of the production of Pélardon cheese has traditionally been sold inside the production area, either on-farm or in local markets. However, it is generally on premises where there is no direct relationship between consumers and producers, outside the PDO area or in retail shops inside the area of origin, that the PDO label is better valued.

Inside the region of production, the PDO label is generally not a selling point except for tourists or when the sale takes place in a retail shop. At the farm gate, trust in the producer, which is not mediated by brands and labels but through personal interaction, is the most important marketing argument. Market success at the local level is thus largely based on spatial proximity which, by contributing to develop consumers' knowledge and skills,¹²¹ decreases the value of the communicative function of the origin label. Further, inside the area of origin, PDO Pélardon producers, who account for about one-third of all 'Pélardon type' cheese producers in the Cévennes area,¹²² find themselves competing with non-PDO goat cheese local producers. In effect, those who have not joined the initiative because they find the compliance rules in the CoP too prescriptive still benefit from the reputation of, and collective communication done on, the PDO Pélardon, and hence claim the same origin and similar values of authenticity and tradition when selling their cheese. As explained by the coordinator of the ODG, '[i]n short distribution channels, information is diluted and gets lost. Consumers get confused and ultimately buy cheese from a specific producer because they like the producer and the product whether or not it is labelled. It happened that producers had joined the PDO initiative, developed their clientele and subsequently left the PDO initiative to avoid its obligations but kept their clientele all the same. In some cases, they even keep promoting their cheese as a PDO Pélardon cheese even though they do not comply with the PDO requirements'.¹²³ Another farmer stated 'when people here want to buy some goat cheese, they say "I want a Pélardon",

121 Interview F-B6.

122 Interview F-B8. However, this figure masks substantial differences among departments inside the PDO area. In the Lozère department, 70-80% of all goat cheese producers use the PDO label.

123 Interview F-B6.

not “I want a goat cheese”. For them, goat cheese *is* a Pélardon, even if it is not labelled. Pélardon has become a name commonly used by local people’.¹²⁴

The importance of physical proximity between traders and consumers has been observed in other initiatives. For example, in the case of Benin’s gari ‘missè’, territorial proximity and local, social links play a key role in ensuring product traceability and consumer confidence, which makes an official GI legal protection unnecessary.¹²⁵

The dilution of the meaning of the PDO label in short distribution channels, coupled with the growing demand of cheese suppliers at the regional and national level for origin-labelled products, explain why some producers increasingly market their cheese outside the PDO area. As stated by a cheese producer, wholesalers, dairy shops and restaurants outside the area of origin ‘really see the difference between our cheese and a non-PDO cheese and actively seek a PDO-labelled product as a marketing argument for their own customers’.¹²⁶ For the most remote and isolated farmers, especially in the Lozère department in the north of the PDO area, selling outside the area by using a regional or national carrier also proves easier.¹²⁷

Outside the area of origin, the type of competition is different with most agro-food products being marketed with an origin label or alternatively a strong commercial brand.¹²⁸ In this context, the PDO-labelled Pélardon cheese does not compete with ‘Pélardon type’ goat cheese anymore but with other PDO and PGI cheeses that also promote an image of quality and territorial anchoring. Paradoxically, whereas many small farmers, who underpin the image of authenticity associated with the PDO, still sell most of their production on the farm or in local markets where the origin label has little value, the PDO has allowed small and medium-sized farms and cheese companies, whose material, human and organisational capacities are higher either individually or because they pooled their resources within a small association,¹²⁹ to open new business opportunities outside the area of origin and access the regional and national

124 Interview F-B1.

125 G. Sautier, E. Biénabe and C. Cerdan, ‘Geographical Indications in Developing Countries’, in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 138, 144.

126 Interview F-B4.

127 Interview F-B9.

128 M. Napoléone and J.P. Boutonnet, ‘AOC Pélardon: du compromis vers l’émergence d’actions collectives. Dynamiques de systèmes de production et des stratégies de commercialisation’ (Séminaire SFER, *Les systèmes de production agricoles: performances, évolutions, perspective*, Lille, France, 18–19/11/2004).

129 Interview F-B9.

market. For a few producers, sales outside the PDO area represent up to 60-80% of their production.¹³⁰ Because the unit cost of transportation decreases with increasing volumes, farmers who sell outside the PDO area are generally encouraged to supply large quantities of cheese. By increasing the sales at the regional and national level, the PDO label has also contributed to reducing the market saturation at the local level.

Inside the PDO area, whether on farm or in retail shops, prices vary between €1.20 and €2 per cheese depending on the quality. Because of the direct competition between PDO and non-PDO cheese producers at the farm gate, where sales are based on a relationship of trust rather than on labels, the price difference between the PDO and non-PDO cheese is only marginal. However, in retail shops, non-PDO goat cheese is sold at about €1,¹³¹ hence a greater price difference which points to the value of the origin label when there is no direct interaction between producers and buyers.

The value of the PDO label is even stronger outside the PDO area where it has contributed to building the reputation of Pélardon cheese among distant consumers who are willing to pay a premium. The value chain outside the PDO area generally involves a wholesaler – who buys the cheeses at €1.30-1.40/unit and sells them at about €1.50/unit – and a retailer who sells the cheese to final consumers at about €3/unit and who therefore captures most of the rent based on the differentiation of the cheese through the origin label. In the opinion of those producers who sell a large part of their production outside the PDO area, the growth in demand for the PDO Pélardon cheese outside the area of production has greatly contributed to increasing their economic viability.¹³² In light of the above, it has been suggested that, while the PDO label allows producers to capture a premium outside the PDO area, the closer to the production area the sales take place, the more the price difference between the PDO Pélardon and non-labelled goat cheese decreases.¹³³

130 *ibid.*

131 *ibid.*

132 Interviews F-B3, F-B4 and F-B9.

133 Benkahla, Boutonnet and Napoléone (n24).

5.3.2 Spatially extended marketing channels

The markets for both green lentils from Berry and bouchot mussels from Mont-St- Michel Bay involve spatially extended supply chains. By contrast to highly local marketing channels that rely greatly on interpersonal relationships and networks of trust, spatially extended supply chains for origin products have been defined as channels ‘where value and meaning laden information about the place of production and those producing the food is translated to consumers who are outside the region of production itself and who may have no personal experience of that region’.¹³⁴ The role of origin labels as institutionalised quality conventions and mediators between producers and consumers is thus particularly critical in the success of this type of channel.¹³⁵

About 85% of the total production of green lentils from Berry is sold outside the PGI area.¹³⁶ While it is difficult to get exact figures for bouchot mussels from Mont-St-Michel Bay, it is estimated that about 10% of the production is sold in the area of origin, 25% of the production is sold in the Paris region and 65% in the rest of the national territory.¹³⁷ As an illustration, the map below shows the high number of selling points outside the area of origin.

134 Marsden, Banks and Bristow (n105) 426.

135 Renting, Marsden and Banks (n107) 400.

136 Interview F-D6.

137 Interview F-C11.

Map 5.1 Places where to buy PDO bouchot mussels from Mont-St-Michel Bay



Source: ODG <<http://moules-aop.com/espace-consommateur/ou-trouver-les-moules-aop>> accessed 10/08/2018

In this context, the role played by mass retailers is of particular importance. In effect, no less than 70-80% of the total production of green lentils from Berry and bouchot mussels from Mont-St-Michel Bay are sold in medium- and large-retail outlets where they get exposure in the artisanal or *terroir* product lines of the hyper- and supermarkets. The rest are sold to retailers, restaurants, markets, fishmongers or other grocery shops.¹³⁸ The dramatic rise of mass retailers across the world has been one of the most important changes in retailing in the past few decades which has led to a reconfiguration of supply chains.¹³⁹ For some authors, the fact that large-scale retailers are increasingly interested in local or 'alternative' products, and in effect provide shelf-space for these, partly reflect the attractiveness and appeal of the origin labels among consumers while exposing the permeability of the interface between 'alternative' and 'conventional'.¹⁴⁰

138 Interviews F-C11 and F-D6.

139 N. Kumar, 'The revolution in retailing: From market driven to market driving' (1997) 30(6) Long Range Planning 830; A. Goldman 'Outreach of Consumers and the Modernization of Urban Food Retailing in Developing Countries' (1974) 38(4) Journal of Marketing 8.

140 Goodman, Dupuis and Goodman (n104) 5.

Importantly, the fact that medium- and large-retail outlets are typically highly concentrated has significant consequences on both the organisation of supply chains and the bargaining power of producers.

5.3.2.1 The importance of mass retailers to the organisation of supply chains

Considering that they operate as central purchasing units and as such buy very large volumes which no single producer can provide alone, mass retailers necessarily impact on the organisation of supply chains. As such, the distribution involves complex and long supply chains, including wholesalers, distributors and other commercial entities, as is the case for green lentils from Berry and bouchot mussels from Mont-St-Michel Bay.

For green lentils from Berry, the commercial entity Cibèle, whose capital is comprised of farmers' shares in one-third and shares of a grain cooperative in two-thirds which are themselves held by producers, first buys lentils from farmers before proceeding with their labelling and packaging. Subsequently, Cibèle sells the total production of PGI-labelled lentils to wholesalers and other commercial entities as well as to retailers, restaurants, delicatessens and grocery shops.

Conversely, the mussel initiative is characterised by the presence of six commercial entities of different sizes that represent altogether about 80% of the total production in 2017 up from 57% in 2009 and whose shareholders are producers.¹⁴¹ According to a number of producers, the two largest companies, Mytilimer and Cultimer, are in fierce competition, with the former representing 40-45% of the total production of PDO mussels and seeking to have a monopolistic position.¹⁴² Besides, about 10% to 15% of the mussel production are sold directly by producers to wholesalers (down from 30% in 2009); the remaining 10-15% are sold to restaurants, fishmongers and on markets, both within and outside the production area.¹⁴³ It is also worth mentioning that about 5% of the production is exported to foreign countries and particularly in Asia where it is promoted as a high-end niche product.¹⁴⁴

141 Interview F-C11.

142 *ibid.*

143 *ibid.*

144 *ibid.*

Whereas the lentil initiative is designed in such a way that the commercial entity Cibèle only – and no producer – can sell the origin-labelled lentils to other actors in the supply chain, only 10% to 15% of bouchot mussels from Mont-St-Michel Bay are sold directly by producers to final consumers or individual restaurants and fishmongers. Yet if virtually all the mussel producers sell their production through a commercial entity, the common practice is generally to use several marketing channels and most producers are also involved in direct sales even if for only a small part of their production. This points to the importance, with respect to their share of production sold with the PGI label, that mussel producers keep in the promotion of their production at the individual level, unlike lentil farmers.

5.3.2.2 The impact of mass retailers on prices and distribution of the premiums

The large concentration of sales in medium- and large-retail outlets through mass retailers has greatly impacted on the bargaining power of producers and hence on prices of both products. This is because mass retailers do not interact or negotiate directly with producers but instead buy very large amounts of same category products from wholesalers and commercial entities with which they negotiate prices in global terms. For instance, it has been noted that, in the case of Parmigiano-Reggiano cheese, farmers' margins have been gradually decreasing due to the growing competition from similar but lower-quality cheese sold by the same conventional retailers.¹⁴⁵ Some authors have suggested that the increasing control by mass retailers of the distribution of origin and quality products 'brings with it the danger of a downward pressure on producer prices and a dilution of quality standards, thereby undermining the *raison d'être*' of origin labels and other quality conventions.¹⁴⁶

The picture is, however, more complex. Supplying mass retailers allows producers to sell off substantial volumes of their production and be guaranteed payments within a short period of time. It is nevertheless true that the stability of commercial relationships and producers' payment security are counterbalanced by their loss of independence and autonomy in terms of price negotiation while disconnecting them from consumers for the largest part of their production volumes.

145 K. De Roest 'The dynamics of the Parmigiano-Reggiano production system' in F. Arfini, D. Barjolle and B. Sylvander (eds), *The socio-economics of origin labeled products in agrifood supply chains* (INRA, Actes et Communications 17(1), 2000) 272.

146 Renting, Marsden and Banks (n107) 408.

In the case of the PDO mussels, the price paid to producers in 2017 is €2,20-€2,30/kg when they sell directly to restaurants, fishmongers and on local markets (base price for bags of 15 kilogrammes), and at least €2,50/kg when they sell directly to end consumers on local markets.¹⁴⁷ By contrast, when mussels are sold through a long supply chain, the price paid to producers by commercial entities is about €2,10/kg (product sold in containers for subsequent tray packaging);¹⁴⁸ the price paid to commercial entities by wholesalers is €2,90-€4/kg depending on the quality of the mussels;¹⁴⁹ and the price paid by final consumers in hyper- and supermarkets range from €4-€6/kg.¹⁵⁰ To put it differently, the retail prices of bouchot mussels from Mont-St-Michel Bay in hyper- and supermarkets are two to three times higher than the price paid to producers and about 1,5 time higher than the price paid to commercial entities. By comparison, the price in hyper- and supermarkets of non-PDO bouchot mussels is €3-4,50/kg, which is about 20% lower than the price of the PDO bouchot mussels.¹⁵¹

Likewise, the price paid by Cibèle to lentils producers has been about €700/tonne for the last few years whereas the price paid to Cibèle by wholesalers and other commercial entities has been about €1,700/tonne, i.e. 2.4 times the price paid to producers.¹⁵² Further, the retail price of the origin-labelled green lentils from Berry in hypermarkets, supermarkets and specialty shops varies between €1.9 and €3 per 500-gramme package, which amounts to €3,800-6,000/tonne – i.e. between 2.2 and 3.5 times the price paid to Cibèle and between 5.4 and 8.5 times the price paid to producers.¹⁵³ By comparison, the retail price of non-labelled green lentils in hyper- and supermarkets ranges from €0.67 to €1.60 per 500-gramme package, or €1,340-€3,200/tonne.¹⁵⁴

These figures clearly show that, if GI products command a higher price than standard products (about 200-300% higher for green lentils from Berry and 15-20% higher for bouchot mussels from Mont-St-Michel Bay), most of the price premium is captured by commercial entities and mass retailers. This confirms Belletti and Marescotti's assumption that price premiums often do

147 Interview F-C11.

148 *ibid.*

149 Email from Mr Desormeaux, CEO of Mytilimer, to author (13/11/2017).

150 Interview F-C11.

151 Email from Mr Desormeaux, CEO of Mytilimer, to author (13/11/2017).

152 Email from Ms Taillandier, Commercial Director of Cibèle, to author (12/07/2018).

153 *ibid.*

154 *ibid.*

not benefit the actors in the upstream phase of the supply chain and hence the furthest away from buyers/consumers.¹⁵⁵ In the words of a mussel producer, ‘this monopoly situation is not such a good thing because it places extra pressure on both prices and quantities and it can lead to price dictatorship. Large-scale distribution can cripple us by locking in prices for a very long time’.¹⁵⁶ For the President of the producers’ association of producers of green lentils from Berry, ‘[d]ue to the fact that we provide large volumes to wholesalers, medium- and large-retail outlets, a price increase of 1.5 to 2% a year is all we can expect’.¹⁵⁷

At the same time, the price paid by Cibèle to producers has increased from €400/tonne in 2000 to €700/tonne in 2016.¹⁵⁸ According to the coordinator of the producers’ association, this significant increase is not due to the PGI label but rather derives from economies of scale and optimization of production assets at the collective level, including by lowering sorting, packaging and trading transaction costs.¹⁵⁹ In the case of the PDO mussels, producers agree that their higher price is generally not due to the PDO label but rather to the attractiveness of the name ‘Mont-St-Michel’ itself and the use of more expensive equipment resulting in higher production costs.¹⁶⁰ Yet the PDO label is believed to have helped sustain the price level.¹⁶¹ More recently, the price of the PDO mussels has increased by 10% since 2014,¹⁶² which is due to greater consumer demand for bouchot mussels in general – whatever their origin – coupled with a sharp production decline in the Charente-Maritime Department, which has greatly contributed to limiting the competition on the market.¹⁶³

155 G. Belletti and A. Marescotti, ‘Origin products, geographical indications and rural development’ in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 75, 83.

156 Interview F-C13.

157 Interview F-D2.

158 Interview F-D6.

159 *ibid.*

160 Interviews F-C2, F-C3, F-C5 and F-C8.

161 *ibid.*

162 Interview F-C11.

163 *ibid.*

5.3.2.3 Strategies to increase prices

Some mussel producers and commercial entities have looked for ways to circumvent difficulties in negotiating prices with the medium- and large-retail outlets through market and product differentiation. A clear sign of this is the development of niche markets both within and outside the PDO mussel market itself.

Within the PDO market, the largest commercial entities have embraced the opportunity to export the PDO mussels (as ‘ready to cook’ in a vacuum package) as a high-end niche product with a strong ‘Made in France’ emphasis that is reinforced by the PDO label. Other famous GIs have expanded to foreign markets such as Champagne wine and Parmigiano-Reggiano cheese.¹⁶⁴ In these distribution circuits, producers sell their production to restaurants or wholesalers.

About 5% of the total production is exported, mostly in Asia, yet the price of the PDO mussels on foreign markets is three to four times higher than in France (about €20 in Shanghai as compared with €4 in France for a 700-gramme vacuum pack).¹⁶⁵ Although the selling prices of the mussels on foreign markets include the transportation costs and customs duties, they nonetheless allow commercial entities to get higher margins than in France. Importantly, the fact that customers on foreign markets are willing to pay a premium price translates the value they attach to the place/product link. It logically leads some producers to favour an export-oriented marketing strategy to position the PDO mussels as a luxury product and drive the prices up.

Outside the PDO market, one certified producer has decided to go beyond the PDO requirements to produce higher-quality mussels with a larger size and higher flesh content which he promotes on the market with his own trade mark over a longer time period than the PDO marketing season. His niche product represents about 15% of his total production and is sold without the PDO label to high-end fishmongers at a price 30% higher than the PDO mussels, the rest being sold with the PDO label.¹⁶⁶ While his individual initiative has prompted

164 K. De Roest, *The production of Parmigiano-Reggiano cheese. The force of an artisanal system in an industrialised world* (Van Gotcum, 2000).

165 Interview F-C11.

166 Interview F-C7.

mixed reactions among PDO producers, one of them declared that ‘by producing his high-quality mussels, he contributes to drive the quality of the PDO mussels down because he takes the best mussels out of the PDO market. For the good of the PDO he should not sell any mussel with the PDO label because his PDO mussels may appear as a residue of his top-quality mussels.’¹⁶⁷ Similar developments have been observed in winemaking in Tuscany. For instance, producers of Chianti wine have opted out of the GI rules to pursue new production methods and introduce non-Tuscan grape varieties into the blends to produce higher-quality wines.¹⁶⁸ This would tend to suggest that, far from ‘stiffl[ing] competition’,¹⁶⁹ GI protection could ‘stimulate competition and innovation’,¹⁷⁰ possibly at the expense of social cohesion within the GI collective, while questioning the extent to which GI is a high-quality signal.

5.3.3 Physically-dependent marketing channels

The marketing channels of vermicelli from Bình Liêu are highly dependent upon the local physical constraints. Indeed, the area of production is difficult to access due to the poor road infrastructure and is remote from major consumer centres, hence the need to transport large quantities of vermicelli over long distribution channels. As a result, the supply chain involves wholesalers, distributors and other middlemen across Vietnam especially in the north and central regions of the country. Most importantly, the type of buyers, who are not end consumers for the largest part of the sales volumes, clearly shows the constraints facing this initiative. Although it is difficult to gauge precisely, about 80% of buyers are local state authorities, or companies that have close relationships with the former and who are encouraged to buy vermicelli from Bình Liêu as presents for their staff to celebrate the Tết (Vietnamese New Year) or other public holidays.¹⁷¹

The over-involvement of state authorities in the management and functioning of the initiative (see Chapter 4), as well as their over-representation among consumers, comes with its own

167 Interview F-C13.

168 T. Broude, ‘Taking “Trade and Culture” Seriously: Geographical Indications and Cultural Protection in WTO Law’ (2005) 26 *University of Pennsylvania Journal of International Law* 623, 678.

169 M. Agdomar, ‘Removing the Greek From Feta and Adding Korbelt to Champagne: The Paradox of Geographical Indications in International Law’ (2008) 18 *Fordham Intellectual Property, Media & Entertainment Law Journal* 541, 590.

170 *ibid* 591.

171 Interview V-D3.

pitfalls, including non-transparent practices that undermine the smooth functioning of the initiative.¹⁷² Another significant consequence is that the selling price of the main producer (50% of the total production), which is the highest on the market, is fixed by local authorities at the provincial level with a view to avoid inflation, regardless of the market value, the consumer demand and the type of buyer (end customer, distributor or wholesaler). Between 2012 and 2016 the price was set at VND75,000/kg (US\$3.3/kg) despite the increase in production costs over that period.¹⁷³ In 2017, it was slightly increased by 6% to VND80,000/kg (US\$ 3.5/kg).¹⁷⁴

5.3.4 Sustainability-oriented value chain

The wood from the Alps certification has been designed by local authorities around a strong environmental and sustainable development objective which has led to the adoption of highly local marketing channels. As such, the processing and construction stages should take place locally through short circuits, thereby reducing distances over which the wood is moved. Ultimately, as stated by local authorities, one important goal is not necessarily to increase the price of the wood as in a market-driven approach but rather to expand its use and thereby create job opportunities on the territory.¹⁷⁵

172 Interview V-D7.

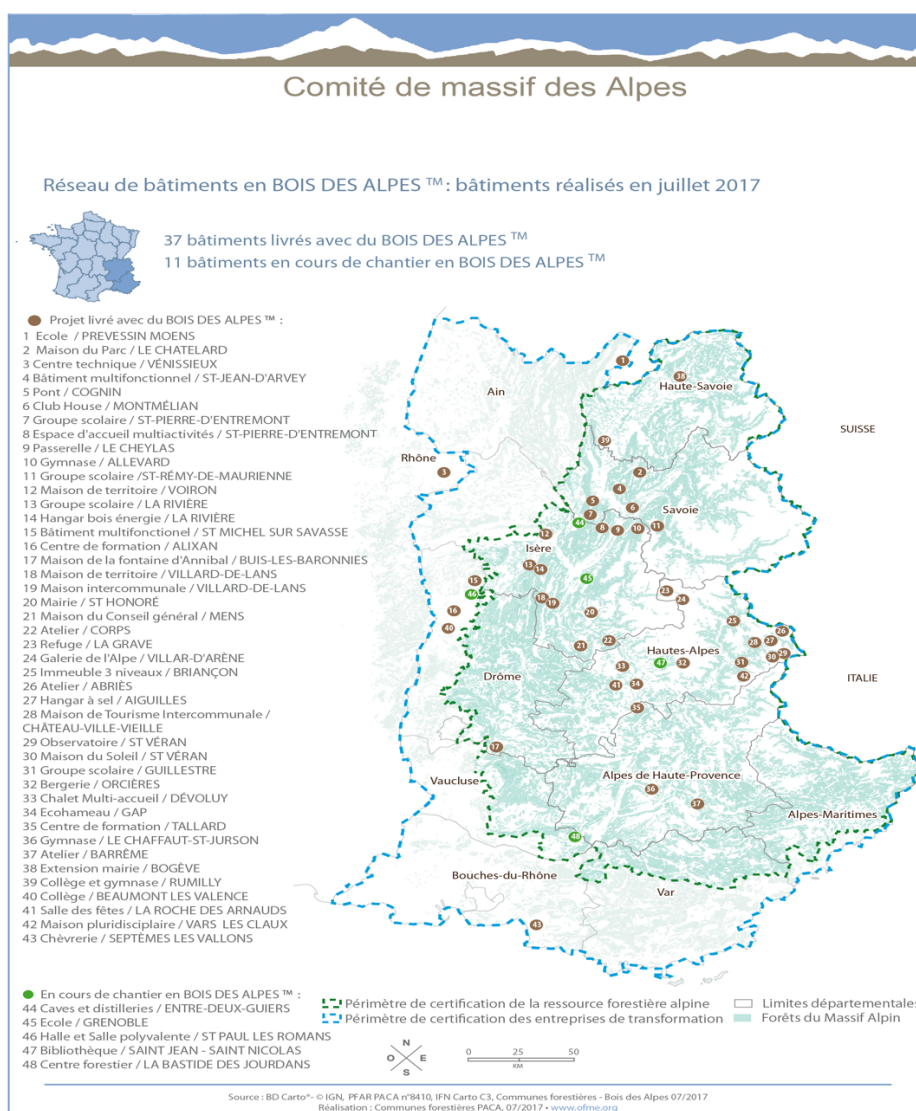
173 Interviews V-D3 and V-D8.

174 Interview V-D8.

175 Interviews F-E2 and F-E3.

Map 5.2

Network of buildings constructed with the certified wood from the Alps as of July 2017



Source: Association Bois des Alpes

This initiative therefore operates according to a different logic than the other case studies. In the other initiatives, the increase in prices and the capture of rents by producers are important market-driven objectives attached to the origin labels. In this initiative, the greater use of wood from the Alps partly depends on the ability to show that the cost of construction with the certified wood is not higher than with a non-certified wood, or at least that extra-cost is offset by the creation of jobs in the territory. One of the main challenges is thus to address the economic constraints that would hinder the use of the local certified wood. In this regard, the

association is actively involved in communication and awareness raising activities to promote the benefits of the use of the certified wood. The activities are further supported by studies and research such as life cycle assessments that the association regularly undertakes to support the wider use of the certified wood.¹⁷⁶ Overall, according to a study conducted on 22 pilot buildings, increasing the proportion of wood in a building structure results in lower overall costs, although results are more mixed depending on the specific activities and use of the wood.¹⁷⁷ It is precisely to increase the use of the certified wood further that over twenty distributors were certified by July 2018, which should lead to larger construction projects involving a compulsory consumption of a minimum quantity of wood.¹⁷⁸ Besides, as shown in Section 5.2.3, partnership agreements and support policies at the regional and European level have been adopted to promote the use of the certified wood.

Conclusion

This chapter has focused on the market environment of the six products for which the origin label is used. The objective was to identify and analyse the factors influencing the value of GIs in the marketplace as well as the economic benefits derived from them. Three lines of research were followed: the product's reputation; production capacity to meet consumer demand; and marketing channels.

Our findings illustrate the diversity of ways in which the product's reputation operates in the market. They also indicate that GIs are used both as an instrument to protect an established reputation and as a tool to build the product's reputation on the market, thereby contradicting Réviron's claim that the reputation must precede the GI registration.¹⁷⁹ Importantly, collective promotion efforts and marketing investments have also been made – and continue to be made – in all six initiatives to develop and sustain the product's image among consumers. The

176 Email from Mr Portier, coordinator of the producers' association, to the author (21/02/2018).

177 Bois des Alpes and Communes Forestières, 'Réseau des bâtiments pilotes en Bois des Alpes, Compte-rendu des analyses' (2015) <<http://boisdesalpes.net/blog/wp-content/uploads/2015/05/Analyses-finales.pdf>> (accessed 2 September 2018). For instance, if the cost of the certified wood for the construction of the frame structure is about the same than that of standard wood (€302/m² as compared with €309/m²), in relation to carpentry and cladding, the cost of the certified wood is respectively about 30% and 70% higher than that of standard wood.

178 Interview F-E9.

179 S. Réviron, E. Thévenod-Mottet and N. El Benni, 'Geographical indications: creation and distribution of economic value in developing countries' (2009) NCCR Working Paper n°14, 7

<http://phase1.nccr-trade.org/images/stories/publications/IP5/report_IP5_GI_Value_2009.pdf> accessed 03/09/2018.

importance of investments in promotion and advertising raises the issue of financial capacity as to who bears the costs. These may be considerable for small farmers in developing countries especially given the lack of reputation of many GI products.¹⁸⁰ This issue is particularly critical when these costs are borne by producers and not by public agencies or in the absence of a strong GI collective that would allow for the mutualisation of promotion and other collective costs.¹⁸¹

Subsequently, this chapter has shown that, although higher demand for origin products has been well-documented in the literature, greater consumer demand is not necessarily due to the GI label itself. For instance, in the case the wood from the Alps, it is the association's proactive promotion of the wider use of the wood, coupled with the provision of subsidies, that have greatly contributed to increasing the number of construction projects using the certified wood. Greater demand can also derive from the higher value placed by consumers on other labels which in turn reinforce the GI labels. This has been the case for instance for the French Label Rouge certification (signalling the superior quality of green lentils from Berry) as well as for the European TSG (certifying the traditional mode of production of bouchot mussels). This points to the need to consider the various certifications used on the same product and the mutually-reinforcing processes among them, an aspect generally overlooked in the GI literature except with regard to the fair trade certification.¹⁸² From a broader perspective, and as will be evidenced in Chapters 6 and 7, the range of potential impacts of GIs, both economic and non-economic, makes it particularly relevant to adopt a complementary approach to, and convergence among, different certifications, including those addressing provenance, quality, tradition, fair trade and organic farming.¹⁸³

Shifting from consumer demand to production capacity, I argue that a number of factors impact on producers' ability to match supply and demand. On the one hand, strategies aimed at expanding production volumes usually involve increasing the membership of the producers' association, expanding the production area, and/or using input-intensive cultivation systems,

180 D. Zografos, *Intellectual Property and Traditional Cultural Expressions* (Edward Elgar, 2010) 188.

181 Giovannucci and others (n56).

182 R.J. Coombe and S. Malik, 'Rethinking the Work of Geographical Indications in Asia: Addressing Hidden Geographies of Gendered Labor' in I. Calboli and W. Ng-Loy (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (CUP, 2017) 87.

183 V. Boisvert and A. Caron, 'Valorisation économique des ressources et nouveaux marchés' in C. Aubertin, F. Pinton and V. Boisvert (eds), *Les marchés de la biodiversité* (IRD éditions, Paris, 2007) 195.

as has been the case for many successful GI products. On the other hand, the capacity to increase production may be limited by institutional constraints (strict state regulation of production of bouchot mussels from Mont-St-Michel Bay); or hindered by the low interest among local farmers in using the GI label, which can itself be linked to the organisation of the supply chain (prevalence of short circuits for Pélardon cheese). Consequently, both the functioning of the initiative at the local level and the broader institutional context in which the GI initiatives are operating need to be considered when exploring their production capacity.

Finally, the cross-case analysis suggests that marketing channels are particularly relevant to the value and benefits of the GI labels. On the one hand, highly local marketing channels have contributed to building the reputation of fried calamari from Hả Long and promoting the origin label while empowering producers. In the wood from the Alps initiative, the adoption of highly local marketing channels both derive from, and contribute to, the sustainable development objective attached to the initiative. On the other hand, physical constraints explain why most of the production of vermicelli from Bình Liêu is sold outside the area of production whereas the value of the origin labels of French products tends to increase as the product is exported outside the area of origin. At the same time, spatially extended marketing channels have entailed increased isolation of French producers from final consumers, with no or little flexibility to set or negotiate selling prices.

On this account, the impact of origin labels on prices appears mixed. Our findings show that GI products generally command a higher price than standard products. These results align with the empirical studies conducted in Europe that have provided evidence that the price of many European GI products is higher than that of similar products in the same category.¹⁸⁴ For example, in carrying out a comprehensive study in 2001-2002 under the FAIR European research programme, Barjolle and Sylvander found that fourteen out of the twenty-one products under scrutiny have received a price premium.¹⁸⁵ Among the most famous examples, the Italian Toscano olive oil receives a 20% price premium; the Bresse chicken is sold at a price that is four times that of non-GI chicken; and the Parma ham sells at prices 50% higher

184 Barjolle and Sylvander (n9); S. Révion and M. Paus, 'Special report: Impact analysis methods, WP2, Social and Economic Issues' (SINER-GI Project, European Commission – Sixth framework program, February 2006).

185 Barjolle and Sylvander (n9).

than other standard hams.¹⁸⁶ A retail benchmark study conducted in the cheese sector in France also concluded that GI-labelled cheese products have a price 30% higher than standard cheese products.¹⁸⁷

Five observations can be made which shall allow for a more sophisticated interpretation and analysis of our empirical results. First, there is a great difference in the levels of price premiums observed across the case studies (about 200-300% higher for green lentils from Berry as compared with 15-20% higher for bouchot mussels from Mont-St-Michel Bay and fried calamari from Hà Long). In fact, the ‘extreme variability’ in the magnitude of price premiums was observed in another empirical study commissioned by the EU and published in 2013, with some GI products commanding only marginal price premium (+2-3%) and others being sold for double the price of that of the corresponding standard products.¹⁸⁸

Second, the levels of price premiums can vary widely for the same product depending on the points of sale as these can greatly impact on the value of the origin label. For instance, the price premium for Pélardon cheese is only marginal at the farm gate but increases up to 20% to 50% in retail shops inside the PDO area.

Third, our findings show that most of the price premiums are captured by commercial entities and retailers due to the organisation of the supply chains and the low bargaining power of producers. The organisational features of the supply chain and the superior bargaining positions of the largest actors have been pointed out in the literature as factors hindering fair distribution of returns and good economic results,¹⁸⁹ as is the case for instance for the Italian Parmigiano-Reggiano and the French Cantal cheeses.¹⁹⁰ In the UK, Ilbery and Kneafsey have shown that most producers and small businesses never benefit from GI premiums that are captured by larger food companies.¹⁹¹ In this chapter, the power imbalance between producers and traders

186 Babcock and Clemens (n43) 13; U. Grote, ‘Environmental Labeling, Protected Geographical Indications and the Interests of Developing Countries’ (2009) 10(1) *The Estey Centre Journal of International Law and Trade Policy* 94, 105.

187 Secodip 2002 data reported in Giovannucci and others (n56) 29.

188 Areté, ‘Study on Assessing the Added Value of PDO/PGI Products’ (Study commissioned by the European Commission, 2013) 6 <http://ec.europa.eu/agriculture/external-studies/added-value-pdo-pgi_en.htm> accessed 18/07/2018.

189 Belletti and Marescotti (n155).

190 K. de Roest, ‘The dynamics of the Parmigiano-Reggiano production system’ (n145) 271; D. Barjolle, S. Réviron and B. Sylvander, ‘Création et distribution de valeur économique dans les filières de fromages AOP’ (2007) 29 *Economie et Sociétés* 1507.

191 B. Ilbery and M. Kneafsey, ‘Registering Regional Speciality Food and Drink Products in the United Kingdom: The Case of PDOs and PGIs’ (2000) 32(3) *Area* 317.

has been documented in relation to the presence of mass retailers in the supply chains. The loss of local control over prices has been noted in other circumstances. For instance, Cleary and van Caenegem show that, because of their geographical isolation, dairy farmers on King Island have no other option than to sell their milk to the sole operator on the island upon which they have become dependent.¹⁹² As a result, dairy farmers have become price takers rather than price makers.¹⁹³

Fourth, the economic benefits of GIs can be limited by institutional issues and lack of transparency from state authorities, as is the case in the Vietnamese case studies.

Fifth, the limits of our analysis should be recognised considering that no exhaustive cost-benefit study could be conducted to determine the real economic benefits of all six GIs.¹⁹⁴ As cautioned by Giovannucci, price premiums do not automatically translate into increased profitability considering that GI products require additional production, certification, and marketing costs, hence the need for premiums to be high enough to compensate for such costs, especially when these are borne by the producers and not by public agencies.¹⁹⁵

With these limits in mind, it is argued that the GI protection alone, as well as the mere use of the GI label, are usually not sufficient in themselves to bring about economic benefits and advance the commercial interests of local stakeholders. As shown in this chapter, a wide range of organisational, institutional and marketing factors influences both the use and value of GIs in the marketplace as well as benefits derived from them.

192 J. Cleary and W. Van Caenegem, 'Mitigating One-Size-Fits-All' Approaches to Australian Agriculture: Is There a Case to be Made for Geographical Indications?' in W. Van Caenegem and J. Cleary (eds.), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice n. 58, 2017) 111, 134.

193 *ibid.*

194 Grote (n186).

195 Giovannucci and others (n56).

Factors hindering the use of GIs on the market

This chapter will turn to those products for which the origin label has been either entirely or relatively unused despite a formal registration having taken place; whose name has been largely associated with goods that do not correspond to the traditional or ‘genuine’ product; and/or whose manufacturing according to the traditional methods of production is very limited, if at all. More specifically, the objective of the present chapter is to identify the factors explaining why GI initiatives have failed to promote the GI label and/or the traditional product among both producers and consumers/buyers. Whereas the GI literature focuses largely on the analysis of the effects of GIs that are actually used on the market, it is nonetheless essential to not overlook those initiatives which have been unsuccessful in promoting the use of the origin labels and/or the production of the traditional product. Along with the factors influencing the value and benefits of GIs that are used on the market, which were analysed in Chapter 5, the identification of the reasons for ‘GI failures’ will broaden our understanding of the enabling and inhibiting factors for successful GI mobilisations.

In total, six initiatives show little, adverse or non-use of the origin labels or names on the market, and in at least half of them the use of traditional methods and practices, as reflected in the CoPs, has been very low or declining. The six initiatives are the Marseille soap, conical hats from Huế, sticky rice from Đông Triều, pottery from Đông Triều, H’mong beef from Cao Bằng, and star anise from Lạng Sơn. All these initiatives are characterised by consumers’ lack of awareness of, and demand for, the origin label and/or the traditional product.

A range of reasons contribute to explain such ‘GI failures’ – where GI labels or products remain relatively invisible on the market – including the impracticalities and costs associated with the use of the origin label, the low awareness of local producers and the lack of activity of the producers’ association, among others. These will be addressed when relevant. More particularly, the analysis of the six case studies has identified three key factors in terms of

prevailing market conditions that impact negatively on the producers' willingness or capacity to use the origin labels and/or producing the traditional product.

Section 6.1 will first suggest that GIs fail to engage and foster the interest of local producers in using the origin labels, or producing the genuine product, when the GI name lacks distinctiveness, which undermines their communication function – and hence lessens their value and appeal – in the marketplace. This is the case for conical hats from Hué and Marseille soap. While conical hats have become an iconic product that are symbolically resonant well beyond a specific origin, the name of Marseille soap is used generically on a wide range of different goods to meet the growing consumer demand for the 'concept' of the soap rather than for the actual traditional soap itself. Subsequently, Section 6.2 will argue that the lack of interest of local stakeholders to use the origin label may also derive from the lack of economic incentives for producers to adhere to the initiative. This is illustrated by the case study of sticky rice from Đông Triều. Finally, Section 6.3 will highlight the significance of the marketing channels via the initiatives of pottery from Đông Triều, H'mong beef from Cao Bằng and star anise from Lạng Sơn. The nature and structure of the marketing channels of these products, which are predominantly exported to foreign markets, largely account for their lack of reputation on the end markets while decreasing the use of the origin labels.

6.1 The lack of distinctiveness of the name

As already mentioned, the primary function of GIs is based on the economics of product differentiation (see Chapter 1). By conveying information to consumers on the specific origin and the unique quality, characteristic or reputation of origin products, GIs aim to build niche markets.¹ Bramley and Biénabe note that 'the stronger the product/origin nexus, the more robust the competitive advantage created by the differentiation is likely to be'.² Both case studies of conical hats from Hué and Marseille soap show that, conversely, when the link between the product and the specific origin is weakened or little known to consumers, GIs cannot serve their differentiation function and lose *de facto* their utility in producers' and consumers' eyes.

1 F. Addor and A. Grazioli, 'Geographical Indications beyond Wines and Spirits: A Roadmap for a Better Protection for Geographical Indications in the WTO/TRIPS Agreement' (2002) 5 *JWIP* 865, 870.

2 C. Bramley and E. Biénabe, 'Developments and considerations around geographical indications in the developing world' (2012) 2 (1) *Queen Mary Journal of Intellectual Property* 14, 23.

6.1.1 Iconic or local product?

The GI label of conical hats from Hué was tested in 2014 by one trader on twenty conical hats only.³ In 2016, no producer was granted the right to use the GI⁴ and the current situation is unclear. This section will argue that the national symbolic status and iconic nature of conical hats in Vietnam tends to supersede the regional identity of hats from Hué, which diminishes the value of the origin label.

As discussed in Chapter 4, Vietnamese people have progressively abandoned the practice of wearing conical hats due to modernisation of ways of life and rapid urbanisation. However, conical hats are still considered as an iconic product, defined by the Oxford English Dictionary as '[...] a thing regarded as a representative symbol, especially of a culture or a movement'. According to the GI application, 'the industry of making leaf conical hat is regarded as an emblem of the country thanks to its close connection with traditional agriculture and very early appearance in the history of the country'.⁵ Due to their iconic status, conical hats have enjoyed a high international visibility which is evidenced by the widespread use of images of women wearing conical hats on the cover of foreign travel guides. In effect, Western tourists identify conical hats as symbolic and representative of Vietnam, particularly its farming culture.⁶ To the older generation of Americans, conical hats are also iconic of the Vietnamese struggle for unification and independence.⁷

This exposure to foreign tourists has greatly contributed to turning the hat into a souvenir product, keeping in mind that Hué Imperial City has been listed as a World Heritage Site since 1993 and as such attracts hundreds of thousands of visitors every year.⁸ As tourists' interest in cultural representations of the visited country often translates into the purchase of handicraft souvenirs,⁹ foreign tourists make up the large majority of customers especially since

3 Interview V-E6.

4 Interview V-E8.

5 Document describing the characteristics of conical hats from Hué (GI application), 10.

6 K.Thirumaran, M.X. Dam and C.M. Thirumaran, 'Integrating souvenirs with tourism development: Vietnam's challenges' (2014) 11(1) *Tourism Planning and Development* 57, 59.

7 *ibid.*

8 UNESCO World Heritage List, 'Complex of Hué Monuments' <<http://whc.unesco.org/en/list/678>> accessed 18/09/2017.

9 T.T. Dung, 'Représentation culturelle et souvenir artisanal, Expérience des touristes au centre du Viet Nam' (Master's thesis, Université du Québec à Montréal, 2016) Chapter 3.

sightseeing tours generally include the visit of fabrication workshops and festivals where tourists can buy conical hats.¹⁰ According to the NOIP, conical hats are one of the most popular souvenirs bought by foreign tourists.¹¹

Picture 6.1
The use of conical hats on the cover of foreign tourist guides



© HACHETTE LIVRE (Hachette Tourisme), 2006

Permission from Rough Guides

Picture 6.2
Festival of conical hats in Huế



¹⁰ Thirumaran, Dam and Thirumaran (n6).

¹¹ NOIP, “Huế” is protected as geographical indication for coconut-leaf conical hat’ <http://noip.gov.vn/noip/cms_en.nsf/vwDisplayContentNews/0CCFF937254F9B80472577830012215A?OpenDocument> accessed 9/04/2018.

Whereas conical hats from Hué are promoted by local authorities as a cultural symbol of both Vietnam in general and the craft villages of Hué in particular,¹² tourists value conical hats as a national symbol of Vietnam but do not necessarily attach importance to the territorial connexion with Hué. As a result, the hat has a weak territorial identity which explains why it has proved difficult to differentiate it based on its geographical origin. By comparison, the name ‘Panama hat’ has been very popular in the marketplace, yet it is a misnomer for the ‘Montecristi hat’ (first Ecuadorian GI registered in 2008).¹³ The misuse of the name, which tends to overshadow the territorial origin of the hat, dates back to the early 20th Century when the straw hats were transported from Montecristi (where they have been produced since the 16th Century) to the USA and Europe via the Isthmus of Panama.¹⁴ In contrast, other local products have become successful national champions while retaining their specific regional identity, such as Champagne for France¹⁵ and Darjeeling tea for India.¹⁶

On the one hand, tourism offers opportunities for local producers of conical hats from Hué to increase the production and sale of conical hats. On the other hand, the nature of the clientele has impacted negatively on the production and hence preservation of the genuine traditional product. As mentioned in Chapter 3, three categories of conical hats are produced in the area. According to the CoP, only those hats made of coconut-palm leaf with three stitches per 1cm knitted down from the top brim to 15th brim can be sold with the GI label,¹⁷ thereby excluding the other categories of hats made of a lower quality leaf and with more space between stitches. The production of the GI-qualified conical hat logically involves the most costly and time-consuming process. However, foreign tourists are generally not connoisseurs and as such are not aware of the characteristics and methods of production of the genuine conical hat from Hué. This is especially true considering that, as acknowledged in the GI application document, conical hats from Hué are ‘almost similar’ to other conical hats produced across the country,¹⁸ despite having its own characteristics in terms of colour, design, size, weight and durability which only connoisseurs are aware of.¹⁹

12 Thirumaran, Dam and Thirumaran (n6).

13 A.B. Russell, ‘Using Geographical Indications to Protect Artisanal Works in Developing Countries: Lessons from a Banana Republic’s Misnomered Hat’ (2010) 19 *Transnational Law and Contemporary Problems* 705, 715-716.

14 *ibid* 709.

15 G. Kolleen, *When champagne became French* (The Johns Hopkins University Press, 2003).

16 K. Das, ‘International protection of geographical indications with special reference to Darjeeling tea’ (2006) 9(5) *JWIP* 459.

17 Document describing the characteristics of conical hats from Hué (GI application), 8.

18 *ibid* 10.

19 *ibid* 16.

The image 6.3, 'Examples of different shapes of conical hats found in Vietnam', has been removed as the copyright is owned by another organisation.

As a result, producers have taken advantage of tourists' ignorance and switched to the production of the cheapest categories of hats to save time and money.²⁰ This practice spread quickly, especially because most producers are small households whose production is very little and hence who combine hat production with other jobs so as to increase their incomes.²¹ Consequently, producers not only conceal information on the genuine product from customers but also exclude the use of the GI label which seems to be displayed only in festivals and exhibitions. Ultimately, should a customer want to buy the genuine product, he must request it explicitly.

Our analysis thus points to the need to educate consumers as per the characteristics of the GI product and build its reputation, and that of the GI label, through investments in advertising and promotion. The lack of use of the GI label by producers and traders due to the lack of consumer demand for the GI-qualified product has been seen in other initiatives. For instance, Durand reports that, as of 2013, all but one of the companies who have the right to use the GI on the Buôn Ma Thuôt coffee, in Vietnam, do not use the label simply because their buyers do not ask for it.²² Yet, in relation to conical hats, consumers' education is particularly challenging due to the broader – diffuse national rather than specific regional – symbolic status of the product. This status has resulted in a weak territorial identity, combined with the fact that the majority of customers are foreign tourists who buy conical hats as iconic souvenirs from *Vietnam* rather than from *Huế*. In this context, the concept of origin is thus closer to that of country of provenance, as it is the case for famous 'country-GIs' such as Café de Colombia that is 'based on the general image of the country instead of on real links of the coffee production process to local specific resources'.²³ Borrowing from legal terminology, Vietnamese conical hats, including but not limited to those from Huế, arguably lack geographical – or rather regional – distinctiveness at least among foreign tourists, which

20 Interviews V-E1, V-E3 and V-E4.

21 *ibid.*

22 C. Durand, 'L'émergence des indications géographiques dans les processus de qualification territoriale des produits agroalimentaires - Une analyse comparée entre l'Indonésie et le Vietnam' (PhD Thesis, Institut national d'études supérieures agronomiques de Montpellier - Montpellier SupAgro, 2016) 345-346.

23 A. Marescotti and G. Belletti, 'Differentiation strategies in coffee global value chains through. reference to territorial origin in Latin American countries' (2016) 5(1) *Culture & History Digital Journal* 1, 8.

generally explains why local producers have turned away from the traditional local product and the origin label. If there is no consumer awareness about, and demand for, the GI-labelled product, producers see no reason to produce it and use the GI label especially since the manufacturing process of the GI-qualified product is more costly and time-consuming. The sustainability of the initiative is further undermined by the fact that the producers' association does not have any activity, and does not contribute to the promotion of the label, due to lack of resources.²⁴ Consequently, not only is there no use of the GI label, but the production of the genuine conical hat from Hué has been decreasing rapidly, which puts at risk the preservation of traditional methods of production.

6.1.2 Concept or genuine product?

Unlike the other products studied in this chapter, the name 'savon de Marseille' has had an established reputation and strong evocative value in the marketplace since the nineteenth century as a good quality toiletry product.²⁵ The world market for soaps sold under the name 'savon de Marseille', currently estimated at about €350 million,²⁶ is growing, driven by consumer demand for 'natural' products. However, the name has been used for decades on a large range of soap products made outside Marseille area and/or that do not comply with the traditional rules of production as established by the Edict of Colbert of 1688 and Napoleon's Decree of 1812 (see Chapter 4). Only a very small proportion of the soap products bearing the name 'savon de Marseille' can be considered as traditional or 'genuine' according to these texts. As this section will show, a large market exists for products named 'savon de Marseille', i.e. for the *concept* of the soap as a natural, traditional product, but comparatively the consumer demand for the genuine soap is low. As the name has been extensively used on a wide range of soap products, the differentiation of the genuine product in the marketplace has proved challenging.

As seen in Chapter 4, the traditional Marseille soap is primarily (i.e. up to 90%) produced by the four members of the UPSM, who owns the figurative collective mark 'savon de Marseille'.

24 Interviews V-E1, V-E3 and V-E4.

25 P.-P. Zalio, 'Le « savon de Marseille », Contribution à une sociologie économique des produits' in A. Stanziani, *La qualité des produits en France (XVIIIe-XXe siècles)* (Belin, 2003) 93.

26 E-mail from Mr Jaussaud, CEO of 'La Grande Savonnerie', to author (12/04/2018).

However, their annual sales, estimated at about €18 million, represent only 10% of the 20,000 tonnes of soaps that are sold every year as ‘savon de Marseille’ in France.²⁷ In effect, no less than 90% of all products stamped with the name ‘savon de Marseille’ are not produced following the traditional ‘Marseille method’ (see Chapter 4). Rather, most of these soaps, produced by outsiders in China, Thailand, Turkey and other countries, are made from animal fat, dye and fragrance and using a cheaper manufacturing process.²⁸ Further, an increasing number of French soapmakers also produce and market coloured and perfumed soaps under the name ‘savon de Marseille’.

Picture 6.4

The traditional Marseille soap



27 Interviews F-A5 and F-A6.

28 *ibid.*

Picture 6.5
The coloured and perfumed soaps sold as ‘savon de Marseille’



The production and marketing of these products under the name ‘savon de Marseille’ reflects the strong demand of today’s consumers for both (i) coloured and perfumed soaps, because consumers’ taste has evolved toward this type of product and (ii) the ‘concept’ of Marseille soap, because consumers associate the name with the image of a good quality and natural product. However, most consumers are not aware of the characteristics of the traditional soap. Besides, the traditional Marseille soap is about 30-40% more expensive than the standard soap due to the use of more labour-intensive and extensive production methods, yet many consumers are not ready to pay this premium, especially as they prefer coloured and perfumed soaps.²⁹ According to the UPSM, new market demands coupled with consumers’ lack of awareness of the characteristics of the traditional product have put at risk the preservation of traditional methods of production.³⁰

In contrast to the limited consumer awareness about, and demand for, the genuine product in France, consumer demand for the traditional Marseille soap is growing fast on foreign markets. Between 30% and 50% of the production of traditional soaps by members of the UPSM are exported to foreign countries, especially Japan, China, South Korea and Taiwan but also to other European countries, the USA and Russia.³¹ The same export strategy has been adopted by other companies.³² According to the UPSM, the attributes of the traditional product as a natural, mild and biodegradable soap are known and sought after by consumers on foreign

29 *ibid.*

30 *ibid.*

31 Interviews F-A1 and F-A2.

32 Interviews F-A8 and F-A11.

markets who also value the cultural heritage dimension embodied in the product.³³ There, as is the case for bouchot mussels from Mont-Saint-Michel Bay (see Chapter 5), Marseille soap is promoted as a high-end craft product with a strong ‘Made in France’ emphasis in line with the demand of foreign consumers for French ‘refined’ or ‘sophisticated’ products. This market positioning has translated into higher selling prices that foreign customers are ready to pay for – about €15 for a three-hundred gramme soap in Asia as compared with €3 in France.³⁴ As explained by a producer, ‘[w]hile the domestic market is flooded with coloured, scented, cheap and low-quality products that are wrongly marketed as ‘savon de Marseille’, the traditional soap has gained an excellent reputation as a high-end product among a large fraction of the Chinese and Japanese population who have increased their purchasing power. Exporting Marseille soaps abroad allows us to be what we want to be outside France, that is the custodians of the genuine product; not what people want us to be in France where consumers don’t know what it truly is’.³⁵

The denomination ‘savon de Marseille’ thus appears to face a paradox. On the one hand, its concept is a huge commercial success but the name is used generically in France, including in its region of origin where consumers are not familiar with the characteristics of the genuine product. On the other hand, it emerges as a geographically defined name for a traditional product whose specific characteristics are known and sought after by consumers outside the country.

Finally, it should be stressed that, in determining whether the denomination ‘savon de Marseille’ is generic and, if not, for which type of product the IGPIA should be granted, the outcome of the legal dispute between the UPSM, the AFSM and the ASDMF (see Chapters 2 and 4), is likely to impact on the market for at least two reasons. First, if granted, the registration of a IGPIA for the name ‘savon de Marseille’ might call for intervention of the state on the market to fight against the use of the name on soap products that do not correspond to the CoP. Second, the UPSM represents four producers only, while the ASDMF gathers 95% of French soap producers outside Marseille area and the economic weight of the AFSM, who consists of twelve producers including the global group *L’Occitane*, is significant. The decision as to which producers’ association would have the right to use the GI might impact not only on their

33 Interview F-A10.

34 Interviews F-A10 and F-A11.

35 Interview F-A7.

marketing strategy, including their pricing policy, but also on their ability to secure and enhance employment opportunities.

6.2 The lack of economic incentives

The analysis of the case study of sticky rice from Đông Triều suggests that the arrangements made at the initiative level for the marketing of the labelled rice, which were decided by local authorities following Vietnam's top-down management approach to trade marks (see Chapter 3), greatly contribute to the limited use of the origin label in the marketplace. These arrangements did not consider the interests of established producers and do not provide them with economic incentives to adhere to the initiative.

While Vietnamese consumer demand for rice is considerable across the country (see Chapter 4), the differentiation of one specific rice is difficult. This is especially true when the rice does not have a specific quality or characteristics such as sticky rice from Đông Triều.³⁶ If there is a strong consumer demand at the local level, it does not derive from the consumers' preference for this specific rice but rather from its local availability. In this context, the main objectives assigned to the collective trade mark were to increase the production area and the productivity of sticky rice (see Chapter 4) while building its reputation through the use of promotional brochures and panels and the organisation of exhibitions and TV and radio promotional programmes that took place in 2012-2013. As a result, the production area of sticky rice from Đông Triều increased from 50 hectares when the project started in 2012 to about 230 hectares in 2017.³⁷

³⁶ Interview V-A1.

³⁷ Interview V-A11.

Picture 6.6
Example of promotional panel for sticky rice from Đông Triều



Source: CASRAD

However, the use of the collective mark has proved particularly challenging for reasons linked to the organisation of the initiative and producers' lack of involvement. As mentioned in Chapter 4, the structures of the initiatives for sticky rice from Đông Triều and green lentils from Berry are very similar. In both initiatives, farmers sell their production to the producers' association (for sticky rice from Đông Triều) or the commercial entity Cibèle (for green lentils from Berry) who subsequently proceed with the labelling, packaging and sale of the products on the market. Unlike for green lentils from Berry, rice farmers do not enter into an annual production and purchase agreement with the association. Consequently, while only the association, and no individual farmer, can sell the *labelled* rice, rice farmers can choose to sell their *unlabelled* production either to the association or to end consumers, or can even keep their production for themselves. As a matter of fact, in 2016, the association bought, labelled and subsequently sold only 10% of the total production of sticky rice by members of the association (about 630 tonnes/year).³⁸

The low use of the trade mark label is due to a variety of reasons, including the lack of appropriate funding and equipment that hinders the label printing and packaging processes from a practical point of view as well as farmers' low awareness about the trade mark and their

³⁸ Interview V-A10.

own membership to the association (see Chapter 4).³⁹ This section will more particularly focus on the lack of economic incentives for farmers to market their production through the association.

According to farmers, the price paid to them is the same whether they sell their rice to the association or to final consumers⁴⁰ although, according to the President of the producers' association, the price paid by the association is higher but the difference is nonetheless negligible (about 3%).⁴¹ In these conditions, a farmer observed that 'the process of packaging and labelling the rice is not serious. We haven't got any good reason to sell our rice to the association so we don't see the benefits of the trade mark. The fact is that we end up selling our rice on the markets without the label'.⁴² By comparison, Durand reports that, in the GI initiative built around the litchi Thieu from Thanh Hà (Hải Duong province, North-Vietnam), the producers' association buys fresh fruits from its members at a price that is about 30% higher than the market price (VND9,000/kg equivalent to €0.4/kg as compared with VND7,000/kg equivalent to €0.3/kg on the marketplace in 2007).⁴³ With no incentive to sell their rice to the association, farmers prefer to sell their production on farm and in bulk to collectors and wholesalers, which is both fast and convenient, whereas the association aims to sell the labelled rice at exhibitions as well as to rice companies and shops at both the local and regional levels.

In 2011, before the trade mark was granted, the price of the rice was about \$US0.9/kg. Since then, both the prices of the non-labelled and the labelled sticky rice have increased only marginally. The price of the non-labelled rice paid to farmers by both wholesalers and the association varied from \$US1-1.2/kg between 2012 and 2016.⁴⁴ At the same time, the price of the labelled rice charged by the association was \$US1.4/kg in 2016 up from \$US1.3/kg in 2012, taking into account that the price of the rice is higher just before or after the Vietnamese New Year holiday (Tết) than following the harvest.⁴⁵ Yet the increase in the prices of sticky rice is generally not attributed to the trade mark, especially considering its limited usage. According to farmers, the price difference between the labelled and non-labelled rice is due to the different

39 Interview V-A7, V-A9 and V-A10.

40 *ibid.*

41 Interview V-A11.

42 Interview V-A12.

43 Durand (n22) 350.

44 Interview V-A12.

45 *ibid.*

points of sale and marketing channels used whereas the increase in the prices of both the labelled and non-labelled rice is linked to the expansion of the production of sticky rice on agricultural lands where normal rice was previously produced.⁴⁶ This has contributed to increasing its consumption locally. At the same time, the production costs are said to have increased dramatically.⁴⁷ This has allegedly led some farmers to mix sticky rice with normal rice, which costs half as much as sticky rice to produce, and sell it at the price of pure sticky rice in order to get higher margins. This illustrates the absence of efficient quality controls (see Chapter 3).

Two main observations can be derived from this case study. First, the law has an important role in shaping origin-labelling initiatives which, in turn, impacts on producers' adherence to or lack of involvement in the initiatives. Unlike in bottom-up and participatory approaches where producers decide upon the rules of the initiative, Vietnam's top-down approach to trade marks, as established by the law, does not provide much space to producers (see Chapter 3). This model has not only resulted in low awareness among farmers about the trade mark. It has also resulted in arrangements made by external actors that did not consider the producers' interests and were imposed upon them without their volitional commitment to the certification process. It is because of the lack of economic incentives provided to them that farmers are reluctant to participate in the initiative. This stresses the importance to consider producers' motivations and interests when establishing a GI initiative.⁴⁸ The sustainability of the origin-labelling initiatives ultimately depends upon producers' willingness to use the origin label and the balance of advantages and disadvantages associated with it.⁴⁹

Second, this case study finds that there is no real economic benefit derived from the trade mark. This may be due, at least in part, to the commodity nature of the product. From that perspective, the importance of rice as a staple food in Vietnam makes it particularly challenging to differentiate the product, build its reputation in the marketplace and increase its price, especially considering the lack of reputation (at least initially) and that of distinctive quality and characteristics of sticky rice from Đông Triều.

46 Interviews V-A5, V-A7 and V-A8.

47 *ibid.*

48 E. Vandecastelaere and others, 'Linking People, Places and Products: A Guide for Promoting Quality Linked to Geographical Origin and Sustainable Geographical Indications' (FAO and SINER-GI, 2009) 40.

49 *ibid.* 101.

6.3 The impact of marketing channels

In the initiatives of the pottery from Đông Triều, H'mong beef and star anise from Lạng Sơn, most of the production is exported to foreign countries without the origin labels. On the one hand, export markets provide local producers with the opportunity to increase production and participate in the global market. On the other hand, the marketing channels of these three products, which are characterised by a large number of middlemen and long chains of intermediaries at the regional and international levels, have contributed to the lack of reputation of the products on the end markets while decreasing the use of the origin labels significantly. They have also led to the emergence of new production models that put at risk the preservation of traditional methods of production for the pottery from Đông Triều and threatened the preservation of the H'mong beef indigenous breed. From this perspective, the analysis of these case studies will illustrate the primacy of individual economic and market considerations over collective, cultural and environmental concerns. Further, long marketing channels have revealed and reinforced inequalities of bargaining power to the detriment of Vietnamese producers, especially the poorest ones.

This section will first investigate the case study of pottery from Đông Triều where sub-contracting practices at the global level have eliminated *de facto* the use of the origin label on the export products while leading to the declining production of the genuine product. It will subsequently turn to the case studies of H'mong beef and star anise from Lạng Sơn. As will be discussed, the regional context of both initiatives largely explain the lack of use of the origin labels.

6.3.1 Sub-contracting

Although virtually all the members of the producers' association have the right to use the trade mark,⁵⁰ no use of the label has been made on the pottery from Đông Triều since at least 2013.⁵¹ Reasons for this range from the lack of involvement of local authorities to promote the label,

⁵⁰ Interview V-B1.

⁵¹ Interview V-B8.

to the reluctance of some producers to be associated through the common label with others whose products are of lesser quality, to the lack of activity of the producers' association due to the lack of funding.⁵² Yet the main reason for the non-use of the label is to be found in the development of new production models centred around the design and fabrication of modern and diversified products for the largest part of the production. The shift in production is itself closely linked to the value chain that heavily relies on sub-contracting by foreign companies, taking into account that 80% of production is exported to foreign markets. In fact, this initiative is characterised by a strong dichotomy between the export and the domestic markets. On the one hand, companies and wealthy households with the largest production, technical and financial capacities are more interested in export markets where modern products have replaced the traditional product that has been produced in Đông Triều craft village since the sixteenth Century and for which the trade mark is registered. Consequently, the origin label is inapplicable for the largest part of the production. On the other hand, most households with lower capacities still produce the traditional pottery product for the domestic market. However, it is usually sold without the origin label due to the organisation of the value chain.

Starting with the export market, most companies that are members of the association are sub-contracted either directly or indirectly by foreign companies based in Australia, Russia, Europe and the USA to manufacture hand-made, modern pottery products for home accessories that meet the tastes of foreign consumers. From a broader perspective, Vietnam has emerged on the international scene as an alternative to China as a leading producer-exporter of handicrafts, especially as 'pricing is comparable, labor is skilled and hardworking, quality and delivery are good, and producers have low minimum order requirements'.⁵³ Sub-contracting has in fact reflected the transition from small-scale, traditional production of large and heavy ceramic jars that correspond with the traditional pottery from Đông Triều, to the large-scale, modern manufacturing of smaller, lighter and thinner ceramic products shipped all over the world. These new products are produced to order with no specific reference to their place of origin and are alien to notions of tradition and authenticity. This is because foreign companies value the labour and skilled craftsmanship of local potters but have no interest in the traditional pottery from Đông Triều as an object of cultural heritage. While, according to Gough and Rigg,

52 Interviews V-B3, V-B5 and V-B7.

53 T. Barber and M. Krivoshlykova, 'Global market assessments for handicrafts' (USAID, July 2006) 19 <https://pdf.usaid.gov/pdf_docs/PNADN210.pdf> accessed 02/09/2018.

‘the cultural authenticity and value of handicrafts rests upon their very placeness’,⁵⁴ this case study exemplifies how such territorial connexion has gradually vanished.

This change in *objects* has involved new production processes. As mentioned in Chapter 4, the traditional pottery from Đông Triều requires the use of traditional kilns and a high-temperature fire of 1,280-1,300°C to ensure their very high quality.⁵⁵ Yet these methods of production have not proved to be cost-effective, safe and competitive enough for the manufacturing of the new, lighter products for the export market. Hence, whereas traditional kilns are still used to produce the traditional pottery for the domestic market, they have been increasingly replaced by gas and electric furnaces to increase productivity.⁵⁶ As explained by a producer, ‘[i]n order to win customers, the most important thing for potters is to make new products that suit customers’ tastes. We need to innovate and apply new technology to our production process if we want to save our village’.⁵⁷ Other craft villages in Asia have experienced changes in marketing and/or shifted away from traditional production processes under the forces of globalisation and rural industrialisation. For instance, Gough and Rigg show how, in Thailand, the mulberry or *saa* paper that had been produced in Ban Pasakluang village for centuries to make candles, lanterns and umbrellas, has diversified to new (and more elaborate) products to meet the increased demand of new markets.⁵⁸ This change in the production processes saw the use of chemical dyes to standardise the products, sodium hydroxide to accelerate the production process, and churning machines to produce a finer end product.⁵⁹

54 K.V. Gough and J. Rigg, ‘Reterritorialising rural handicrafts in Thailand and Vietnam: a view from the margins of the miracle’ (2012) 44 *Environment and Planning A* 169, 176.

55 Regulations on the management and use of the collective mark ‘pottery from Đông Triều’ 3.

56 Interview V-B1.

57 Interview V-B4.

58 Gough and Rigg (n54) 174.

59 *ibid* 175.

Picture 6.7
The traditional pottery from Đông Triều



Picture 6.8
Modern products made in Đông Triều



The development of new production models associated with the demand of the export market is the main factor explaining the lack of use of the origin label. Indeed, the label can be used only on products that comply with the rules of production laid down in the CoP.⁶⁰ The manufacturing of new types of products has thus led to the inapplicability of the label for the great majority of products that are made in Đông Triều. The use of the label is even more limited considering that, as revealed during the interviews, foreign companies instruct Vietnamese producers to use their own labels on the products to the exclusion of any other

⁶⁰ Document describing the technical production process of pottery from Đông Triều, Article 6.

label.⁶¹ Besides, there is generally no mention on the packaging or the products themselves of the region or even the country where they come from.

At the time of the visit to the Quang Vinh company, one of the largest member of the association with about 300 employees, the labels of eighteen foreign companies could be identified on handmade products.⁶² On the pictures below, a Vietnamese worker is presenting the shipping carton for handmade pottery products to be sent to the American company Be Home, and another worker is affixing the label 'Be Home' on the bottom of the products.

Ironically, whereas the rationale of the collective mark was to protect a traditional product, sub-contracting practices have led to the 'quasi-industrial' production of high volumes of the same items for different companies, as shown below.

Picture 6.9
The label 'Be Home'



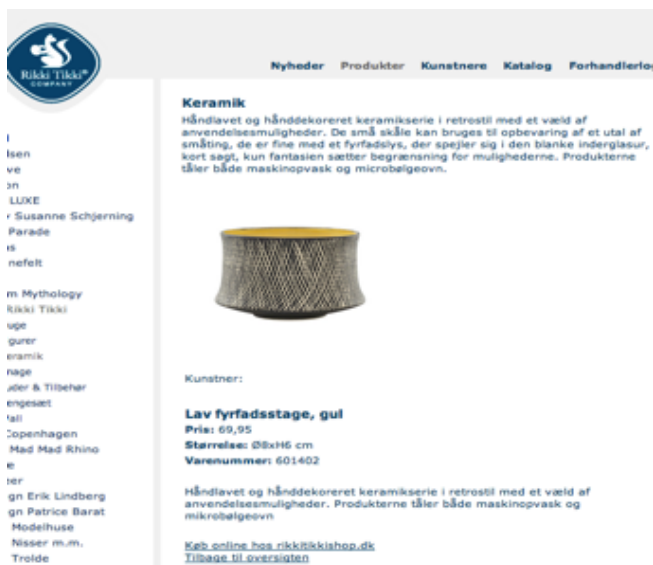
61 Interviews V-B2, V-B5 and V-B8.

62 Among them, seven are from Australia (Albi, Amalfi, Collect Home, Tara Dennis, Emporium, Ikou, Marmoset Found); two from the USA (Be Home, HomArt); eight from Europe, including Denmark (Bloomingville, Mojoo, Just by Rikki Tikky, Pure Culture), France (Habitat, Casino), Germany (Asa Selection, Liv Interior) and Spain (Zara Home).

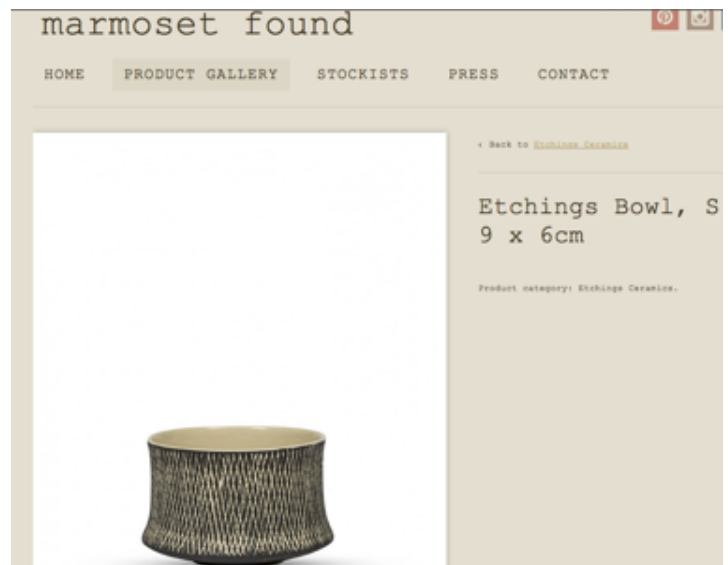
Pictures 6.10
The production of the same item for different companies



Screenshot of Rikki Tikki website⁶³



Screenshot of Marmoset Found website⁶⁴



Interestingly, the interviews showed that producers place more importance on their own individual reputation among foreign companies than on the reputation of the collective mark associated with the traditional pottery from Đông Triêu. This shift in focus from collective to individual reputation has important consequences as it favours mass manufacturing of

63 Historic screenshot (July 2014), on file with author.

64 Historic screenshot (July 2014), on file with author.

commodity products at the expense of the preservation of a traditional product. It also signals the failure of the initiative to sustain and promote the collective reputation.

Not surprisingly, the primacy of the producers' individual interests over collective and cultural concerns are based on economic and market considerations. While, on the one hand, multinational companies rely on sub-contracting to reduce their production costs, these practices also support the local supply industry by allowing small enterprises to increase production and participate in the global market. As explained by the leader of a pottery household, 'if profits are higher and quantities are bigger, it is better to have contracts with foreign companies and use their labels rather than to use our collective mark'.⁶⁵ Today, the production of pottery products in Đông Triều contributes greatly to the regional economy and provides jobs for nearly 2,000 workers, 90% of which are women.⁶⁶

This case study illustrates how market forces and economic considerations can lead to the restructuration of production practices to the detriment of traditional methods of production, thus undermining the reputation of the genuine product and rendering the origin label inapplicable for the largest part of the production. These findings relate to some extent to what Esperanza found in relation to the handicraft village of Tegallalang in Bali, Indonesia, which has increasingly specialised in the mass-production of non-Balinese 'ethnic' art for export, for instance Moroccan furniture and African masks. As Esperanza argues, 'middlemen not only control the flow of these commodities, but also control their cultural values and meanings'.⁶⁷ End consumers ignore the origin of the products and the very existence of the traditional product and that of the collective mark, and have no idea of who the producers are. Producers are also generally unaware of how and where their products are marketed. In this regard, the director of one of the largest companies explained that, although desirable, building the reputation of the local trade mark on export markets would require considerable investment that companies and households do not have the financial capacity to make.⁶⁸ He further suggested that state authorities should provide funding to support the participation of producers in international fairs and exhibitions as a way to build the image of the pottery from Đông Triều

65 Interview V-B4.

66 Interviews V-B1 and V-B8.

67 J.S. Esperanza, 'Outsourcing otherness: crafting and marketing culture in the global handicrafts market' (2008) 28 *Research in Economic Anthropology* 71, 73.

68 Interview V-B5.

in foreign countries,⁶⁹ as it has been done elsewhere. For instance, in line with its promotion policy ‘Enjoy, it's from Europe!’ adopted in October 2015, the European Commission supports information provision and promotion measures aimed ‘to increase consumers’ awareness of the merits of the Union’s agricultural products and production methods and to increase the awareness and recognition of Union quality schemes’,⁷⁰ including participation in international exhibitions and fairs. Similarly, the Tea Board of India, a statutory body under the Ministry of Commerce and Industry, supports the exposure of the Darjeeling tea in international trade fairs and exhibitions.⁷¹

Long marketing channels also raise the issue of the distribution of benefits across the supply chain. Indeed, in complex supply chains, traders with bargaining power usually earn a higher profit than individual producers.⁷² As shown in Picture 6.11, the difference between the prices of the same item when it is sold in Vietnam and in Europe, is significant.

Picture 6.11
Price in Euro and Vietnamese Dong of the same item



The bowl in the pictures above, which was found with two price tags in the shop of Quang Vinh company, is sold by Zara Home for €5.99 in Europe and 10,000 Vietnamese Dong in

69 *ibid.*

70 Regulation EU 1144/2014/EU of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries, Recital 3.

71 A. Lecoent, E. Vandecandelaere and J.J. Cadilhon (eds.), ‘Quality linked to geographical origin and geographical indications: lessons learned from six case studies in Asia’ (FAO Regional Office for Asia and the Pacific, RAP Publications, 2010) 140.

72 G. Belletti and A. Marescotti, ‘Origin products, geographical indications and rural development’ in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 75, 83.

Vietnam, which is the equivalent of €0.3 in 2014, i.e. about twenty times less than its price in euros. Although it is difficult to estimate the margins of Zara Home without knowing the labour, transportation, logistics, tax and marketing costs involved, it seems nonetheless reasonable to assume that its profit is higher than that of the Quang Vinh company – let alone the revenues of local producers. This is especially true when considering that some pottery products made in Đông Triều were found to be sold in an upscale department store in Paris.

Picture 6.12
The same item found in a factory of Đông Triều and in Galeries Lafayette, Paris



Going further, the director of Quang Vinh company gave assurances that it was not involved in Fair Trade.⁷³ This tends to be confirmed by the fact that the producers' incomes were reported to be less than \$US4/day⁷⁴ and that their working conditions are poor, which highlights the risk of exploitative labour relations in long supply chains. Recalling that Fair Trade is 'about better prices, decent working conditions and fair terms of trade for farmers and workers',⁷⁵ these findings directly challenge Be Home's claim to be a 'socially responsible company, dedicated to the principles of fair trade and equal opportunity'.⁷⁶

73 Interview V-B2.

74 Interview V-B3.

75 Fair Trade Foundation, 'What Fair Trade does?' <<http://www.fairtrade.org.uk/en/what-is-fairtrade/what-fairtrade-does>> accessed 02/09/2018.

76 Be Home, 'About Us' <<https://be-home.com/about>> accessed 25/08/2018.

Pictures 6.13
The working conditions in the factory of the Quang Vinh company



This leads us to question the extent to which the Fair Trade certification could contribute to a fairer distribution of the benefits along the supply chain and the better recognition of the Vietnamese craftsmen' hidden hands by foreign customers. In this regard, it is interesting to note that Fair Trade certification has been increasingly used in combination with GI protection for some categories of origin products. For instance, this has been the case for some single-origin coffees with a view to de-commodify the coffee market and achieve fairer distribution of the value added in the global value chain.⁷⁷ However, the impact of this certification on the de-commodification of the coffee market is uncertain, considering that the norms of the certification were designed by actors in the downstream part of the value chain and that they have almost the same content across the world regardless of the specificities of the local contexts.⁷⁸ When studying the impact of the Fair Trade certification on producers of the GI Darjeeling tea, all being Nepali-speaking women, Coombe and Malik find that women do not receive any part of the fair trade premium. Instead, all benefits and profits are captured by the local men who manage the cooperatives and act as middlemen with the international agencies, taking into account that the certification was implemented in a top-down fashion.⁷⁹ These

77 L.T. Raynolds, 'Re-embedding global agriculture: The international organic and fair trade movements' (2000) 17(3) *Agriculture and Human Values* 297; L.T. Raynolds, 'Mainstreaming Fair Trade Coffee: From Partnership to Traceability' (2009) 37(6) *World Development* 1083.

78 F. Galtier, G. Belletti and A. Marescotti, 'Factors Constraining Building Effective and Fair Geographical Indications for Coffee: Insights from a Dominican case study' (2013) 31(5) *Development Policy Review* 597, 598.

79 R.J. Coombe and S. Malik, 'Rethinking the Work of Geographical Indications in Asia: Addressing Hidden Geographies of Gendered Labor' in I. Calboli and W. Ng-Loy (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (CUP, 2017) 87, 94-95.

findings show that the Fair Trade certification does not in itself resolve issues of socio-economic exclusion and political marginalisation that derive from local dynamics. As Coombe and Malik argue, '[f]air trade certification has a long way to go in making all stages in value chain transparent; labor relations are notoriously difficult to discern and improve'.⁸⁰ Interestingly, they suggest that to achieve greater social justice, GIs must find ways to address exclusion and political marginalisation based on cultural, linguistic, ethnic and gender issues by providing producers with a space where their claims and voices are heard.⁸¹

In Vietnam, the market for the pottery from Đông Triều, where the genuine traditional product is sold mostly to tourists,⁸² accounts for about 20% of the total production of Đông Triều village. While interviewees indicated that the trade mark label had been used in the first year following its registration – reportedly with no impact on selling prices⁸³ – the use of the label has since then been very limited or non-existent due to the long value chain and the high number of middlemen involved. Indeed, the pottery produced in Đông Triều is usually sold to traders and middlemen who subsequently re-sell it either in the Bat Trang pottery village, which is a seven-century old traditional craft village near Hanoi and a very popular tourist attraction, or to wholesalers and middlemen in other provinces of Vietnam. However, traders, wholesalers and other middlemen involved in the value chain reject the use of the origin label because they want end consumers to believe that the products were made near the points of sale. As summarised by a producer, 'final customers do not know that the products are made here because there is no label on the products. A tourist who buys one of our products in Bat Trang pottery village thinks that it comes from there, which is not true. Our reputation suffers because of the marketing distribution system'.⁸⁴ This was later confirmed by a seller in Bat Trang pottery village who admitted that 'consumers do not ask where the products come from so [he] do[es]n't tell them'.⁸⁵ Considering that Ba Trang village has built its reputation on the traditional pottery making skills of its craftsmen, one can reasonably assume that tourists may be misled by the point of sale location and believe that unbranded products sold in the village were made there. Once again, this highlights the strong inequalities of bargaining power

80 *ibid* 95.

81 *ibid* 96.

82 Interviews V-B4, V-B6 and V-B7.

83 *ibid*.

84 Interview V-B4.

85 Interview V-B7.

between, on the one hand, local producers and, on the other hand, traders, wholesalers and other middlemen involved in the supply chain.

6.3.2 Cross-border traffic

In the initiative of H'mong beef from Cao Bằng, two reasons contribute to explain the lack of use of the origin label. These are, with regard to the foreign market, the nature of the cross-border trade with China and, on the domestic market, the cost of the packaging.

Cao Bằng is one of the poorest provinces, located along the border with China. It covers mountainous and remote areas (see Chapter 4). This situation has greatly impacted on the way in which the trade of H'mong beef has developed and the collective mark been used. In 2017, about 95% of cattle raised by the H'mong people in Cao Bằng were sold to Chinese traders, up from 80% in 2014.⁸⁶ The importance of China as an export market has largely contributed to decreasing the value of the collective mark by limiting its use to the domestic market only. This is because Chinese traders only buy live animals that are subsequently slaughtered in China.⁸⁷ This practice has *de facto* prevented the use of the trade mark for this market that represents an estimated 400-600 calves or cows per week.⁸⁸ Indeed, it is on the packaging of the final product only, i.e. *after* the slaughtering and the meat processing stages, that the label of the collective mark can be used by all compliant members of the association.⁸⁹ The importance of the cross-border trade with China leads us to question why Chinese traders buy animals from Vietnam; and why Vietnamese farmers sell to Chinese traders.

From the Chinese traders' perspective, their interest in H'mong beef should be appreciated in light of the fact that China's consumption of beef has grown six-fold since 1990.⁹⁰ In effect, China consumes more than a quarter of the world supply of meat⁹¹ while only about 11% of

86 Email from Mr Xuan, Project leader, CASRAD, to author (11/03/2017).

87 Interviews V-F2, V-F4 and V-F5.

88 Email from Mr Xuan, Project leader, CASRAD, to author (11/03/2017).

89 Regulations on the management and use of the collective trade mark 'H'mong beef from Cao Bằng', Article 9.2.

90 OECD, 'Data, Meat consumption' <<https://data.oecd.org/agroutput/meat-consumption.htm>> accessed 25/07/2018.

91 OECD-FAO, 'Agricultural Outlook 2015-2024'

<<https://stats.oecd.org/viewhtml.aspx?QueryId=66510&vh=0000&vf=0&l&il=&lang=en>> accessed 15/08/2018.

Chinese land is arable.⁹² Consequently, China relies extensively on imports of meat, especially from neighbouring countries like Vietnam, which explains its aggressive commercial practices. As reported by interviewees, Chinese traders seek to manipulate the market by offering a price estimated to be 30% above the real value of H'mong beef (as compared to its price on the domestic market) and by influencing the exchange rate on the black market at the border.⁹³ As such, 1 Chinese Yuan was equivalent to 3,380 Vietnamese Dongs in 2014 up from 2,100 in 2007 and 2,500 in 2011 without illustrating the evolution of the official exchange rate.⁹⁴

Pictures 6.14
Currency exchange on the black market at the border



From the Vietnamese farmers' point of view, both economic and practical reasons explain why they sell their cattle (usually calves) to Chinese traders. While the Chinese aggressive commercial practices make it difficult for Vietnamese traders to compete, they also result in resource-poor farmers preferring to sell to Chinese traders to get higher profits. This is especially true considering that Cao Bằng is a very mountainous area with a poor road infrastructure, which makes it more convenient for isolated farmers to sell their cattle on Tra Linh market, located six kilometres away from the border, thus avoiding paying high transportation costs. Moreover, according to the interviewees, Chinese traders do not require certificates of origin and food safety (and even less so formal sales or supplies contracts) that

92 The World Bank, 'Data, Arable land' <<http://data.worldbank.org/indicator/AG.LND.ARBL.ZS?locations=CN>> accessed 15/08/2018.

93 Interviews V-F2, V-F3 and V-F5.

94 Interview V-F1.

farmers should normally pay for at the local People's Committee.⁹⁵ Even though, by law, these certificates should be provided to customs authorities when crossing the border, most cross-border transfers are done through unofficial ways in the mountains, thus avoiding official border posts and checks.⁹⁶ Doing business with Chinese traders therefore allows Vietnamese farmers to reduce their overall costs.⁹⁷ Besides, there is generally a very low awareness among farmers about the origin label and many do not even know that they are members of the producers' association, which further undermines the value of the trade mark.

Pictures 6.15
The sale of live cattle on Tra Linh market



Interestingly, the owner of a slaughterhouse in Cao Bằng warned about the dangers of an over-dependence of Vietnamese farmers on Chinese traders considering that the lack of supply contracts would not protect farmers against a fall in selling prices in case traders stop buying cows in large quantities.⁹⁸ He further suggested that the state should provide farmers with a technical and financial support to help them negotiate the market price and the supply conditions as well as to diversify and open new market opportunities.⁹⁹

From an environmental point of view, the high demand from Chinese traders coupled with poverty of local farmers has also had serious consequences on the reproduction of the animals.

95 Interviews V-F3, V-F4 and V-F6.

96 *ibid.*

97 *ibid.*

98 Interview V-F4.

99 *ibid.*

While on average each household has a herd of three cows,¹⁰⁰ resource-poor farmers in need of cash often sell calves at an early stage in the breeding process when the animals are about one year old only, without ensuring their reproduction adequately. Reproduction happens only when the animals are at least three years old. According to producers, these practices have led to a decrease in the number of cows and buffaloes in the area.¹⁰¹ In turn, the diminution of the number of animals puts at risk the preservation of this indigenous breed while contributing to higher prices. Similarly, greater demand for the GI-protected Mexican Mezcal beverage led to over-harvesting of the cultivated or wild plants before the sexual reproduction stage, which has contributed to reducing genetic diversity.¹⁰² This confirms that, as noted by Lybbert,¹⁰³ and as will be seen in Chapter 7 in relation to fried calamari from Hả Long, market pressure and increased demand for agro-food products can lead to excessive pressure on the biological resources needed for their production, thereby resulting in their over-exploitation and depletion.

In the domestic market, sales are estimated at 25-30 cows a week i.e. about 5% of the total production.¹⁰⁴ Unlike the export market, cows and buffaloes are not sold live but in cuts, taking into account that there is only one slaughterhouse operating within the association as of March 2017.¹⁰⁵ However, in Cao Bằng, beef cuts are sold ‘in bulk’ and unpackaged – i.e. without the label – on farm or on the local market. When asked about the trade mark, traders were not interested in using it, first because they are not accustomed to the packaging process, and second because the costs of printing the label, that traders consider too high, are borne by the users.¹⁰⁶

100 Email from Mr Xuan, Project leader, CASRAD, to author (01/07/2017).

101 Interviews V-F2, C-F3 and V-F6.

102 J. Larson, ‘Relevance of geographical indications and designations of origin for the sustainable use of genetic resources’ (Study prepared for the Global Facilitation Unit for Underutilized Species, FAO, 2007) 43.

103 T. Lybbert, ‘Commercialising Argan Oil in Southwestern Morocco: Pitfalls on the Pathway to Sustainable Development’, in S. Pagiola, J. Bishop and S. Wunder (eds), *Buying Biodiversity: Financing Conservation for Sustainable Development* (World Bank, 2002).

104 Interviews V-F1, V-F2 and V-F8.

105 Email from Mr Xuan, Project leader, CASRAD, to author (11/03/2017).

106 Regulations on the management and use of the collective trade mark ‘H’mong beef from Cao Bằng’, Article 6.8.

Picture 6.16
The sale of beef cuts on the local market



Outside Cao Bằng, only one company based in Hanoi, RuralFood Co., sells H'mong beef. In 2012, the company used the origin label on the packaging of beef products that were sold in 'Big C' supermarkets in Hanoi and Ho Chi Minh City (which require products to be packaged) as part of an exclusive sales arrangement that was developed under the 'SuperChain' project. This project, which was funded by IFAD and implemented in Vietnam in 2007-2009 for three products including H'mong beef from Cao Bằng,¹⁰⁷ aimed at strengthening supply chains by linking small-scale farmers to supermarkets and other quality chains.¹⁰⁸

107 The two other products that were the focus of the SuperChain project were the 'safe' vegetables in Hanoi Province and the Hoa Vang sticky rice from Hai Duong Province.

108 P. Moustier, D. The Anh and S. Sacklokham, 'Linking small-scale farmers to supermarkets and other quality chains' (Final Superchain report) <https://agritrop.cirad.fr/553967/1/document_553967.pdf> accessed 25/08/2018.

Picture 6.17
The sale of the labelled H'mong beef in Big C supermarkets



However, RuralFood Co. stopped supplying supermarkets in 2014 because of the prohibitive costs of the packaging and use of the label added to selling prices that were already very high and uncompetitive, resulting in a margin of only 3-4%.¹⁰⁹ Three main reasons explain the high price of H'mong beef on the domestic market. The first reason lies in the small-scale herding per household, which is also linked to poverty. The second reason is the high number of middlemen in the value chain, including the small and large collectors, slaughterhouses and distributors, which is partly due to the remoteness and difficult accessibility of the area. The last reason is to be found in the fierce competition from mass imports of live cattle from Australia that are sold to slaughterhouses in Vietnam and which results in slightly lower retail prices of the beef from Australia (US\$13-14/kg) as compared with the beef from Vietnam (US\$14-15/kg in Hanoi).¹¹⁰ As a result, the Director of RuralFood Co. explained that '[u]sing the trade mark was too expensive. I had to pay the trade mark fees in addition to the costs related to the certificates of origin and food safety, the transportation and the packaging. All these costs led to increasing the selling price for me to get a profit, but the price of H'mong beef is already too high. My profit was too low. It is easier for me to sell without packaging.'¹¹¹ As of May 2018, because of the prohibitive costs linked to the use of the trade mark and the packaging, it is only to restaurants in Hanoi that RuralFood Co. sold H'mong beef.¹¹²

109 Interview V-F11.

110 Email from Mr Xuan, Project leader, CASRAD, to author (11/03/2017).

111 Interview V-F11.

112 Email from Mr Xuan, Project leader, CASRAD, to author (11/03/2017).

Considering that restaurants buy unpackaged beef cuts, the use of the trade mark label on the domestic market is consequently inexistent just as with the export market.

6.3.3 Pressure from importers

Similar to H'mong beef from Cao Bằng, the use and value of the origin label of the Lạng Sơn star anise is practically non-existent due to a variety of reasons, including the low awareness and lack of interest of local stakeholders in the GI, the lack of activity of the producers' association, and the lack of local authorities' involvement in the promotion of the GI.¹¹³ Yet the most important reason relates to the heavily export-oriented marketing channels, which are partly determined by the location of the Province, and the inequality of bargaining power along the supply chain.

Lạng Sơn is one of the poorest and most remote provinces in Vietnam located along the border with China with a poor transportation infrastructure. As with H'mong beef from Cao Bằng, about 95% of the production is exported in 2017 up from 80% in 2014.¹¹⁴ Export markets include China up to 40% (as star anise oil), India up to 30% (as dry star anise), and other Asian countries as well as Europe, Russia and the USA, where the spice is used to improve the flavour of wine and other beverage products.¹¹⁵ China and India therefore play significant roles in the trade of the Lạng Sơn star anise, which is explained by a number of reasons.

It should be noted that China and Vietnam are the two largest producers of star anise in the world. China is also the world's largest consumer of star anise unlike Vietnam where the domestic demand is very low.¹¹⁶ Yet China's domestic production does not meet its domestic demand. This explains why China relies extensively on imports of star anise from Vietnam, which are estimated to be thousands of tons per year.¹¹⁷ The trade of star anise from Vietnam to China is so important that the border post in Lạng Sơn is even decorated with star anise

113 Interviews V-G4, V-G6 and V-G7.

114 Email from Mr Xuan, Project leader, CASRAD, to author (11/03/2017).

115 *ibid.*

116 E.A. Weiss, *Spice Crops* (CABI Publishing, 2002).

117 The Catholic Organisation for Relief and Development Aid (CORDAID) & the Netherlands Development Organisation (SNV), 'Leveraging the Spice Sector for Poverty Reduction in Northern Vietnam (Star Anise Market Research and Value Chain Analysis, Project Report, February 2013) 27.

figures. However, the interviews indicated that a large part of this trade takes place, not at the official border posts, but through unofficial exchanges in the mountains, where the transaction is completed without written contracts or certificates of quality,¹¹⁸ as with H'mong beef from Cao Bằng. Both case studies can be compared with what Phuong Le found in relation to the woodcarving production in Kim Thieu, Vietnam. Almost 80% of the annual total production is exported to China through unofficial channels by merchants who 'import unfinished products, then reprocess, particularly dry and polish by machines, before selling to the domestic end-users or exporting to other countries'.¹¹⁹

Picture 6.18
The border post in Lạng Sơn



Star anise figures

As regards India, it is the world's largest importer of star anise accounting for about 50% of global imports from production countries.¹²⁰ This is because, while star anise is widely used in Ayurvedic medicine and the Indian cuisine, it is only produced to a small extent in part of the Arunachal Pradesh State in the north-east part of the country.¹²¹ Besides, since the entry into force of an FTA between India and Vietnam on 1 January 2014 which removed all import-export taxes – following the signature of the ASEAN-India Trade in Goods in 2009 –¹²² Indian

118 Interviews V-G1, V-G4 and V-G5.

119 N. Phuong Le, 'Commodity Chain of Woodcarvings: Global Impacts and Local Responses: A Case Study in Traditional Craft Village, Red River Delta, Vietnam' (2008) 2(2) Chiang Mai University Journal of Soc. Sci. and Human. 5, 10.

120 CORDAID & SNV (n117) 20.

121 Spices Board of India <<http://www.indianspices.com/spice-catalog/star-anise>> accessed 20 May 2018.

122 A. Varma, 'ASEAN-India free trade agreement: an assessment of merchandise exports and imports' (2015) MPRA Paper 75035 <<https://mpra.ub.uni-muenchen.de/75035/>> accessed 25/04/2018.

importers have become more interested in importing star anise from Vietnam rather than China which still imposes a 30% export-tax duty.

It is in this context that only two companies have been granted the right to use the GI, Aforex Co. and Vinasamex Co.,¹²³ which both export almost all their production. However, neither of these companies have used the GI label on the products for export. Rather, they buy star anise in bulk from collectors and producers before using bulk boxes and bags to export it. The interviews revealed that the non-use of the GI label is linked to pressure from Chinese and Indian importers who seem to deliberately opt out of using the label. Whereas Chinese traders seek to mislead their customers as to the origin of star anise from Lạng Sơn by re-packaging it with a Chinese logo, the objective of the Indian traders is to hide the origin of star anise from their own competitors to keep their supply sources a secret.¹²⁴ When trying to negotiate the use of the GI label, the export companies with the right to use the GI label were reportedly threatened by their customers to be replaced by other suppliers.¹²⁵

This not only illustrates the lack of negotiation skills of Vietnamese traders and asymmetric power distribution in the value chain. This further shows that, even though the right to use the GI was granted by state authorities, it is in practice denied by foreign importers at the transaction level. In other words, importers expropriate the legal right from Vietnamese producers and traders to use the GI.¹²⁶ The one-sidedness of the negotiations is also evidenced by the fact that Chinese and Indian buyers impose the use of sulphur to improve the colour of star anise to meet the taste of their consumers, whereas such use is excluded by the GI regulations – and is also prohibited in European countries for health reasons.¹²⁷

123 Interview V-G2.

124 Interviews V-G4, V-G5 and V-G6.

125 *ibid.*

126 B. Pick, D. Marie-Vivien and D. Bui Kim, 'The Use of Geographical Indications in Vietnam: A Tool For Socio-Economic Development?' in I. Calboli and W. Ng-Loy (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (CUP, 2017) 305, 331.

127 Interviews V-G1, V-G4 and V-G5.

Picture 6.19
The bulk packaging of star anise in Chinese bags on Aforex's premises



It can thus be said that the market of star anise involves a buyer-driven commodity supply chain rather than a producer-driven market. As a result, final consumers do not know where the product comes from and are even less aware of the GI label. In fact, it seems that consumers on foreign markets buy star anise regardless of its origin.¹²⁸ In the UK, while the mention of Vietnam as the country of origin can be found in very few high-end grocery stores such as Whole Foods Market which specialises in organic food products, the packaging of star anise sold in 'regular' supermarkets either does not give any information on the origin of the spice, as is the case for Sainsbury's¹²⁹ and Marks and Spencer,¹³⁰ or indicates that it is 'a produce of more than one country', like in Waitrose¹³¹ and Tesco.¹³²

128 CORDAID & SNV (n117).

129 Sainsbury website <<https://www.sainsburys.co.uk/shop/gb/groceries/sainsburys-star-anise-15g-7776690-p-44>> accessed 09/05/2018.

130 Marks and Spencer website <<https://www.m-s.gr/product/star-anise-12-gr/>> accessed 09/05/2018.

131 Waitrose website <<https://www.waitrose.com/ecom/products/bart-star-anise/007364-3455-3456>> accessed 09/05/2018.

132 Tesco website <<https://www.tesco.com/groceries/en-GB/products/268531364>> accessed 09/05/2018.

Picture 6.20
Steenberg's packaging of star anise sold in Whole Foods Market



The screenshots 6.21 and 6.22, 'Bart's packaging of star anise sold in Waitrose' and 'Sainsbury's packaging of star anise', have been removed as the copyright is owned by another organisation.

These characteristics are common to many other raw materials that are seen as commodities, for instance coffee, cocoa, rice, pepper, salt or tea, although 'de-commodification' strategies have been increasingly implemented for these categories of products.¹³³ A de-commodification process would contribute to better value the origin of star anise on the global market and lead to higher earnings due to the non-applicability of tariffs for commodity products.¹³⁴ However, as mentioned in Chapter 4, the specificity of the quality and characteristics of star anise from Lạng Sơn is questionable, which may make it difficult to differentiate the product on the market.

As a consequence of the above, and as explained by the director of Vinasamex Co., 'the GI is not useful for the export market. Foreigners would not understand this logo. Today it can only be used on the domestic market to guarantee the quality of star anise'.¹³⁵ However, between

133 J. Hughes, 'Coffee and Chocolate: Can We Help Developing Country Farmers through Geographical Indications?' 32–36 (Report prepared for the IPI, 2009) 152.

134 R. M. Williams, 'Do Geographical Indications Promote Sustainable Rural Development? Two UK Case Studies and Implications for New Zealand Rural Development Policy' (Master thesis, Lincoln University, 2007) 42 <https://researcharchive.lincoln.ac.nz/bitstream/handle/10182/585/williams_mnrnee.pdf?sequence=1> accessed 10/08/2018.

135 Interview V-G7.

the two companies that have the right to use the GI, one exports its entire production to foreign markets and thus does not make any use of the GI, and the other one exports about 90% of its production and sells the rest in its local shop. It follows from this that the use of the GI label is very limited in practice, let alone the fact that, as seen in Chapter 3, the GI logo was seen to be affixed to not only the star anise's packaging, but also to the cinnamon's packaging. This shows both a lack of efficient controls and the producer's low understanding of the meaning and objective of the GI. Despite its low usage on the regular market, it is interesting to note that the origin label of star anise from Lạng Sơn is usually made visible in national festivals and exhibitions.

Picture 6.23
Exhibition stand of star anise from Lạng Sơn



Logically, because the origin label is not used, it does not impact on the selling prices. In fact, there has been no observable difference in the producers' selling prices of star anise grown in GI-protected areas and non-protected areas. However, it has been reported that, outside the remit of the GI initiative, farmers have gained a stronger negotiation power for setting prices following the project 'Leveraging the Spice Sector for Poverty Reduction amongst Ethnic Minority Communities in Vietnam' that was funded by the Swiss Agency for Development and Cooperation (SDC) and the NGO Cordaid, and implemented in 2013-2016 by the NGO SNV Netherlands Development Organisation. This project aimed, among others, at developing new markets and strengthening cooperation among farmers, processors and traders through the establishment of farmers' groups and the provision of accurate information on quality standards

and market prices.¹³⁶ While, in 2014, prices were reportedly set by the buyers, including the two companies that have the right to use the GI, they are now negotiated between buyers and farmers' groups who appear to be stronger, better able to make informed decisions on prices, and better connected to traders and export companies.¹³⁷ This explains the increase in the producers' selling prices from \$US1.3-2.7/kg in May 2014 up to \$US2-2.5/kg in May 2017 and to \$US3.5-3.7/kg in May 2018 for the dried star anise, which has resulted in higher incomes for producers.¹³⁸

Prices depend on the quality of star anise being requested by the importing countries who have been informally classified as 'high-end markets', 'middle-class markets' and 'low-class markets'. High-end markets, for which the quality of star anise required is the highest, include European countries, Russia, Japan and the USA; middle-class countries are Singapore, Taiwan and Korea; and low-class markets include China, Bangladesh and India.¹³⁹ Considering that only star anise exported to high-end markets corresponds to the GI quality standards, a very small amount of the total production of star anise can technically and legally qualify for the GI label. At the same time, the largest part of the production is sold to countries who have the poorest quality requirements hence with the lowest selling prices. The future registration of the GI in the EU following the EU-Vietnam FTA of December 2015¹⁴⁰ may lead to a change in the marketing strategy of the companies entitled to use the GI. Indeed, they may wish to decrease their focus on the Chinese and Indian markets and increase their exports to European countries and hence their use of the GI label with a view to get more benefits derived from higher selling prices.

Finally, as has already been observed for other export products, the price of star anise is much higher on the foreign markets. A look at the websites of the supermarkets mentioned above indicates that the price of star anise sold in the UK supermarkets ranges from about

136 Information on the project can be found here: <<http://www.snv.org/project/spice-life-leveraging-spice-sector-poverty-reduction-northern-vietnam#key-facts>> accessed 02/09/2018.

137 SNV Sustainable Market Team, 'Leveraging the Spice Sector for Poverty Reduction amongst Ethnic Minority Communities in Vietnam' (Final Project Report, SNV, 2016).

138 Emails from Mr Le Anh, project leader, SNV, to author (28/03/2017 and 09/05/2018).

139 *ibid.*

140 EU-Vietnam Free Trade Agreement: Agreed text as of January 2016 <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1437>> accessed 20/08/2018. Chapter 12 'Intellectual Property' of the FTA is available here:

<http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154223.%20institutional%20-%20GIs%206.5a3%206.11wg%20rev2%20-%20for%20publication.pdf> accessed 20/08/2018>. The list of the 39 protected GIs from Vietnam in Annex GI-I Part B of the FTA.

\$US90/kg¹⁴¹ to \$US256/kg,¹⁴² i.e. about 25 to 70 times higher than the price paid to Vietnamese farmers. As with the pottery from Đông Triều, it is difficult to estimate the margins of the import companies, commercial entities and retailers without knowing all the costs involved. However, one can reasonably assume that they achieve significant profits, especially considering that the prices paid to the Vietnamese export companies range from \$US4.5/kg to 6.5/kg depending on the quality,¹⁴³ i.e. 28% to 75% higher than the prices paid to farmers, but 20 to 40 times lower than the retail prices in the UK. Figure 6.1 provides an estimate of the price breakdown of another spice, cinnamon, which is mainly produced in Indonesia, Vietnam, China, Madagascar, Sri Lanka and India.

Figure 6.1
Estimated price breakdown of cinnamon, sold in supermarkets in Europe



Source: Centre for the Promotion of Imports from developing countries (CBI), *Product factsheet: cinnamon in Europe* (2015)

These findings raise again the question of whether the Fair Trade certification could contribute to a fairer distribution of the benefits along the supply chain. Bearing in mind the limitations and pitfalls of using the Fair Trade certification, as mentioned when analysing the case study of the pottery from Đông Triều, it is argued that further research is needed on the opportunity of combining origin labelling and other certifications.

141 Sainsbury website (n129).

142 Marks and Spencer website (n130).

143 Email from Mr Le Anh, project leader, SNV, to author (09/05/2018).

Conclusion

Among our case studies, six initiatives show little, adverse or no use of the origin labels or names on the market. The purpose of this chapter was to provide an analysis of the factors involved in ‘GI failures’ – where GI labels or products remain relatively invisible on the market. A common thread to these initiatives is their inability to communicate the products’ origin to consumers and to sustain the producers’ reputation which, as already mentioned, are the primary functions of GIs.¹⁴⁴ This is reflected in the lack of reputation of the origin label or the name associated with the traditional product, and/or consumers’ low awareness of the quality and characteristics of the traditional product. As a result, there is a lack of demand for the origin label and/or the traditional product, which both derives from, and contributes to, producers’ lack of engagement with the GI initiatives. In exploring the reasons for the producers’ avoidance or ignorance of the origin labels, this chapter has tried to reconstruct the specific socio-economic contexts of each product and their effects on the use of the origin labels or the promotion of the traditional product. In doing so, this chapter sheds new light on why local producers individually and/or collectively do not engage with the GI initiatives. This analysis is particularly useful to understand better the inhibiting factors for successful GI mobilisations because, as argued by Belletti and Marescotti, ‘the triggering factors are always the local actors and policies that support their empowerment and coordination’.¹⁴⁵ Depending on each context, the case studies show that, producers do not want, do not need, or are not able, to use the label or promote the traditional product. In effect, constraints and inhibiting practices that negatively affect the producers’ willingness or capacity to use the origin labels and/or promote the traditional product have been observed in all six initiatives. While some of our findings are very context-specific, others bring out characteristics that are common to all or most of the initiatives.

A constraint common to the five Vietnamese initiatives is the very low awareness and understanding among producers about the origin labels and, worse still, of their own association to the initiative, as addressed in Chapter 4. Similarly, in Indonesia, Durand and Fournier found that producers of Muntok white pepper, for which a GI was registered in 2009

144 C. Bramley and J.F. Kirsten, ‘Exploring the Economic Rationale for Protecting Geographical Indicators in Agriculture’ (2007) 46 *Agrekon* 69.

145 Belletti and Marescotti (n72) 75, 87.

at the initiative of a public agency, know very little about the GI.¹⁴⁶ The fact that GI projects are driven by outside actors following Vietnam's top-down approach makes it particularly difficult for local producers to understand the GI concept, take ownership and participate willingly in the initiatives. This is especially true when the arrangements made by external actors did not consider the interests of producers, as with sticky rice from Đông Triều. Yet the motivation and commitment of local actors, as well as their coordination and cooperation, have been identified in the GI literature as a main factor of successful GI mobilisations.¹⁴⁷ Top-down approaches, which are still common in many emerging and developing countries,¹⁴⁸ carry the risk that initiatives remain 'purely administrative, without the genuine involvement of producers and with a very low level of use'.¹⁴⁹ Lack of awareness and participation of Vietnamese producers is further exacerbated by the lack of involvement of local authorities, the lack of activity of the producers' associations and, for some products, by the low number of actors who have the right to use the origin label. Many other origin-labelling initiatives in Vietnam share these characteristics.¹⁵⁰

The lack of reputation of some products has also emerged as a factor undermining not only the ability of GIs to act as an origin-based differentiation tool,¹⁵¹ as it has also been the case for instance for many origin coffees,¹⁵² but also the producers' interest in using the origin labels. Generally speaking, the development of the product's image and reputation requires substantial investments that many producers and producers' associations, especially in developing countries, simply cannot afford. This raises the question as to who should support these costs. In some regions and countries, the state provides funding for promotion and marketing

146 C. Durand and S. Fournier, 'Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies' (2017) 98(C) *World Development* 93, 97-98.

147 D. Barjolle and B. Sylvander, 'Some factors of success for 'origin labelled products' in agri-food supply chains in Europe: market, internal resources and institutions' (2002) 36 (9-10) *Economies et sociétés* 1441, 1450.

148 G. Sautier, E. Biénabe and C. Cerdan, 'Geographical Indications in Developing Countries', in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 138, 142.

149 G. Belletti, A. Marescotti and J-M Touzard, 'Geographical Indications, Public Goods, and Sustainable Development: The Roles of Actors' Strategies and Public Policies' (2017) 98(C) *World Development* 45, 53.

150 Đ. Đức Huấn and others, 'Rapport - Etude des modèles de gestion des indications géographiques du Vietnam' (NOIP/AFD, 2017).

151 D. Zografos, 'Geographical Indications and Socio-economic Development' (2008) IQSensato Working Paper n°3 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1628534> accessed 15/08/2018.

152 Galtier, Belletti and Marescotti (n78).

activities, such as in Europe,¹⁵³ India,¹⁵⁴ or Brazil.¹⁵⁵ In Vietnam, local state authorities are generally responsible for financing and implementing advertising and promotion activities. However, this does not always happen in practice, as described by interviewees in virtually all the initiatives analysed in this chapter. This issue is further exacerbated in low-income, aid-dependent countries.¹⁵⁶

Building and maintaining a product's reputation is also particularly difficult when the market for it is simply too small, if not non-existent, due to modernisation of ways of life, changes in consumer tastes, new customer requests, and prohibitive selling prices, among others. This is illustrated, in different ways, and considering the different markets involved for each product, by all the initiatives except sticky rice from Đông Triều. The lack of reputation can also result from the product's lack of distinctive character, as with sticky rice from Đông Triều and star anise from Lạng Sơn which, as raw and unprocessed products, are also seen as commodities. This confirms that, as argued by Barjolle and Sylvander, GIs should be based on the product specificity rather than on generic quality attributes.¹⁵⁷ The process to make the product clearly distinguishable from others may require the mobilisation of specific local social, cultural or environmental resources.¹⁵⁸ Finally, the lack of reputation can also derive from the lack of distinctiveness of the designation itself. This may occur when the product designated by the origin label is considered as a national symbol that overshadows the specific territorial origin, as with conical hats from Huế, or when the origin name is widely used on goods that do not correspond to the traditional product, as with Marseille soaps. In both cases, the territorial identity is too weak for GIs to be meaningful, thus turning them into hollow labels that have lost their very purpose.

The analysis of the case studies also shows the impact of marketing practices on the use and value of the origin labels. As illustrated by the case studies of sticky rice from Đông Triều, H'mong beef from Cao Bằng and star anise from Lạng Sơn, most Vietnamese producers still

153 D. Barjolle, B. Sylvander and E. Thévenod-Mottet, 'Public Policies and Geographical Indications' in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (Wallingford: CAB International, 2011) 92.

154 D. Marie-Vivien, 'The Role of the State in the Protection of Geographical Indications: From Disengagement in France/Europe to Significant Involvement in India' (2010) 13 JWIP 121.

155 J. Wilkinson, C. Cerdan and C. Dorigon, 'Geographical Indications and "Origin" Products in Brazil, The Interplay of Institutions and Networks' (2017) 98(C) World Development 82.

156 Sautier, Biénabe and Cerdan (n148).

157 Barjolle and Sylvander (n147) 1448.

158 Đức Huân and others (n150) 612.

use traditional production and marketing methods (sale of the product through collectors) and are not accustomed with the packaging and labelling processes. This can be extended to other GI initiatives in Vietnam. For instance, producers of Luc Ngan lychee (GI in 2008), Bảy Núi fragrant rice (GI in 2011), Ninh Thuận grape (GI in 2012) and Tân Triều grapefruit (GI in 2012) are all small-scale farmers who sell their production in bulk to the association (for the rice) or to collectors (for the other products).¹⁵⁹ Reasons for this are not only cultural but also economic. Indeed, the investment costs that packaging represents for farmers that lack financial capacities has emerged as a factor explaining why many products are sold in bulk not only in Vietnam but also in other emerging and developing countries, for instance in Africa.¹⁶⁰ From a commercial perspective, the lack of direct linkages between local producers and traders, which derives from the low financial and organisational capacities of producers to develop their own distribution channel, also contributes to explain the maintenance of traditional marketing practices and the lack of use of the labels.¹⁶¹

Producers' inability to connect to intermediate and final markets was found to affect the use of the origin labels more particularly in the three initiatives that are heavily export-oriented. These initiatives are characterised by the reliance of local communities on the demand of foreign markets; the lack of recognition of the product origin by end consumers; the lack of negotiation skills of Vietnamese farmers and traders; and the unbalanced distribution of benefits along the value chain to the detriment of Vietnamese producers. Other export products from emerging and developing countries share the same characteristics. For instance, cocoa and coffee can generate very high price premiums at the consumer level in foreign markets, but farmers usually do not receive any benefit and consumers have no idea who the producers are.¹⁶² However, it is not suggested that these findings extend to all other export GI products from emerging countries. For example, Argan oil,¹⁶³ Darjeeling tea¹⁶⁴ and Café de Colombia¹⁶⁵ are

159 Đức Huấn and others (n150) 47.

160 African Union, 'A continental strategy for geographical indications in Africa – Summary' (AU, 2017) 4 <https://au.int/sites/default/files/documents/33005-doc-summary_of_the_gi_continental_strategy_final_en_1.pdf> accessed 24 April 2018.

161 Đức Huấn and others (n150).

162 Hughes (n133).

163 S. Réviron, E. Thévenod-Mottet and N. El Benni, 'Geographical indications: creation and distribution of economic value in developing countries' (2009) NCCR Working Paper n°14, 15.

<http://phase1.nccr-trade.org/images/stories/publications/IP5/report_IP5_GI_Value_2009.pdf> accessed 03/09/2018.

164 D.E. Kolady, W.H. Lesser and C. Ye, 'The Economic Effects of Geographical Indications on Developing Country Producers: A Comparison of Darjeeling and Oolong Teas' (2011) 2(2) The WIPO Journal 157.

165 X. Quiñones-Ruiz and others, 'Can Origin Labels Re-shape Relationships Along International Supply Chains? The Case of Café de Colombia' (2015) 9 International Journal of the Commons 416.

successful GI products with a strong export focus, although the equitable distribution of benefits along the supply chain is not guaranteed, as was noted for the Darjeeling tea.¹⁶⁶ This has led us to consider the opportunity of combining the origin labelling with other certifications that focus on social issues, on which further research should be done.

In light of the above, a range of reasons explain why producers avoid or ignore the origin-label initiatives, which see the emergence of dichotomies between tradition and modernity, local and global, artisanal and industrial, and economic interests and state intervention, among others. In all these initiatives, except for Marseille soap, individual and community economic needs take precedence over the GI protection and the value of conveying the product origin to consumers, regardless of the type of legal protection, sometimes with negative effects on biodiversity and cultural heritage. In such instances, the economic and commercial value of GIs has vanished. Further, GIs are devoid of political substance, failing to ‘localize cultural and economic control’¹⁶⁷ and hence ‘restor[e] elements of distributive and social justice, promot[e] principles of identity and sovereignty, among others’.¹⁶⁸

It is clear that GIs in themselves cannot resolve issues of social relations of power, forms of exploitative labour, lack of transparency, opportunistic behaviours and poverty, among others, and that the intervention of outside actors is necessary. Our findings draw attention to the role of the state, including through the law and market intervention, in adopting adequate policies to support GI initiatives and empowering local producers. They also highlight the need to consider producers’ motivations and interests in light of each specific institutional and socio-economic context, in which GI protection may have (too) little resonance. Ultimately, they question the place of GIs in law, and in society, in specific environments.

166 Coombe and Malik (n79).

167 D. Rangnekar, ‘The Challenge of Intellectual Property Rights and Social Justice’ (2011) 54(2) *Development* 212, 213.

168 *ibid.*

Mapping the effects of GIs outside the market

This chapter explores the non-economic effects of GIs outside the market. It will consider only the six products, including two in Vietnam and four in France, whose GI labels are used in the marketplace. As seen in Chapter 5, these are the fried calamari from Hả Long, vermicelli from Bình Liêu, bouchot mussels from Mont-St-Michel Bay, Pélardon cheese, green lentils from Berry, and wood from the Alps. The six products studied in Chapter 7 are excluded from the scope of the present chapter as it is impossible to link any effect to GIs when the use of the origin labels is very low, negligible or non-existent, as is the case for these initiatives.

The analysis of the effects of GIs outside the market has received increased attention among GI scholars. It is argued that the private benefits derived from the successful marketing of GIs may have multi-dimensional effects and generate territorial dynamics, including job creation, preservation of culture or heritage, and biodiversity protection.¹ In that regard, it has been contended that the function of GIs has evolved over time to embrace: (1) the protection of the consumers and producers' interests against fraud and unfair competition practices; (2) the control of supply and demand on the agro-food markets; (3) local rural development; and (4) preservation of cultural heritage, traditional methods of production and natural resources.² Whereas the first two functions are concerned with the role of GIs in the marketplace and were addressed in the previous chapters, the last two roles assigned to GIs emphasise their 'non-market' values, which will be the focus of this chapter.

At the policy level, the potential of GIs to generate positive outcomes outside the market has become an important political issue with legal implications. As explained in Chapter 1, the EU

1 D. Barjolle, 'Geographical Indications and Protected Designations of Origin: Intellectual Property Tools for Rural Development Objectives' in D. Gangjee (ed.) *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar Publishing, 2016) 440, 447.

2 B. Sylvander, G. Allaire and E. Thévenod-Mottet, 'Qualité, origine et globalisation: Justifications générales et contextes nationaux, le cas des Indications Géographiques' (2006) XXIX:1 *Revue canadienne des sciences régionales* 43, 44.

and its partners justify the strengthening of legal protection of GIs within the ambit of the WTO on the basis that, while primarily established for economic and commercial purposes, GIs can also deliver on a range of development and public policy outcomes owing to their unique characteristics derived from their link to origin as translated through the use of local resources – both natural/physical and cultural/human – in the production process.³

In that respect, Chapter 2 has shown how the concept of *terroir* underpins the French *sui generis* system for the protection of GIs. From an anthropological perspective, Barham argues that food and culture, history, heritage, traditions, *savoir-faire*, ‘patrimoine’,⁴ and local forces and processes are closely interwoven and contribute to shaping the French national identity at all levels of society.⁵ As Bérard suggests, ‘the concept of *terroir* is woven into the political and cultural history of France’.⁶ In Vietnam, marketing and product development concerns prevail. In this country, rural industrialisation and agricultural modernisation are national priorities to support rural and agricultural development.⁷ Understanding the priorities and sensitivities of both countries is important when exploring the effects of GIs outside the market.

Recalling that the six initiatives under consideration involve both *sui generis* and trade marks approaches, this chapter will aim to identify the effects of GIs outside the market and unpack the contributory factors involved. Section 7.1 will first explore the dynamics of territorial development that have derived from the GI initiatives. Subsequently, Sections 7.2 and 7.3 will examine the extent to which GIs have contributed to the preservation of cultural heritage and the protection of biodiversity respectively.

3 G. Belletti, A. Marescotti and J.-M. Touzard, ‘Geographical Indications, Public Goods, and Sustainable Development: The Roles of Actors’ Strategies and Public Policies’ (2017) 98 *World Development* 45.

4 M. Rautenberg and others, *Campagnes de Tous Nos Désirs: Patrimoines et Nouveaux Usages Sociaux* (Maison des Sciences de l’Homme 2000).

5 E. Barham, ‘Translating Terroir’ Revisited: The Global Challenge of French AOC Labelling’ in D. Gangjee (ed), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 46, 58-60.

6 L. Bérard, ‘Terroir and the Sense of Place’ in D. Gangjee (ed), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 72, 72.

7 C. Durand and S. Fournier, ‘Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers’ Strategies’ (2017) 98(C) *World Development* 91.

7.1 Dynamics of territorial development

The proposal that, when successful on the market, GIs can bring economic value to the territories by generating jobs and economic growth, preventing rural exodus or promoting the development of new economic activities centered around the promotion of the GI products, has received much attention recently. As stated by Schejtman and Berdegué, territory is defined not only as an “objectively existing” physical space, but [also] as a set of social relations that both generate and express an identity and a sense of purpose that is shared by both public and private agents’.⁸ With this definition in mind, this section will first focus on the extent to which the six GI products have contributed to maintaining and increasing the workforce on the territory before exploring the type of new economic activities that have derived from the successful marketing of the GI products. Subsequently, it will shed light on two less well-known effects of GIs. These are the ability of GIs to foster vocational training, innovation and exchange of good practices; and their potential to increase the legitimacy, representative capacity and influence of the collectives built around the GI products.

7.1.1 Maintaining and increasing the workforce

As explained by Downes and Laird, the commercial success of GI products can preserve existing economic activities on the territory by securing and enhancing job opportunities in the different stages of the production processes.⁹ Both the strength of the link to origin and the characteristics of GI products, which often involve labour-intensive, small-scale artisanal production techniques, are seen ‘as a means of localising production within the framework of globalisation’.¹⁰ In that respect, a number of European PDO cheeses have generated a positive impact on employment in the area of origin. For example, Comté cheese engenders five times more jobs than Emmental at all stages of production due to the use of extensive, traditional

8 A. Schejtman and J.A. Berdegué, ‘Rural Territorial Development’ (2004) Documento de Trabajo N° 4, Programa Dinámicas Territoriales Rurales, RIMISP <http://www.rimisp.org/wp-content/files_mf/13663830272004_schejtman_berdegue_rural_territorial_development.pdf> accessed 02/09/2018.

9 D. Downes and S. Laird, ‘Community Registries of Biodiversity-Related Knowledge: The Role of Intellectual Property in Managing Access and Benefit’ (1999) Paper prepared for UNCTAD Biotrade Initiative <<http://www.ciel.org/Publications/CommunityRegistries.pdf>> accessed 03/09/2018.

10 S. Bowen, ‘The importance of place, re-territorialising embeddedness’ (2011) 51(4) *Sociologia Ruralis* 325, 328.

methods of cattle breeding and cheese making and aging.¹¹ This comparison is particularly useful considering that both cheeses share the same geographical and historical origins but have followed different marketing pathways. Comté being France's first origin-labelled cheese in 1952 has preserved traditional production and processing practices, while the production of Emmental has become industrial. In the United Kingdom, Larson notes that the industry of Scotch Whisky has generated 11,000 jobs in fragile urban and rural areas while supporting more than 40,000 indirect jobs.¹²

Among the six case studies, the origin labels have, according to producers, strongly contributed to maintain the production workforce on the territory. This is particularly true for the four French products that are produced in areas that were characterised by marginalisation, depopulation and loss of production before the GI protection (see Chapter 4). However, the creation of new employment opportunities derived from the use of the origin labels varies greatly across the products.

The section below will first analyse the GI initiatives that have been found to generate employment opportunities before exploring the factors hindering job creation in the other initiatives. It should be noted that, in Vietnam, the initiatives are generally too recent to allow for an evaluation of their impacts on local employment. It is, however, possible to make some general comments on how *likely* the initiative created around fried calamari from Hạ Long may foster job creation. With regard to vermicelli from Bình Liêu, although it is difficult to evaluate their potential to generate new employment opportunities, it is noteworthy that, according to the President of the producers' association, over 2,000 households are involved in the planting of arrowroot, the raw material, and depend on the commercial success of the certified vermicelli.¹³

11 A. Gerz and F. Dupont, 'Comté Cheese in France: Impact of a Geographical Indication on Rural Development' in P. van de Kop, D. Sautier and A. Gerz (eds.), *Origin-Based Products-Lessons for pro-poor market development* (Royal Tropical Institute and CIRAD, 2004) 75, 82-84.

12 J. Larson, 'Relevance of geographical indications and designations of origin for the sustainable use of genetic resources' (Study prepared for the Global Facilitation Unit for Underutilized Species, FAO, 2007) 28.

13 Interview V-D8.

7.1.1.1 Market success and social awareness as keys to job creation

Both the wood from the Alps and green lentils from Berry initiatives positively impact job creation in the area of origin. This section will argue that different reasons account for the ability of the two initiatives to create employment opportunities. On the one hand, the commercial success of green lentils from Berry largely drives job creation. On the other hand, the development of employment in the context of wood from the Alps flows from a clearly-defined social and employment strategy adopted by the association. From that perspective, it is closely linked to the association's internal strategy and voluntary approach as opposed to external factors such as market success.

Starting with green lentils from Berry, Chapter 5 explained that the association actively seeks to attract new members with a view to increase the production and meet the growing consumer demand.¹⁴ The commercial success of the lentils thus appears as the main driver for the growth of the initiative. In that respect, the association has increased by 80% to 50 producers in 2018 up from 28 producers in 2014.¹⁵ Interestingly, new members are usually pre-selected and approached by the President of the producers' association among acquaintances, thereby reflecting the strong club culture of the initiative. In his own words, '[o]ur association is like a club. We always choose members among our acquaintances. When I hear that someone works well, I will go to invite him to join the association'.¹⁶ Beyond market and production considerations, the initiative shows a strong social awareness and commitment. This is reflected in the fact that the association has entrusted a vocational rehabilitation centre for disabled workers with the responsibility of proceeding with the packaging of the lentils. This arrangement, which can be construed as a voluntary social development objective, highlights the socio-economic role played by the GI initiative at the territory level.

Turning to the wood from the Alps, the number of certified companies has increased from 10 in 2013 to 61 as of July 2018, representing a turnover of over 350 million euros up from 186 million euros in 2016 and 55 million euros in 2013.¹⁷ In this respect, one of the expected impacts of the 2014-2020 ERDF interregional programme 'Massif des Alpes', which aims to

14 ANILS and ODG 'Green lentils from Berry', 'Le Marché de la Lentille, Le Fonctionnement de l'ANIL, Ses activités techniques' (PowerPoint presentation, February 2017).

15 E-mail from Ms Taillandier, Commercial Director of Cibèle, to author (12/07/2018).

16 Interview F-D2.

17 Interview F-E9.

improve the attractiveness of the Alps and ensure sustainable growth, is to increase the number of enterprises certified 'Bois des Alpes' up to 85 by 2020.¹⁸ As mentioned earlier, this initiative has the strongest focus on territorial development. In fact, the association has adopted a proactive voluntary approach that aims to create jobs in the territory. This approach is first enshrined in the statutes of the producers' association which make an explicit reference to the preservation of local jobs. One stated objective is to maintain 3,700 local jobs in the area.¹⁹ To go further, the creation of local jobs has become a condition for the certification of applicant companies, taking into account that the right to use the certification mark is automatically granted to all certified companies.²⁰ Indeed, the evaluation of the applicants by the certification body is based on a number of criteria, called 'issues of sustainable development', which include the commitment to foster job creation,²¹ thereby reflecting the socio-economic objectives of the producers' association.

In this initiative, the maintenance and creation of jobs in the territory, as well as the structuring of the whole value chain from sawyers to carpenters and architects, are particularly important as they are used as an argument to offset the potential extra-cost of the certified wood. In contrast to green lentils from Berry, job creation in the context of wood from the Alps does not derive from commercial success, at least to begin with. Rather, the initial demonstration that the use of the certified wood fosters job creation is aimed to promote its wider use and hence to foster its market success, which in turn should contribute to job creation. In this regard, a study conducted by the Rhône-Alpes Forest Wood Federation has evaluated the economic impacts of the use of local wood, including but not limited to wood from the Alps.²² Keeping in mind that about 7,500-8,000 m³ of wood from the Alps have been used as of March 2018 since the start of the certification process,²³ this study shows that the use and local processing of 1,000 m³ of local wood – for example to build a high-school for 600 pupils – contributes to create 21 direct, local jobs that cannot be outsourced during a year. These new jobs further generate over €400,000 in taxes derived from employers' and employees' contributions, which

18 European Commission, 'Interregional Programme Alps 2014-2020' <http://ec.europa.eu/regional_policy/en/atlas/programmes/2014-2020/2014-2020/2014fr16rfop001> accessed 13/07/2018.

19 Association 'Bois des Alpes', 'Comment valoriser les bois de la région Rhône-Alpes ?' (Powerpoint présentation, 04/05/2010).

20 Interview F-E9. However, the automatic granting of the right to use the certification mark to all certified companies is currently being discussed and might be amended in the future.

21 Regulation of the certification mark 'Bois des Alpes', 5-6.

22 Fédération Forêt-Bois Rhône-Alpes, 'Construire en bois local' (December 2016, on file with author).

23 Email from Mr Portier, coordinator of the producers' association, to the author (21/02/2018).

can be reallocated by the state for the development of the territory.²⁴ Put differently, it is estimated that for each euro spent on the local wood, 60 cents go back to the territory as compared with 20 cents for imported wood, i.e. three times more direct economic benefit in the territory.²⁵

7.1.1.2 Challenges in creating employment opportunities

This sub-section will turn to the GI initiatives where job creation has been either difficult, made intentionally complicated or even impossible. These are the Pélardon cheese, fried calamari from Hả Long and bouchot mussels from Mont-St-Michel Bay. As will be argued, the factors negatively affecting job creation are found at different levels and range from the difficult access to land to market issues, to rules governing the membership and right to use the GI, to the state regulation of production activities.

In the Pélardon cheese initiative, Chapter 4 explained that the need to attract new breeders to develop a remote territory was clearly articulated by the producers involved in the construction phase of the GI initiative. As discussed in Chapter 5, the initiative has been seeking to recruit new members to increase the production to meet consumer demand. However, the growth of the producers' association has proved difficult for two main reasons. The first reason is linked to the challenging access to, and very high cost of, land. This is particularly true for 'outsiders' with no family connection within the initiative. In that respect, the coordinator of the producers' association explained that '[i]t is very difficult for a farmer to settle in this territory if he doesn't have the opportunity to take over an existing agricultural holding. It is not a simple matter because agricultural holdings are very expensive and because we are quite a few farmers to have our agricultural holding and housing embedded together. This means that if we want to transfer our farm, we must decide as to whether we want to leave everything behind. People find it difficult because they have inherited a family patrimony'.²⁶

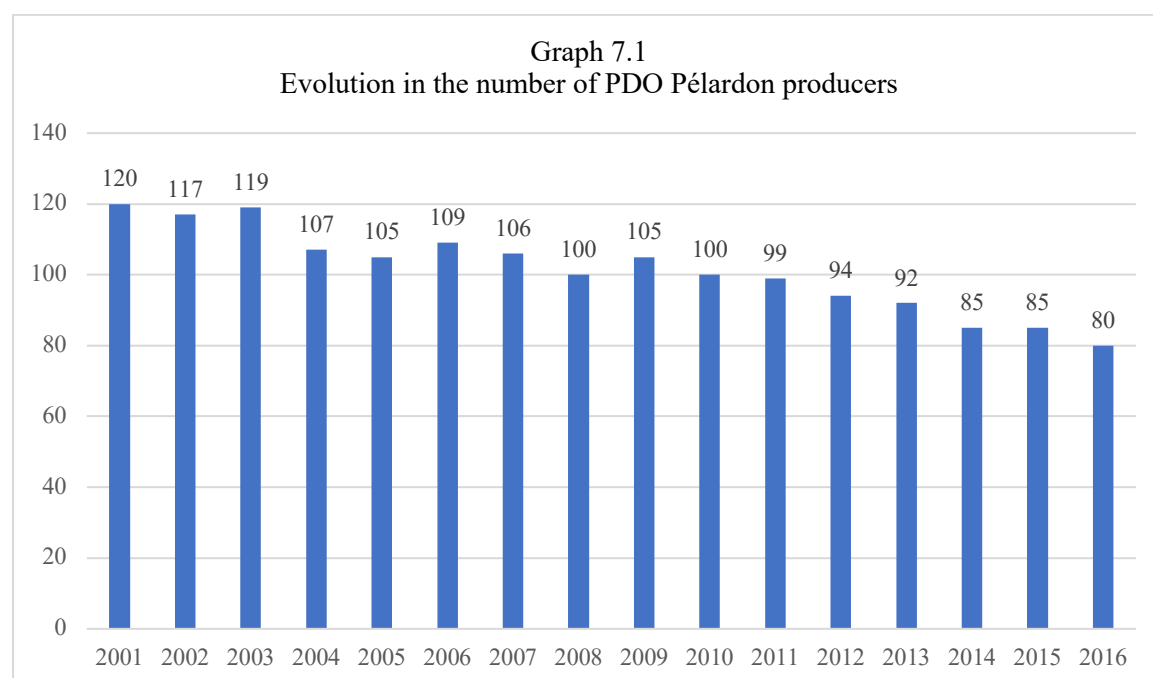
In addition to the difficult access to land, the prevalence of highly local marketing channels inside the area of origin has negatively impacted on farmers' interest in the origin label and hence in their willingness to join the initiative. Indeed, as argued in Chapter 5, the origin label

24 Fédération Forêt-Bois Rhône-Alpes (n22) 6.

25 Interview F-E9.

26 Interview F-B2.

has little value inside the area of production because the local clientele has a personal knowledge and experience of both the product and its producers and thus does not rely on labels. Besides, inside the area of origin, all ‘Pélardon type’ goat cheese producers benefit from the reputation of, and collective communication associated with, Pélardon cheese, and hence claim the same origin and similar values of authenticity and tradition when selling their cheese without having to support the costs related to the GI initiative.²⁷ This type of behaviour further diminishes the value of the origin label. As most of the production of goat cheeses from Cévennes is still sold inside the area of origin, it is particularly challenging for the GI initiative to generate interest in the origin label among local producers, as well as to keep and attract new members in the association who accounts for about one-third of all ‘Pélardon type’ cheese producers in the area.²⁸ As a result, the number of members has decreased by more than 35% from 120 members in 2001 to 100 in 2010 to 77 members in 2018.²⁹



Source: Coordinator of the ODG

Despite the difficulty in keeping and attracting members, this initiative nevertheless shows a strong potential to contribute to the socio-economic development of the territory in the future

²⁷ Interview F-B6.

²⁸ Interview F-B8. However, this figure masks substantial differences among departments located inside the PDO area. In the Lozère department, 70-80% of all goat cheese producers are members of the ODG.

²⁹ Email from Ms Podeur, coordinator of the ODG, to author (12/03/2018).

through at least two ways. First, as explained in Chapter 5, an increasing number of cheese producers are involved in marketing channels outside the area of the origin and sell a growing share of their production on the regional and national market where the origin labels are highly valued. One consequence of the diversification of marketing channels outside the production area is the growing interest of local producers in the use of the origin label, which is likely to contribute to the growth of the producers' association in the future.³⁰ Second, this initiative plays a significant socio-economic role in the territory. Its main actor, the Cooperative Fromagerie des Cévennes, which represents about a third of the total production of Pélardon cheese – 75 tonnes out of a total production of 228 tonnes in 2016 – deliberately seeks to recruit young non-professionals from the area with a view to provide training and motivate young people to stay in the region.³¹ By doing so, this cooperative has become central to the region's agriculture and employment. This highlights the importance of the social awareness and proactive voluntary approach of members of the GI initiative at the individual level.

In the case of fried calamari from Hà Long, the main challenge to job creation lies in the rules governing the membership of the producers' association and the right to use the GI. In this initiative, maintaining the existing workforce is generally an objective agreed upon by the twenty-four members of the association. However, the growth of the initiative was made intentionally complicated. As mentioned in Chapter 3, unlike other GI initiatives, membership of the association is a condition for having the right to use the GI,³² taking into account that members must also have at least three years professional experience in the production and sale of fried calamari.³³ According to the project leader, these rules were designed by local authorities with a view to control and restrict the use of the origin label.³⁴ In effect, the number of members, including twenty-one individual members and three companies, has not changed since the GI was obtained in December 2013,³⁵ although the number of employees within the companies that are members of the producers' association has reportedly increased.³⁶ The growth of the initiative is further compounded by the exclusion from the right to use the GI of

30 J.P. Boutonnet and others, '*AOC Pélardon, filière en émergence. Enseignements et questions vives*' (Communication présentée au Symposium International *Territoires et enjeux du développement régional*, Résultats de recherches en partenariat avec cinq régions, Lyon, France, 9-11 mars 2005).

31 Interview F-B3.

32 Regulations on the management and use of the GI for fried calamari from Hà Long, Article 9.7.

33 *ibid* Article 4.5.

34 Interview V-C1.

35 Interview V-C13.

36 *ibid*.

the fishermen who provide the calamari. The exclusion of a phase of the product cycle from the GI initiative has been seen elsewhere in Vietnam, for example in the case of the fish sauce from Phú Quốc which also excludes fishermen.³⁷ These examples illustrate the exclusionary effects that can derive from the establishment of a GI initiative, and which Belletti and Marescotti have noted in the European context.³⁸ As they explain, ‘the choice of which phases of the production process to link to the original territory (for example meat processing but not animal breeding), which entails a choice between a PDO and a PGI, can exclude entire components of the territorial system of production from the benefits of the name protection’.³⁹

Finally, with regard to bouchot mussels from Mont-St-Michel Bay, job creation is hindered by the strict regulation of the mussel aquaculture industry in the area due to the nature of the Mont-St-Michel Bay as a PMD. As discussed in Chapter 5, the number and distribution of mussel leases, as well as the number of, and distance between, piles of the vertical stakes, have been established by Decree.⁴⁰ By contrast to the other initiatives studied in this chapter, the productive capacity of the producers’ association is thus restricted despite the growing consumer demand. This has important social consequences considering that, since the productive capacity is fixed, the initiative cannot grow, and the creation of new jobs is thus very limited. The only way for new producers to join the producers’ association is to buy existing leases. However, these are expensive⁴¹ and not often available for selling as these are usually transmitted within the same family,⁴² as is the case in the Pélardon initiative. When a producer without children retires, his lease is usually not acquired by a new (external) producer, but by an existing (internal) large producer.⁴³ This further reduces the openness of the initiative and the ability of outsiders to join it. The number of producer members has even decreased from 50 in 2014 to 43 in 2018.⁴⁴

37 D.H. Dao, ‘Institutions de gestion de la qualité: action collective et apprentissage organisationnel. Le case de l’indication géographique ‘Nuoc mam de Phu Quoc’ (Master’s thesis, ESSOR, Ecole Nationale Supérieure Agronomique de Toulouse, 2011) 19.

38 G. Belletti and A. Marescotti, ‘Origin products, geographical indications and rural development’ in E. Barham and B. Sylvander (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 75, 83-86.

39 *ibid* 85.

40 *Arrêté du 21 mai 1985 portant réglementation des installations de bouchots à moules en baie du Mont-Saint-Michel* (Order of 12 May 1985 regulating installations of bouchot mussels in the Mont-St-Michel bay), JO 08-06-1985 <https://www.legifrance.gouv.fr/jo_pdf.do?cidTexte=JPDF0806198500006346&categorieLien=id> accessed 18/07/2018.

41 The cost is about €50,000 for a hundred meters of vertical stakes in 2016. Interview F-C3.

42 Interviews F-C3, F-C7 and F-C11.

43 Interview F-C13.

44 Interview F-C12.

7.1.2 Development of new economic activities

It has been argued that the successful establishment of GI initiatives can facilitate the development of new economic activities that also contribute to territorial development by securing or creating local jobs and promoting the image of the territory.⁴⁵ These activities, for example in the gastronomy and cultural sectors, keep alive local traditions around the GI product while promoting the product itself through the strengthening of the brand and regional images⁴⁶ which, as noted by Giovannucci and others, may also benefit other products in the area through a ‘complementary effect’.⁴⁷ In turn, the promotion of the GI product may attract more tourists in the area, thereby highlighting the ‘symbiotic interactions that may arise from the GI process’.⁴⁸ For example, in France, Gerz and Dupont note that Comté cheese has led to the development of tourism and economic activities in the Franche-Comté region with cheese factory tours, which resulted in increased sales volumes of the cheese.⁴⁹ In Vietnam, agro-tourism initiatives have been launched around the GI-labelled mint honey of Mèo Vạc and Buôn Ma Thuôt coffee in the touristic Dak Lak region where a coffee museum has been established.⁵⁰

All the initiatives under study except the wood from the Alps and vermicelli from Bình Liêu have led to the development of economic activities centered around the promotion of the GI products – sometimes together with other local products. These activities may include the creation of museums or other cultural institutions. This is the case for bouchot mussels from Mont-St-Michel Bay and green lentils from Berry. Every year about 30,000 tourists visit the Bay Centre that educates visitors about the history and production of the PDO mussels, among other products of the area, and in 2017 there were about 6,500 visits of the Bay production

45 E. Vandecastelaere and others, ‘Linking people, places and products: A guide for promoting quality linked to geographical origin and sustainable Geographical Indications’ (FAO and SENER-GI, 2009) 22.

46 K. Das, ‘Socio-economic implications of protecting geographical indications in India’ (2009) Centre for WTO Studies.
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1587352> accessed 03/09/2018.

47 D. Giovannucci and others, *Guide to Geographical Indications: Linking Products and Their Origins* (International Trade Centre, 2009) 21.

48 C. Bramley and E. Biénabe, ‘Developments and considerations around geographical indications in the developing world’ (2012) 2(1) *Queen Mary Journal of Intellectual Property* 14, 24.

49 Gerz and Dupont (n11).

50 C. Durand, ‘L’émergence des indications géographiques dans les processus de qualification territoriale des produits agroalimentaires - Une analyse comparée entre l’Indonésie et le Vietnam’ (PhD Thesis, Institut national d’études supérieures agronomiques de Montpellier - SupAgro Montpellier, 2016) 346 and 353.

area.⁵¹ Besides, some initiatives have established a tourist trail specifically dedicated to the visit of the production area (bouchot mussels from Mont-St-Michel Bay together with other products of the area) or including the tasting of the local product (Pélardon cheese, bouchot mussels from Mont-St-Michel Bay and fried calamari from Hả Long). Free visits of public buildings constructed with the certified wood from the Alps are also regularly organised for promotional purposes by the association for construction industry professionals. Although these activities do not generate direct and immediate economic benefit, they nonetheless contribute to promote the product which may lead to future benefits. Finally, collaboration with Michelin-starred chefs and restaurateurs have led to the compilation of cookbooks for sale (bouchot mussels from the St Michel Mont Bay⁵² and Pélardon cheese⁵³) or for promotion in tasting events and restaurants (green lentils from Berry).

Picture 7.1

Chefs promoting green lentils from Berry



51 Interview F-C14.

52 C. Wasser, *Goûter les moules* (Ouest France, 2010).

53 Syndicat des Producteurs de Pélardon, *Le Pélardon revu et inspiré* (publisher unknown, 2011).

7.1.3 Training, innovation and exchange of good practices

If the development within GI initiatives of activities related to vocational training, innovation and exchange of good practices has been mentioned in the GI literature,⁵⁴ only a few authors have undertaken a thorough analysis of these practices.⁵⁵ They found that innovation diffusion processes are one of the most important functions of GI collectives,⁵⁶ which highlights the need for more systematic research in this area. These activities have been developed within all six initiatives in a variety of forms and by different actors. Our findings thus confirm that GI initiatives can provide a platform for exchange of knowledge and sharing of practices, thereby contributing to local actors' empowerment through the development of their technical skills and know-how.

First, it has generally been recognised that all six GI associations foster exchange of information and good practices among producers on an informal basis. This is even more true in the smallest initiatives characterised by the geographical proximity among producers, as it is the case for fried calamari from Hả Long and mussels from Mont-St-Michel Bay. In the last initiative which covers seven communes only, the physical proximity of producers, whose buildings are grouped in the same area, was said to greatly facilitate dialogue and exchange of good practices. As one producer put it, 'the proximity of all producers allows us to exchange information and to discuss our views and experiences with one another despite our points of contention. We learn tremendously from each other. We see each other every day which is a great advantage for the transmission of techniques. This has allowed us to become a very innovative cluster as compared with other initiatives in Normandy'.⁵⁷ The ability of GI initiatives to act as an informal platform for producers and other stakeholders to exchange information and share good practices has been observed in other GI initiatives. For example, it

54 M. Ollagnon and J.-M. Touzard, 'Indications géographiques et développement durable: Enquête nationale sur les actions des organisations de gestion locale des IG' (Rapport de recherche, ANR/PRODIG, 2007) 44 <https://www.researchgate.net/profile/Jean_Marc_Touzard/publication/272444703_Indications_geographiques_et_developpement_durable/links/54e469280cf2b2314f60d0c7/Indications-geographiques-et-developpement-durable.pdf> accessed 02/08/2018.

55 See for example J. S. Cañada and A.M. Vazquez, 'Quality certification, institutions and innovation in local agro-food systems: Protected designations of origin of olive oil in Spain' (2005) 21 *Journal of Rural Studies* 475.

56 *ibid* 476.

57 Interview F-C3.

has been reported that small producers of Penja pepper in Cameroon have greatly benefited from the exchange of good practices within the GI collective.⁵⁸

Second, training, innovation and exchange of good practices may be formulated as formal objectives or requirements of the producers' associations. This is the case for all origin-labelling initiatives in Vietnam.⁵⁹ With a strong interventionism of the Vietnamese state in agricultural matters, training of farmers has been institutionalised since the adoption in 2008 of Resolution 26/NQ-TW in support for agricultural development with a growth target of 3.5-4% per year by 2020.⁶⁰ Known as the *Tam Nong* policy,⁶¹ this resolution emphasises the need to provide training to farmers and increase their scientific and technical knowledge.⁶² In this context, the guides published by the NOIP for initiation and management of the GI and trade mark projects mention training of producers as one of the main tasks of the producers' associations.⁶³

Among the French initiatives, the objectives of the associations of producers of green lentils from Berry and 'Bois des Alpes' include sharing of technical knowledge and technical assistance⁶⁴ as well as, for the former, research and improvement of cultivation techniques; development of new by-products derived from the lentils; and varietal research.⁶⁵ In the case of wood from the Alps, training and skills development are not only an objective of the producers' association but have further become a criterion for the evaluation of the applicants for certification.⁶⁶ According to the coordinator of the producers' association, this model has enabled to spread good practices. For example, a number of applicant companies started

58 D. Chabrol, M. Mariani and D. Sautier, 'Establishing Geographical Indications without State Involvement? Learning from Case Studies in Central and West Africa' (2017) 98(C) World Development 68, 72.

59 See, for instance, the Charter of the association 'Production and commercialisation of fried calamari from Hạ Long', Article 6.4; Charter of the association 'Production and commercialisation of vermicelli from Bình Liêu', Article 21.

60 Resolution 26-NQ/TW of 05 August 2008.

61 This policy aims at agricultural development along three different axes: agriculture, farmers and rural areas.

62 Resolution 26/NQ-TW, parts II.5 and II.8.

63 NOIP, 'Guide à la construction du projet "Gestion et Développement des IGs"', 16 and 25; 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques collectives utilisées pour les spécialités locales"', 5 and 9; 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques de certification utilisées pour les spécialités locales"' 5 (NOIP, 2009).

64 Charter of the association 'Bois des Alpes', Article 2.

65 Charter of the ODG 'Lentilles vertes du Berry', Article 2.2.

66 Rules governing the certification mark 'Bois des Alpes', 5-6.

publishing safety guides. This has ultimately led all members to install fire extinguishers, which none had before the certification mark.⁶⁷

Besides formal objectives or requirements, training courses or seminars on technical aspects of the production have been organised in all the initiatives with varying degrees of efficiency except for bouchot mussels from Mont-St-Michel Bay. The lack of training course in the latter initiative can be explained by the pre-requirement for all producers to have a technical qualification in order to have the right to operate a mussel lease.

Both green lentils from Berry and Pélardon initiatives have recruited an external technician in charge of enhancing their members' technical knowledge. Lentils farmers meet in group two to three times a year with the technician to discuss technical matters. Producers can also call the external technician for any issue they face at any time.⁶⁸ Pélardon producers can be provided individual technical support upon request to address issues identified during the control procedures.⁶⁹ Besides, the ODG has been instrumental in spreading quality manuals and a code of good practices within the area.⁷⁰ Interestingly, in the case of wood from the Alps, the association has sought to educate a wider public outside the association on the technical aspects and the socio-economic and environmental benefits brought about by the certified wood with a view to promote its use. It has done so by entering into agreements with vocational high schools to support the use of the certified wood in courses and group works, and to train teachers on the technical and legal aspects of the certification as well as on its economic, environmental and societal benefits.⁷¹ As mentioned in Chapter 6, the association is also actively involved in the organisation of training and awareness raising activities with contractors, wood specifiers or buyers.

By contrast to the regular technical training of producers in most French initiatives, training in Vietnam is primarily provided by the technical expert in charge of leading the origin-labelling project under the supervision of local authorities. In the largest initiatives, training sessions involve primarily farmers' representatives who are expected to train, in turn, other farmers. In

67 Interview F-E9.

68 Interview F-D2.

69 Interview F-B8.

70 *ibid.*

71 Interview F-E9. See for example the agreement between the association and the *lycée professionnel Alpes et Durance* for 2015-2010 (on file with author).

many cases, training is provided during the project implementation only, especially as there is no mechanism to ensure the ongoing training of producers, which is further compounded by the lack of resources and equipment.⁷²

Finally, in addition to training courses, research and development activities have been conducted on vermicelli from Bình Liêu⁷³ and green lentils from Berry⁷⁴ with a view to create high-yielding and more resistant varieties. On the one hand, research activities on vermicelli from Bình Liêu were decided by local authorities, in a context where agricultural modernisation is a national priority.⁷⁵ This would tend to support Durand and Fournier's claim that origin labels are used in Vietnam as a way to promote the use of modern techniques and improved varieties.⁷⁶ On the other hand, plant breeding activities on the ANICIA variety – used for green lentils – were initiated by producers themselves after successfully enhancing their representative capacity and credibility with authorities.

7.1.4 Representative capacity and influence

Although the GI literature has generally overlooked this aspect, this section will show that, in at least two French initiatives, GI protection has contributed to enhance the representative capacity and influence of producers' organisations. Keeping in mind the state oversight of associations and in general their limited freedom of action and influence in Vietnam, it is important to contextualise these findings. This is especially the case considering the specific way in which France celebrates a holistic vision of *terroir* and supports local processes that underpin traditions, heritage and *savoir-faire*. As will be shown, this approach can facilitate the satisfaction of specific needs and demands that go well beyond the sole interests of the stakeholders involved in the initiatives.

72 Interviews V-C13 and V-D8.

73 Interview V-D8.

74 Interview F-D6.

75 R. De Koninck, 'Les agricultures du Sud-Est asiatique: interrogations sur l'avenir d'un nouveau modèle de développement' (2004) 4 L'Espace géographique 301.

76 Durand and Fournier (n7).

First, the influence of Pélardon cheese as a GI-labelled product has played a pivotal role in the maintenance and survival of small sheep and goat producers in the area, both members and non-members of the initiative. Indeed, in the context of the preparation of the EU's Common Agricultural Policy reform in 2015, the French government had planned to remove non-productive areas covered with oak and chestnut trees from the eligible categories of state aid. This project reform would have not only negatively affected those Pélardon producers whose goats feed on oaks and chestnut trees, but more generally put at risk the livelihoods of small ruminant producers in the area including those outside the GI initiative. This risk prompted Pélardon producers to launch a large media campaign and meet with public authorities to explain that, although these areas are not productive in the traditional agricultural sense, they sustain the feeding of the goats and hence the production of Pélardon cheese following the traditional pastoral and grazing practices in the area. This approach has been successful and, in the new system of aid adopted in 2015, those areas covered with oak and chestnut trees for the Pélardon area of production only, remain eligible for state support as an exception to the general ineligibility rule.⁷⁷ This exception was subsequently expanded to encompass the broader UNESCO World Heritage site of the Mediterranean Agro-pastoral Cultural Landscape. This outcome, which is a major success not only for Pélardon producers but generally for all small ruminant producers including those outside the GI association, has been closely linked to the visibility, credibility and influence of the PDO protection. From that perspective, the PDO protection has proved to have a political weight which has empowered Pélardon producers while preserving the development of the territory and contributing to social cohesion and pride within the territory.⁷⁸ The PDO initiative has thus emerged as the driving force of the whole small ruminant industry in the area.

Turning to green lentils from Berry, it has already mentioned that, to tackle the high wastage rate, there is a need to develop lines with higher and more reliable yields. However, because the total production area for lentils in France is less than 20,000 hectares and the national

77 Arrêté du 9 octobre 2015 relatif aux modalités d'application concernant le système intégré de gestion et de contrôle, l'admissibilité des surfaces au régime de paiement de base et l'agriculteur actif dans le cadre de la politique agricole commune à compter de la campagne 2015 (Decree of 9 October 2015 on the implementing provisions for the integrated administration and control system, the eligibility of areas under the basic payment scheme and the active farmer in the context of the CAP as from 2015) Article 13. Available at <https://www.legifrance.gouv.fr/eli/arrete/2015/10/9/AGRT1515973A/jo> accessed 02/08/2018.

⁷⁸ Interview F-B8.

production is less than 400,000 tonnes per year, lentils are considered as a minor crop.⁷⁹ One consequence is that they have traditionally not attracted much interest from research and development institutes. This is shown in the lack of plant improvement research on the ANICIA variety since 1966 – which, as the only variety available for green lentils, is used for both green lentils from Berry (PGI) and Le Puy (PDO).⁸⁰ This issue has been compounded by the fact that lentil farmers had traditionally no representation before the authorities hence a lack of dialogue with the Ministry of Agriculture as regards its product homologation policy. Yet, the influence of both green lentils from Berry and from Le Puy have been instrumental in enhancing the visibility and credibility of the sector with the creation in 2016 of the ‘National Interprofessional Dried Vegetables Association’ (*Association nationale interprofessionnelle des légumes secs* – ANILS) that brings together the producers, collectors and packers of lentils, chickpeas and dry beans with the aim to defend their interests at the local and national level. According to the coordinator of the association of producers of green lentils from Berry, the PDO and PGI protection has been the primary impetus for enhancing the organisational capacity of producers of dried vegetables at the national level and creating a space for their visibility and representation.⁸¹ Importantly, because the lentil sector is already well-organised and origin-labelled, it is for this sector that the first agreement within ANILS has been made to develop plant breeding programmes with funding from producers’ contributions. In this initiative, the political leverage deriving from the GI protection not only contributes to the preservation of a culture but further facilitates its improvement and enhancement.

7.2 Preservation of cultural heritage

The proposal that GIs may contribute to the safeguarding of cultural heritage⁸² through the preservation of the traditional methods of production and cultural practices needed for the

79 For further information on the criteria used for classifying a crop or a product as ‘major’ in the European Union, see European Commission, ‘Guidance Document, Guidelines on comparability, extrapolation, group tolerances and data requirements for setting MRLs’ (7525/V1/95 Rev. 10.3, 13/06/2017) <https://ec.europa.eu/food/sites/food/files/plant/docs/pesticides_mrl_guidelines_app-d.pdf> accessed 03/07/2018.

80 S.L. Anvar, ‘Semences et Droit: L’emprise d’un modèle économique dominant sur une réglementation sectorielle’ (Thèse pour le Doctorat en Droit, Université Paris I Panthéon-Sorbonne, Paris, 2008) 67.

81 Interview F-D6.

82 For general background on the concept of cultural heritage in international law, see F. Macmillan, ‘The Protection of Cultural Heritage: Common Heritage of Humankind, National Cultural ‘Patrimony’ or Private Property?’ (2013) 64(3) Northern Ireland Legal Quarterly 351, 357-361.

elaboration of local products has been subject to much debate recently.⁸³ As recalled by MacMillan,⁸⁴ it is only recently that UNESCO has recognised the importance of intangible cultural heritage, and not only that of tangible cultural heritage, with the adoption of the Convention for the Safeguarding of the Intangible Cultural Heritage in 2003. According to this Convention, intangible cultural heritage includes ‘the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage’.⁸⁵ The Convention goes on by specifying that intangible cultural heritage is ‘transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity’.⁸⁶ Manifestations of intangible cultural heritage include the knowledge and practices concerning nature and the universe as well as traditional craftsmanship.⁸⁷

As argued by Gangjee, a number of features of GI products meet this definition.⁸⁸ Specifically, this proposal concerns those products ‘at the intersection of culture and geography’⁸⁹ that rely, at least partly, on the knowledge, skills, how-how, practices and traditions that have been developed collectively by local producers over time and transmitted across generations.⁹⁰ Referred to as human factors, these include breeding and cultivation practices or weaving and sewing techniques. If handicrafts are typically heavily based on human factors, a large number of food and agricultural products, that are usually believed to derive mainly or entirely from natural factors, also require specific know-how, especially when they are processed.⁹¹ Examples of agro-food products that are based on both natural and human factors include

83 D. Gangjee, ‘Geographical Indications and Cultural Rights: The Intangible Cultural Heritage Connection?’ in Christophe Geiger (ed), *Research Handbook on Human Rights and Intellectual Property* (Edward Elgar 2015) 544; A. Kamperman Sanders, ‘Incentives for Protection of Cultural Expression: Art, Trade and Geographical Indications’ (2010) 13 JWIP 81.

84 F. Macmillan (n82) 12.

85 Convention for the Safeguarding of Intangible Cultural Heritage, Article 2.

86 *ibid.*

87 *ibid.*

88 Gangjee ‘Geographical Indications and Cultural Rights’ (n83) 556.

89 D. Rangnekar, ‘The Socio-Economics of Geographical Indications: A Review of the Empirical Evidence from Europe’ (UNCTAD/ICTSD Issue Paper No. 4, 2004) 16.

90 N.S. Gopalakrishnan, P.S. Nair and A.K. Babu, ‘Exploring the relationship between geographical indications and traditional knowledge: an analysis of the legal tools for the protection of geographical indications in Asia’ (2007) ICTSD Working Paper <<http://www.measwatch.org/sites/default/files/bookfile/MonMarch2009-14-28-16-GIandTKGopalakrishnan.pdf>> accessed 03/09/2018.

91 D. Marie-Vivien, ‘A comparative analysis of GIs for handicrafts: the link to origin in culture as well as nature?’ in D. Gangjee (ed.) *Research handbook on intellectual property and geographical indication* (Edward Elgar, 2016) 292.

Darjeeling tea, Basmati rice or Melton Mowbray pork pies. The elaboration of Feni, which was the first Indian GI for an alcohol, heavily relies on specific rules for the harvesting and crushing of apples and the distilling process, i.e. human factors.⁹²

In the debate over GIs and cultural heritage, it has been suggested that the CoPs can be a powerful tool to help preserve traditional and cultural practices⁹³ and thus provide an option for the implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage.⁹⁴ This is because, through the identification and codification of traditional production techniques, the CoPs ensure that these continue to be followed and hence sustained.⁹⁵ This is particularly true when the market success of GI products depends on the use of local traditional methods of production, and hence when consumers value and reward the traditional and cultural practices embedded in the GI product. In that case, producers are provided with an incentive for preserving them so as to continue to benefit economically from their use,⁹⁶ as long as the traditional and cultural practices ‘prove necessary to justify the specificity linked to a particular place.’⁹⁷ In other words, producers are incentivised to ‘translate their longstanding, collective and patrimonial knowledge into livelihood and income’,⁹⁸ whenever their knowledge is needed to make the product. For example, Bienabé and Marie-Vivien have shown how the reputation of the Basmati rice has been built upon traditional *savoir-faire* passed through generations of producers, and translated in the CoP, which they refer to as ‘heritage-based reputation’.⁹⁹

With these considerations in mind, this section will argue that both the rules adopted by producers at the local level and the broader state policies and laws have a strong impact on the maintenance or abandonment of traditional and cultural practices.

92 D. Rangnekar, ‘Geographical Indications and Localisation: A Case Study of Feni’ (ESRC Report, 2009) 30-32.

93 Gangjee, ‘Geographical Indications and Cultural Rights’ (n83) 549.

94 *ibid* 556-558.

95 S. May and others (eds.), *Taste – Power – Tradition. Geographical Indications as Cultural Property* (Göttingen Studies in Cultural Property, Universitätsverlag Göttingen, 2017) 6.

96 Bramley and Biénabe (n48).

97 C. de Sainte Marie and L. Bérard, ‘Taking Local Knowledge into Account in the AOC System’ in L. Bérard and others (eds.) *Biodiversity and Local Ecological Knowledge in France* (INRA/CIRAD, 2005) 181.

98 L. Bérard and P. Marchenay, ‘Tradition, regulation and intellectual property: local agricultural products and foodstuffs in France’, in S.B. Brush and D. Stabinsky (eds.) *Valuing Local Knowledge: Indigenous Peoples and Intellectual Property Rights* (Island Press, 1996) 230, 240.

99 E. Biénabe and D. Marie-Vivien, ‘Institutionalizing Geographical Indications in Southern Countries: Lessons Learned from Basmati and Rooibos’ (2017) 98(C) World Development 58, 61.

In France, as seen in Chapter 5, when the product is protected by a PDO or PGI, the missions of the producers' associations are laid down by the law and should mirror the terms used in Article L.642-22 of the Rural Code. These include, among others, the 'mission of general interest of preservation and promotion of *terroirs*, local traditions and know-how as well as of products derived thereof'.¹⁰⁰ Here, law is used as a means to effectively promote the preservation of the cultural element embedded in the origin products protected through a *sui generis* system. In practice, according to the interviews, the definitions of the products, including their production process, as collectively adopted in the respective CoPs, reflect the traditional practices that pre-existed the establishment of the initiatives. The preservation of traditional methods of production was particularly highlighted by the producers of bouchot mussels from Mont-St-Michel Bay and of Pélardon cheese.

Starting with bouchot mussels, these are bred on wooden stakes (the 'bouchots') arranged vertically in lines¹⁰¹ following the use of a traditional aquaculture technique that goes back to 1235, which has been transcribed in the CoP.¹⁰² To reflect the traditional character of this aquaculture technique, bouchot mussels have been protected with the European traditional speciality guaranteed (TSG) label since 2013. As explained in Chapter 5, this label aims to 'safeguard traditional methods of production and recipes by helping producers of traditional product in marketing and communicating the value-adding attributes of their traditional recipes and products to consumers'.¹⁰³ It has enjoyed a great success amongst consumers,¹⁰⁴ which is likely to contribute further to the preservation of the traditional aquaculture technique.

In the Pélardon initiative, the practice of taking goats out on the territory for a minimum number of days, in consistency with traditional pastoral and grazing practices in the area, was made a

100 Charters of the ODGs 'Lentilles vertes du Berry' and 'Pélardon', Articles 2.

101 CoP 'Bouchot mussels from Mont-St-Michel Bay', Article 3.6.3 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=10203>> accessed 10/06/2018.

102 *ibid* Article 3.8.1.

103 Council Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuff, Article 17. As of August 2018, a total of 58 products were protected as a TSG. See results of the DOOR database:

<http://ec.europa.eu/agriculture/quality/door/list.html?&recordStart=0&filter.dossierNumber=&filter.comboName=&filterMin.milestone__mask=&filterMin.milestone=&filterMax.milestone__mask=&filterMax.milestone=&filter.country=&filter.category=&filter.type=TSG&filter.status=REGISTERED> accessed 21/08/2018.

104 FranceAgriMer, 'L'image de la moule en France auprès des consommateurs de moules et des professionnels de la filière' (Les Etudes de FranceAgriMer, 2014).

mandatory requirement in the CoP.¹⁰⁵ The importance of ancestral agro-pastoral practices has been recognized by UNESCO with the inclusion in 2011 of the National Park of Cévennes on the list of the World Heritage Sites as a ‘Mediterranean Agro-pastoral Cultural Landscape’.¹⁰⁶ Interestingly, this initiative also provides an example of how the inclusion in the CoP of strict criteria aimed at ensuring compliance with traditional methods of production may run counter the producers’ interests. Indeed, with a view to ensure that producers observe agro-pastoral practices, the quantity of feed concentrate to be distributed to goats is limited to 400 grams per day per litre of goat’s milk produced.¹⁰⁷ However, it was found that those farmers who take goats out the most on the territory and hence who provide them with very little forage, were compelled to exceed this limit so as to support lactation. As a result, in the words of the coordinator of the producers’ association, ‘[w]e end up penalising those breeders who are the most authentic, who respect the traditional pastoral and grazing practices the most’.¹⁰⁸ Whereas it is the intention of the producers’ association to request a modification of this rule in the future, the complex and time-consuming process to modify the CoP at the EU level¹⁰⁹ has discouraged producers from initiating it so far.¹¹⁰

Turning to the Vietnamese products, the producers of fried calamari from Hà Long generally agree that the CoP reflects the traditional methods of production back to 1946, in particular the use of a mortar to grind the calamari and their shaping by hand.¹¹¹ However, in the case of vermicelli from Bình Liêu, which have been produced in the area by generations of farmers, their production practices have recently evolved with the introduction of improved varieties and modern equipment, including milling, grinding, washing and drying machines, that have replaced the traditional manual process.¹¹² The mechanisation of production methods which, as explained in Chapter 5, responds to the need to increase the production, fits into the broader policy of agricultural modernisation that Vietnam has adopted as a national priority since the

105 At least 210 days per year for the goat farms located at less than 800 meters of altitude and 180 days for those located at a higher altitude. CoP ‘Pélardon’, Article 3 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=529>> accessed 26/06/2018

106 UNESCO World Heritage List, ‘The Causses and the Cévennes, Mediterranean agro-pastoral Cultural Landscape’ <<http://whc.unesco.org/en/list/1153>> accessed 18 September 2017.

107 Technical rules for the implementation the CoP ‘Pélardon’, Article 1 (on file with author).

108 Interview F-B6.

109 Council Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuff, Article 53.

110 Interview F-B8.

111 Document providing technical instructions for the processing of fried calamari from Hà Long, Article 2(c).

112 Interview V-D8.

1960s to address the need to feed the growing Vietnamese population.¹¹³ In this regard, it has been mentioned that, according to Durand and Fournier, GIs are used in Vietnam as a way to promote agricultural modernisation, including through the substitution of traditional local techniques with modern ones and/or the use of improved varieties. These authors show how the production of Mèo Vac mint honey, traditionally extracted directly from natural tree trunks following a traditional technique aimed to capture wild beehive colonies, has evolved since 2003 under the impetus of local authorities with the introduction of standard wooden hives and centrifugal extractors with a view to increase production.¹¹⁴ When the GI was registered in 2013, it is the model of production based on the use of wooden hives that was introduced in the CoP.

There are a number of examples of origin products in other countries for which local traditional practices have been modified or abandoned usually to meet new social conditions or market demands. For example, while the production of Porto wine traditionally depended on grapes trodden by human feet, most producers are now using computer-operated systems.¹¹⁵ Similarly, Bowen reports that Tequila farmers have increasingly replaced traditional, labour-intensive practices with chemical-intensive and labour-efficient practices.¹¹⁶ While it remains difficult in the case of vermicelli from Bình Liêu (and maybe in other cases too) to determine precisely the extent to which the traditional manual process had been essential to the distinctive character of the product, these findings nonetheless highlight the need to consider GI initiatives not in isolation but in their broader political context and taking into account the market demands.

7.3 Biodiversity conversation

Although biodiversity conservation is usually not an explicit objective of GI protection,¹¹⁷ it has been argued that, because GIs draw on local features of the natural environment, their protection may contribute to the conservation of local natural resources. The interaction between the natural and human factors required for the elaboration of origin products is

113 N.H Bui and T.N. Duc, 'Le développement de l'agriculture vietnamienne au cours des 15 dernières années' (2002) 3(2) *Vertigo* <<https://journals.openedition.org/vertigo/3738>> accessed 20/08/2018.

114 Durand and Fournier (n7) 98-99.

115 J. Robinson, 'The port trade's calling card' *Financial Times* (London, 30/05/2009) Life & Arts 4.

116 S. Bowen and A. Zapata, 'Geographical indications, terroir, and socioeconomic and ecological sustainability: The case of tequila' (2009) 1 *Journal of Rural Studies* 108, 115.

117 J. Larson, 'Geographical indications, *in situ* conservation and traditional knowledge' (ICTSD Policy Brief, October 2010) 9.

strongly reflected in the concept of *terroir* which, as seen in Chapter 2, is at the very heart of the French AOC system.¹¹⁸ Barham goes as far as saying that ‘natural factors are the most important determinants of how well a product represents its *terroir*’.¹¹⁹

Here again, scholars generally agree on the important role of the rules included in the CoP in directing the effects of GIs on biodiversity. This is because CoPs may specify the use of specific biological and genetic resources that are essential to the distinctive character of the GI product,¹²⁰ including soil, climate, species or native plant varieties and breeds, or they may prescribe production practices that have a positive impact on biodiversity at the landscape and ecosystem levels.¹²¹ As such, the set standards may impose production limits or incorporate good agricultural practices.¹²² A notable example of a GI product with a positive environmental impact is the Rooibos herbal tea from South Africa. When building the GI, producers collectively agreed on standards aimed at preserving biodiversity and ensuring environmental sustainability to take into account the importance of environmental factors to the product’s distinctive character.¹²³ In Morocco, the plantation of new Argan trees, which helps combat desertification, is a requirement of the CoP of the Argan oil.¹²⁴

Within our case studies, the initiatives built around Pélardon cheese, bouchot mussels from Mont-St-Michel Bay, wood from the Alps, green lentils from Berry and fried calamari from Hà Long, have provided evidence of environmental impacts through at least four different ways. Drawing upon these case studies, this section will argue that, in addition to the formal rules decided at the local level and included in the CoP or trade marks regulations, attention should also be paid to the environmental awareness and commitment of producers at the individual level; the production activities or the profile of the products in themselves; and market demands. Finally, this section will highlight the need to consider broader national and

118 Barham (n5) 61.

119 *ibid* 66.

120 Larson ‘Relevance of geographical indications’ (n12) 4-5.

121 *ibid*.

122 *ibid*.

123 E. Biénabe, M. Leclercq and P. Moity-Maizi, ‘Le rooibos d’Afrique du Sud: comment la biodiversité s’invite dans la construction d’une indication géographique’ (2009) 50 *Autrepart* 117, 131-132.

124 S. Révillon, E. Thévenod-Mottet and N. El Benni, ‘Geographical indications: creation and distribution of economic value in developing countries’ (2009) NCCR Working Paper n°14, 22

<http://phase1.nccr-trade.org/images/stories/publications/IP5/report_IP5_GI_Value_2009.pdf> accessed 03/09/2018.

local policies and approaches as these may also impact on the environmental performance of GIs.

First, the importance of formal rules adopted at the local level is particularly evident in the wood from the Alps, Pélardon cheese and green lentils from Berry initiatives. In the first initiative, the regulations of the certification mark include environmental criteria that applicants must satisfy in order to be granted the right to use it. By assessing the applicants' activities as regards the preservation of water and soils; the reduction of nuisances and pollutions; the waste management; the use of energy; and the cleanliness and the state of maintenance,¹²⁵ these criteria aim at improving their environmental awareness and responsibility.

In the Pélardon initiative, the CoP sets out the obligation to take goats out on the territory for a minimum number of days in consistency with traditional pastoral and grazing practices.¹²⁶ By ensuring that goats feed on local plants and herbs, this requirement is at the heart of the *terroir* connection of the cheese. Importantly, it has had a positive environmental impact considering that pastoral and grazing practices have contributed to the conservation of landscape and ecosystems while reducing the risk of fire. In the case of green lentils from Berry, the CoP forbids the use of sludge from treatment plants and inputs such as fertilisers, which highly reduces environmental impact.¹²⁷

In the same way as for Rooibos herbal tea and Argan oil, these examples show the importance of the rules adopted at the local level and included in the CoPs or the regulations of the certification mark. However, despite these examples of positive environmental impact, Larson warns that the CoP can also have negative environmental effects, for example through the promotion of one particular landrace or breed that may lead to a loss of genetic diversity.¹²⁸ This has been the case for the CoP of Tequila which, by prescribing the use of the blue variety of *agave* plant only to the exclusion of all others, has led to the loss or marginalization of half a dozen other varieties, providing Tequila with a narrow genetic base.¹²⁹ Similarly, in the case

125 Rules governing the certification mark 'Bois des Alpes' 5.

126 CoP 'Pélardon', Article 3 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=529>> accessed 26/06/2018.

127 CoP 'Green lentils from Berry', Article 5.1.4 <<http://ec.europa.eu/agriculture/quality/door/registeredName.html?denominationId=396>> accessed 15/08/2018.

128 Larson 'Relevance of geographical indications' (n12) 39.

129 Bowen and Zapata (n116) 110.

of chestnut from Ardèche, the CoP retained only 19 of the 66 varieties developed by generations of peasant farmers,¹³⁰ thereby reducing the genetic diversity of the chestnut within the GI.

Second, our findings suggest that the ability of GIs to contribute to biodiversity conservation can derive from the environmental awareness and commitment of producers at the individual level. This factor, which is a less well-studied aspect of GIs, is exemplified by the commitment of some Pélardon producers to preserve endangered goat breeds, including the Massif Central, Provençale and Pyrénéenne breeds. Unlike the obligation to take goats out on the territory, these breeds are not listed in the CoP according to which ‘[t]he milk must be from herds made up of goats of the Alpine, Saanen, or Rove breeds and their crossbreeds’.¹³¹ However, in practice, many farmers who are members of environmental associations use the endangered breeds listed above to ensure their preservation and because these goats are invariably well-suited to grazing practices. Up to now, these practices have been discussed during the general assemblies of the producers’ association and been tacitly accepted by the inspectors in charge of the external controls. This is because the mention of ‘crossbreeds’ in the CoP allows for some confusion as to the type of breeds, but also because such practices generally conform to the overall environmentally-friendly approach of the initiative. This example of environmental impact derived from the environmental awareness and commitment of producers at the individual level also illustrates the importance of informal ethical or moral rules within a collective group.

Third, as suggested by Belletti and Marescotti, the mere continuation of production activities may bring about environmental benefits,¹³² as it is the case for bouchot mussels from Mont-St-Michel Bay and wood from the Alps. Indeed, the method of production of bouchot mussels is environmentally-friendly in itself because the wooden poles where mussels grow, function as nurseries that preserve the local species that gravitate around them. According to a producer, there would be ten times less biodiversity in the area without these artificial reefs.¹³³ Turning to wood from the Alps, its mere use in construction brings about benefits to the ecosystem given that one cubic meter of wood is equivalent to one tonne of Co2 stored. The wider use of

130 S. Sabot, ‘Une AOC nuit-elle à la biodiversité?’ in *Avenir Agricole de l’Ardèche* (Privas, 2000).

131 CoP ‘Pélardon’, Article 3.

132 Belletti and Marescotti (n38) 80.

133 Interview F-C8.

the certified wood in construction projects is even promoted in the Strategic Plan for Forestry in the Alps adopted in 2006 by local authorities as a way to reach its objective to improve the carbon footprint through Co2 capture.¹³⁴ Besides, the very way in which the initiative is designed to ensure that the processing and construction stages take place locally through short circuits translates into reduced transportation thereby contributing to fighting the greenhouse effect. From a health perspective, the use of wood in buildings has also been linked to quality of life, health and well-being benefits, including stress reduction, humidity control, enhanced indoor air quality, and reduction in noise levels.¹³⁵

Fourth, as noted by Lybbert and others, the market can have an important role in directing the effects of GIs on biodiversity conservation.¹³⁶ In the initiative of fried calamari from Hả Long, increased consumer demand has led to over-exploitation of calamari in the Gulf of Tonkin, where, according to the CoP, at least 70% of calamari should be fished.¹³⁷ According to producers, this has resulted in a significant reduction in the number of calamari in the area. Because their supply is quickly decreasing, producers have increasingly sourced calamari from Central Vietnam, China, Indonesia, and Malaysia.¹³⁸ These practices may affect the quality of fried calamari. Other examples provide evidence that increased consumer demand for GI products can lead to excessive pressure on the biological resources needed for their production, which may ultimately result in their over-exploitation and erosion. For example, in Vietnam, the success of Cao Phong orange (GI granted in November 2014) has led to the rapid increase in cultivated areas with orange trees, with 16% of areas covered with orange trees being outside the GI area. This situation has caused environmental damages including deforestation, erosion and water shortage.¹³⁹

Finally, state authorities in both France and Vietnam have adopted policies or practices that may influence the effects of GIs on biodiversity. In France, Barham reports that, according to

134 Union Régionale des Associations de Communes Forestières, 'Schéma stratégique forestier pour le Massif des Alpes' (2006) 3 (on file with author).

135 S. Augustin and D. Fell, 'Wood as a Restorative Material in Healthcare Environments' (FPInnovations, February 2015) <<http://www.woodworks.org/wp-content/uploads/Wood-Restorative-Material-Healthcare-Environments.pdf>> accessed 03/08/2018.

136 T. Lybbert, 'Commercialising Argan Oil in Southwestern Morocco: Pitfalls on the Pathway to Sustainable Development' in S. Pagiola, J. Bishop and S. Wunder (eds), *Buying Biodiversity: Financing Conservation for Sustainable Development* (World Bank, 2002).

137 Regulations on the management and use of the GI for fried calamari from Hả Long, Article 3.3.1.

138 Interviews V-C1, V-C4 and V-C5.

139 C. Alexandre, 'Impacts et perspectives de développement de l'indication géographique Orange de Cao Phong' (Master's thesis, Spécialité MOQUAS, IRC de spécialité, Montpellier SupAgro, 2017) 75.

Bérard and Marchenay, AOC areas are subject to higher environmental restrictions and to the state's higher level of scrutiny in terms of compliance with environmental regulation.¹⁴⁰ In Vietnam, the state's agricultural modernisation and intensification policy may affect production practices as well as the delimitation of production areas. In the case of vermicelli from Bình Liêu, the interviews revealed that, in order to increase production, the cultivation area has extended by 30% in a few years to include forest areas, originally excluded from the GI production area for environmental protection purposes.¹⁴¹ The extension of the cultivation area is supported by local DARD authorities who have provided local farmers with additional arrowroot seeds.¹⁴² Although it is difficult to know if these practices derive from Vietnam's national policy for agricultural intensification, the fact remains that they are encouraged by public authorities, thereby suggesting that the effects of GI initiatives on biodiversity can also be mediated by public policies and practices.

Conclusion

Drawing upon six case studies in France and Vietnam, this chapter has aimed to identify the effects of GIs outside the market and disentangle the factors involved therein. Our findings confirm that GI initiatives can foster job creation and the development of new economic activities in the territory, as well as impact on the preservation of cultural practices and biodiversity, as already observed in the GI literature. In addition to the well-studied effects of GIs in scholarship, our data also suggest that GI initiatives can act as a platform for exchange of knowledge, sharing of practices and diffusion of innovations, thereby contributing to local actors' empowerment through the development of their technical skills and know-how. Besides, this chapter has shown that GI protection enjoys high credibility in France, which can lead to greater representative capacity and influence of GI collectives with state and other authorities. This may further enable the satisfaction of certain needs and demands.

However, the impacts vary greatly across the initiatives. For example, the initiatives of green lentils from Berry and wood from the Alps generate positive impacts on job creation that were largely driven by market success and social awareness of the producers' association,

140 Barham (n5) 67.

141 Interviews V-D5 and V-D7.

142 *ibid.*

respectively. In contrast, the creation of new job opportunities within the GI initiatives has either been impossible due to institutional constraints for bouchot mussels from Mont-St-Michel Bay; made intentionally complex in the regulations of fried calamari from Hả Long; or been hindered by the difficult access to land and the prevalence of short marketing circuits in the Pélardon initiative. Similarly, some initiatives have generated positive impacts on the preservation of cultural practices and biodiversity conservation but not others, due to a range of reasons specific to each initiative. At a more general level, the empirical research that has been carried out so far in the GI literature has also led to inconclusive results of the non-market effects of GIs, even in Europe where impacts vary on a case-by-case basis.¹⁴³

What has nonetheless emerged as a consensus among researchers is that GI legal protection alone is a necessary but insufficient condition to bring the desired effects.¹⁴⁴ Our findings clearly confirm that, as argued by Barjolle and Sylvander, a combination of enabling factors is required.¹⁴⁵ This chapter has shown that factors conducive or detrimental to the positive externalities of GIs vary depending on the context of each product and stand on different levels: (i) at the producer/initiative level, the formal rules negotiated and included in the CoP/users' regulations as well as the informal self-imposed codes of conduct as derived from the social, cultural or environmental awareness of individual producers and/or GI collectives, can provide powerful levers for directing the effects of GIs outside the market; (ii) at the market level, market success can increase the attractiveness of the GI initiative among local producers and drive job creation within the initiative (and conversely). At the same time, the type of marketing channels prevailing for a GI product may undermine producers' interest in joining the GI initiative and hence limit the creation of new employment opportunities therein. Market success can also affect, both in a positive and negative way, the preservation of traditional methods of production and the protection of biodiversity; and (iii) at the state level, the formal approach to GIs, and regulation of production activities in specific sectors, as well as laws, public policies, strategies and informal practices of state authorities, have also been identified as factors enabling or constraining the creation of public benefits derived from the operation of the GI initiatives.

143 Rangnekar 'The Socio-Economics of Geographical Indications (n91); see also W.D. McBride, 'GI Joe? Coffee, location, and regulatory accountability' (2010) 85(6) *New York University Law Review* 2138; Bramley and Biénabe (n48).

144 See for example Bowen and Zapata (n116).

145 D. Barjolle and B. Sylvander, 'Some factors of success for 'origin labelled products' in agri-food supply chains in Europe: market, internal resources and institutions' (2002) 36 (9-10) *Economies et sociétés* 1441.

These findings suggest the need to develop a dynamic understanding of GIs and consider both the functioning of the initiatives at the local level, including formal rules and informal constraints, and the broader commercial, societal and institutional context in which the GI initiatives are operating when exploring their effects outside the market. Further, contrary to the EU's claim that *sui generis* systems of protection of GIs contribute to development dynamics, our findings indicate that GI legal protection alone is not enough, and that the type of legal protection is not necessarily a relevant factor influencing the ability of GI initiatives to create such effects. It is true that, at least in France, the *sui generis* systems of protection enjoy a special status that can result in positive externalities. This is shown in the missions of general interest assigned by the law to producers' associations, particularly as regards the cultural heritage dimension; the special environmental protection of production areas; as well as, in the case of Pélardon cheese and green lentils from Berry, the enhanced legitimacy, representative capacity and influence of GI collectives. However, the wood from the Alps initiative, protected through a certification mark, has emerged as the initiative that has the greatest impact on sustainable development of the territory, especially in relation to job creation, local actors' empowerment via the development of their technical skills and know-how, and environmental sustainability.

Rather than the certification mark itself, it is the producers' association's pro-active voluntary approach and commitment to contribute to local sustainable development, as reflected in the regulations of the certification mark and the criteria for certification, that are driving the territorial impacts of this initiative. In effect, the initiatives that consciously focus on sustainable development and engage in behaviours that are sensitive to social justice, cultural heritage and environmental protection, either at the collective or individual level, are the most likely to bring about public benefits, regardless of the type of legal protection.

These results not only challenge the EU's assumption of the positive externalities of *sui generis* systems of protection of GIs by calling for particular attention on the role of institutions and individual and collective behaviours. They also confirm that, at a more general level, a bundle of socio-economic, cultural, institutional and organisational factors engage with the law and influence the way in which it contributes to achieve public benefits and territorial dynamics.

General conclusion

This thesis has sought to understand the effects of the *terroir* and the trade mark approaches on the creation process, the operation and the economic and non-economic benefits of GI initiatives in two contrasting countries, France and Vietnam. My main argument is that the significance of the distinction between the two types of protection varies greatly depending on the institutional context in which the GI initiatives are embedded, and that the differences between both approaches can be greatly reduced in practice. I further argue that the type of legal protection is often not enough to drive the value and benefits of GIs, except in countries where the *sui generis* system enjoys a special status, and that legal protection *per se* is irrelevant in specific contexts.

To test this argument, the thesis was organised into six chapters. The first two chapters provided an overview of the *sui generis* and trade mark systems of protection for GIs that apply in France and Vietnam. The objective was to set up the relevant legal frameworks for identification of the differences between the two systems in both countries and discussion of the effects of the law in practice. I then turned to the analysis of my empirical findings. I first explored the actors' objectives and collective dynamics involved in the establishment and management of the GI initiatives. Moving from the internal life to the outward face of the initiatives, I then considered GIs from a market perspective. Among my case studies, two groups of initiatives could be readily distinguished: those in which the GI label is used on the market, and those in which it is not. For the first group, I endeavoured to understand the factors impacting the commercial value of GIs and economic benefits of GIs. For the second group, I tried to identify the reasons for the limited, adverse or non-use of the origin labels. Finally, I looked beyond the market and investigated the dynamics of territorial development resulting from the use of GIs and the extent to which GIs contribute to the preservation of cultural heritage and the protection of biodiversity.

Over the course of this research project it became clear that GIs stand at the crossroads of multiple interests and expectations raised at various levels and by different types of actors, revealing a host of thorny issues that require closer scrutiny. As the international dispute over

the benefits of GIs remains unresolved, I do not want to simply map out the scale of the problem. I wish to suggest improvements to a system which does have the potential for territorial development. The conclusion of this project summarises the issues at stake and proposes what might be done better in the future. To do so, this chapter revisits the hypotheses that were formulated in Chapter 1 before making final comments.

(i) The integration of GI schemes with other regulatory interventions and requirements

According to my first hypothesis, GI schemes are affected by, and integrated with, other regulatory interventions and requirements. One main consequence is that, contrary to a conventional rules-based approach to regulation, the design, operation and effects of GI initiatives result not only from formal GI law, but from a wider set of regulations and forms of norm-making located at different levels and defending various interests.

Throughout my thesis, I have shown how GIs engage and are closely intertwined with both formal and informal rules located at various levels.

At the state level, formal laws and policies adopted in other areas were found to impact on the creation and effects of GI initiatives. For example, I have shown how in Vietnam, where there is a strong state intervention in agricultural matters, GI protection is closely intertwined with the state's objectives and strategies that encompass poverty alleviation, rural industrialisation, agricultural modernisation and export-oriented agricultural policy. Such 'meta-policies' may contribute to explain the choice of products for protection, influence the content of the rules governing the products, or justify the objectives of the producers' associations. For instance, the protection of the pottery from Đông Triều falls within the ambit of Vietnam's rural industrialisation policy. Similarly, national objectives of agricultural modernisation have contributed to justify the introduction of improved varieties and the use of modern equipment to increase the productivity of vermicelli from Bình Liêu and sticky rice from Đông Triều. Alongside general policies, sector-specific regulations may directly affect the registration of GIs, as was the case with the trade mark 'Bois des Alpes' that arose from the Interregional Convention for the Alps for 2015-2020. They may also influence the effects of GIs – for example, the strict regulation of the mussel aquaculture industry in the Mont-St-Michel Bay as a public maritime domain limits production capacity and hinders job creation.

At the collective level, the most significant illustration of regulatory intervention affecting GIs lies in the product specification that contains the rules governing the product. As seen in the first chapters, both *sui generis* and trade mark systems allow for some flexibility in the content of the CoPs and users' regulations which thus vary greatly in terms of details and standards depending on the stakeholders' strategies and priorities. Although the trade mark system provides for less stringent legal requirements than the *sui generis* system, local stakeholders may decide to provide a high degree of technical detail and complexity in the users' regulations. Conversely, in the *sui generis* system, local stakeholders may adopt higher or looser standards. For instance, the standards adopted for green lentils from Berry and bouchot mussels from Mont-St-Michel Bay are low and flexible while those of Pélardon cheese, Marseille soap and wood from the Alps include time-consuming artisanal and eco-friendly practices. Rules adopted at the local level therefore play a pivotal role in the design of the GI initiatives and may even contribute to the convergence of the two systems of protection.

The charters of the producers' associations were also found to influence the operation and effects of GI initiatives. They may ensure stakeholders' control and participation in decision-making processes in the French initiatives or, conversely, secure state control of the initiatives in Vietnam. The objectives laid down in the charters of the producers' associations may include training, innovation and exchange of good practices. This is the case for green lentils from Berry, wood from the Alps and all the origin-labelling initiatives in Vietnam. They may also limit membership and hinder job creation, such as with fried calamari from Hả Long.

Alongside formal rules and policies, I have provided numerous examples of informal norms and behaviours that engage with GIs and affect the creation and effects of the initiatives. Informal interventions are first found at the state level. For instance, the French influence has led to a rigid interpretation of the Vietnamese law in practice, and non-transparent practices of state authorities undermine the smooth functioning of GI initiatives. At the individual and collective level, informal interventions include self-imposed codes of conduct that derive from cultural, social and environmental awareness. For example, the association 'Bois des Alpes' has adopted a pro-active voluntary approach that aims to create jobs in the territory and some Pélardon producers use endangered goat breeds that are not listed in the CoP to ensure their conservation. Finally, informal mechanisms can be seen at the market level. Increasing control by mass retailers of prices and distribution channels of green lentils from Berry and bouchot mussels from Mont-St-Michel Bay, and pressure from importers to not use the GI label in the

case of Lạng Sơn star anise, are striking illustrations of this. These various informal interventions provide powerful levers for shaping GIs and directing their effects regardless of the type of legal protection, often to a greater extent than formal regulation.

The regulation of GIs thus has multiple levels and sources, which suggests that formal GI law – often the subject of analysis in the IP scholarship field – cannot be studied and does not work in isolation. A number of actors other than the state participate in the regulation of GIs and influence their effects. This plurality of regulatory forms reflects the importance of considering the empirical dimension of the regulatory activity on GIs and stresses the need to understand how legal processes really work outside the statutes and the text books. It further contributes to a wide definition of regulation that includes not only the state but also new forms of formal and informal norm-making.

(ii) The significance of the distinction between the *terroir* and the trade mark approaches

My second hypothesis considers that the significance of the distinction between the two types of legal protection varies greatly depending on the institutional context in which the GI initiatives are embedded. It further suggests that the *sui generis* system can lead to higher economic benefits than the trade mark system, however the type of legal protection fails to fully explain the non-economic effects of GIs outside the market.

Chapters 2 and 3 have put in evidence considerable differences between the French and Vietnamese *terroir* and trade mark regimes, which shows the importance of considering the institutional context in which GI initiatives are established. In French and European law, the two legal approaches are totally independent from one another and significantly different from each other. The French *sui generis* system of protection not only provides for more stringent registration requirements than the trade mark system. It has also been designed specifically to certify the origin of the products, unlike the trade mark system that *may* be used for that purpose under certain conditions, and it is considered as a higher-quality certification that is sought after.

By contrast, in Vietnam, the distinction between the two legal approaches is not so clear-cut. In that country, the *sui generis* and trade mark systems can equally protect the geographical names of local products and the establishment and implementation processes of both regimes

show strong similarities. These include the rigid interpretation of the law, the policy intervention for the identification of GIs, the state's control over the initiatives, the arbitrariness in the choice of the means of protection, and the lack of efficient quality controls. Besides, the lack of one official state logo for all *sui generis* GIs, unlike in France, makes it more difficult for consumers to distinguish a *sui generis* GI logo from a trade mark logo. The prevalence of bureaucratic and non-transparent practices further exposes the subordinate role of legal structures in Vietnam, which also contributes to make the distinction between the *sui generis* and trade mark systems insignificant.

Looking beyond the law, I examined whether the objectives attached to GIs differ depending on the type of legal protection. In theory, the *sui generis* system is more closely associated with cultural, social and environmental values unlike the trade mark system that traditionally aims to protect private economic interests. This is particularly true in France where the PDO/PGI system enjoys a special status based on a holistic vision of *terroir*. Unlike Vietnamese law, French law imposes higher environmental restrictions to PDO/PGI production areas and provides that producers' associations established under the *sui generis* system should preserve local traditions and know-how. In practice, the analysis of the case studies in Chapter 4 shows that the motivation for the registration of GIs varies greatly and that both economic and non-economic objectives are associated with GIs by those seeking protection, regardless of the type of legal protection. These range from the fight against unfair competition practices to the defence of traditional production activities, market development, territorial development, biodiversity conservation, industrialisation and modernisation of agriculture, among others.

To what extent do the two types of protection lead to different effects on the market? Here I argue that, unlike in Vietnam where the confusion between the two systems of protection does not allow for a meaningful differentiation of their effects on the market, in France the *sui generis* scheme may generate more economic benefits than the trade mark system. As seen in Chapter 5, this is because there is great commercial interest in PDO/PGI labels among mass retailers, wholesalers and distributors to meet the demand of consumers for PDO/PGI products. From that perspective, *sui generis* protection matters to producers as it allows them to access the regional and national market, sell off substantial volumes of their production, and be guaranteed payments within a short period of time. At the institutional level, the European Commission and regional authorities provide financial support to implement communication activities for the promotion of PDO/PGI products on the market. These various benefits could

be observed across all the PDO/PGI cases studies. At the same time, my findings also show that most of the price premiums are captured by commercial entities and retailers, which reduces the potential profits of producers.

I further contend that both *sui generis* and trade mark systems can lead to non-economic effects outside the market in either country. Chapter 7 has observed positive and negative impacts on job creation, preservation of cultural practices and biodiversity conservation across GI initiatives established under both schemes in France and Vietnam. Hence, outside the market, *sui generis* systems do not seem to do better than trade marks, at least as far as certification marks are concerned. As seen in Chapter 7, the effects of GIs outside the market are largely mediated by the rules governing the product. As one scholar put it, ‘GI products remain in a perpetual flux between a number of different values and interests’,¹ thus raising the question as to which values are given prominence when elaborating the rules governing the product. In requiring to take goats out on the territory for a minimum number of days, the CoP of Pélardon cheese reflects strong environmental and cultural values, which has contributed to the conservation of landscape and ecosystems while reducing the risk of fire. Yet, as I have argued earlier, the flexibility of the trade mark system allows for social, cultural and environmental interests to be reflected in the users’ regulations as well as in the CoPs under the *sui generis* system, depending on the stakeholders’ priorities and strategy. For instance, the certification mark ‘Bois des Alpes’ was found to have a great impact on territorial development resulting from strict social and environmental criteria included in its regulations.

Other non-legal factors contribute to explain the non-economic effects of GIs. The stakeholders’ social, cultural and environmental awareness may lead to the voluntary adoption of informal rules and codes of conduct, which provide powerful levers for directing the effects of GIs, regardless of the type of legal protection. The commitment of Pélardon producers to preserve endangered goat breeds not listed in the CoP, which was already discussed, provides a good example. Besides, market success has emerged as a particularly important issue affecting producers’ interest in participating in GI initiatives and driving or hindering job creation, as with green lentils from Berry and Pélardon cheese. Market success can also impact on the preservation of traditional methods of production and the protection of biodiversity. For

1 D. Rangnekar, *Geographical Indications and Localisation: A Case Study of Feni* (ESRC Report 2009), 19.

instance, increased consumer demand for fried calamari from Hả Long has led to over-exploitation of calamari in the Gulf of Tonkin.

(iii) Collective action and collaboration among local stakeholders

Building on collective action theory, my third hypothesis suggests that the establishment and use of GIs on the market encourages collaboration among producers and other local stakeholders, which further contributes to generate spillover effects outside the market.

The issue of producers' collaboration is addressed in various ways throughout my thesis. It is first discussed when analysing the legal frameworks for the protection of GIs in Chapters 2 and 3. The French law for *sui generis* protection of GIs provides a key role to local stakeholders, as a collective, in the registration of the GI and the establishment and management of the initiatives. The collective action of local stakeholders is particularly blatant in the elaboration of the local rules governing the GI product. This process provides local actors with a space to discuss their own vision of the product and agree collectively upon common standards. In involving interaction and decision-making processes, the French law for *sui generis* protection of GIs strongly encourages, and is fundamentally based on, collaboration among local stakeholders, which has significant consequences for the participation and empowerment of local actors. By contrast, neither the French trade mark system nor Vietnamese law for *sui generis* and trade mark protection of GIs contain specific requirements aimed at promoting producers' collaboration.

Despite the differences among the various legal systems, Chapter 4 has shown how, in practice, a producers' association has been established in all twelve GI initiatives not only to defend, manage and promote the GI product on the market, but also to act as collaboration platforms to facilitate the exchange of information, technical knowledge and good practices among local stakeholders. Unlike in France where collective action dynamics often preceded the creation of producers' associations, and where the elaboration of the rules governing the products involved collaboration among local stakeholders in both systems of protection, in Vietnam external experts have emerged as key players in such processes.

Looking at the use of GIs on the market, Chapter 5 confirms that GI initiatives encourage collaboration among local stakeholders to sustain the collective reputation attached to the

product and increase its market value. The analysis of my case studies has particularly emphasised the need for collaboration within GI collectives to implement costly collective communication and promotion activities, and increase material, human and organisational capacities to pursue new business opportunities such as with bouchot mussels from Mont-St-Michel Bay and Pélardon cheese. This is particularly advantageous to small producers. From that perspective, collaboration allows local actors to pool resources towards common goals that they would not be able to meet individually.

Finally, the assumption that collaboration among local stakeholders within GI collectives contributes to generate spillover effects outside the market could be verified in Chapter 7 for all six initiatives for which the GI label is used in the marketplace. Some important spillover effects found in all six GI initiatives are the structuring of the value chain and the development of the technical skills and know-how of local stakeholders through the exchange of good practices. Knowledge-sharing and innovation diffusion processes, which have been recognised as one of the most important functions of GI collectives, further contribute to the empowerment of local actors. Equally important, the collective implementation and observance of the formal rules governing the GI product was clearly identified as a powerful tool to drive the effects of the initiatives. Examples were given of how compliance with such rules may impact on job creation, preservation of traditional practices and biodiversity conservation.

(iv) The relevance of legal protection

My last hypothesis challenges the very usefulness of legal protection. It posits that legal protection of GIs is irrelevant in some circumstances, typically when local producers have no space to participate meaningfully in the initiatives or find no reason to use the GIs.

Chapter 6 has documented and discussed compelling stories that show little, adverse or non-use of GI labels across both *sui generis* and trade mark initiatives in each country. I argue that reasons for ‘GI failures’ are to be found in the limited space provided to local stakeholders and in the specific environment of each initiative.

The study of the French and Vietnamese legal frameworks for the protection of GIs in Chapters 2 and 3 is useful to understand the respective roles of the state and local stakeholders in the registration process, the management of the initiatives, and the use of GIs in each country. How

does GI law affect the actions of local actors and shape the processes for their involvement in the GI initiatives? In short: immensely. As I have argued, in France, local actors strategically initiate the protection process, actively negotiate the rules governing the product and manage the initiatives in a participatory manner which contributes to their empowerment. In Vietnam, where there is strong state intervention in agricultural matters, local actors are usually integrated passively within initiatives designed by external consultants and managed by state authorities. As I have shown, the contrasting roles of local actors in each context are the consequence of the law and translate a bottom-up or top-down approach to GIs.

These approaches provide different advantages and disadvantages in each specific context, which I discussed earlier. The French system can lead to long and complex negotiations that may result in the adoption of low quality standards, while the Vietnamese top-down approach can be useful to accelerate the registration process in a country where there is little awareness about the GI concept and where local stakeholders lack organisational capacities.

However, one common pitfall of top-down processes is the little space, if at all, left to local stakeholders to contribute to the decision-making processes in a meaningful way and take ownership of the GI collectives. In Vietnam, with some exceptions, the top-down approach to GIs has generally translated in very little understanding, adhesion and commitment of local actors. Some producers of star anise from Lạng Sơn reported not knowing the CoP or the GI logo itself. In the initiatives of sticky rice from Đông Triều and vermicelli from Bình Liêu, some farmers are not aware of the existence of the association or of their own membership. As a result, there is very low use of the GI labels, if at all, in most Vietnamese GI initiatives established under both protection systems.

If the way in which law shapes the role of local actors is a significant factor accounting for the failure of the initiatives to promote the use of the origin labels, it is not the only factor involved. As the analysis of the case studies in Chapter 6 demonstrates, we need to consider how the specific institutional and socio-economic contexts in which the initiatives are established, affect the producers' ability and interest in using the origin labels. Modernisation of ways of life, changes in consumer tastes, prohibitive selling prices, lack of economic incentives and long marketing channels have all emerged as factors impacting negatively on the use and value of origin labels. Conical hats from Huế are no longer worn by Vietnamese people and tourists do not know and do not ask for the genuine product. French consumers use coloured and

perfumed soaps rather than the traditional and more expensive cube of green Marseille soap. In Đông Triều, potters are sub-contracted by multinational companies to produce modern products at the expense of the traditional heavy pottery. In the same district, rice farmers sell their production in bulk to wholesalers because they gain no economic advantage in selling it to the trade mark association. Poor farmers in Cao Bằng get higher profits from selling live calves to Chinese traders while Chinese and Indian importers exert pressure on Vietnamese traders to not use the GI label on star anise from Lạng Sơn.

These stories demonstrate the need to look closely at the interests and priorities of local producers. In seeking to understand why producers do not engage with GI initiatives, this study establishes that the economic and non-economic values of GIs are contingent on time, place, personal and community needs and priorities. In doing so, it engages with socio-legal and anthropological perspectives on IP and questions the place and mere relevance of GI protection in specific environments.

Final comments

I want to finish this thesis by identifying avenues for reflection on how we can do better. I do not believe there is one single perfect formula or one ideal approach to GIs, yet there are surely matters we should be aware of. I want to briefly highlight five issues which I believe are worth considering.

First, I argue that attention should be paid to the supply chain coordination and management and to the participation of all relevant stakeholders in decision-making processes within the GI collectives. In this regard, the structure of collective organisations with strong institutional mechanisms and governance systems is key. If top-down approaches are useful to drive the registration process and support the establishment of initiatives in countries where the concept of GI is still very new, they should seek to involve stakeholders as early as possible – and well before the post-registration phase. This is essential to ensure their full adhesion to the initiatives, promote their cooperation, and develop a sense of fairness and belonging.

This observation leads me to consider the role of the state and non-state actors in fostering the interest, awareness and empowerment of local stakeholders, including by increasing common understanding of the concept of GIs, providing training on leadership and negotiation skills,

designing representative, independent and efficient organisations, and building trust in the institutions. Here, I want to stress the importance of informal practices and soft law, including guidelines, manuals, handbooks of good practices, that can be informed by empirical work and which can usefully complement formal law to create an enabling institutional environment.

This leads to my third comment on the multiple dimensions of GIs. We need to develop a critical awareness of the complex interactions between GIs and economic, social, political, cultural and environmental issues while considering the characteristics of each specific context. Considering these interactions and the possible synergies between GIs and other sectors, I argue that, rather than being seen in isolation, GIs should be part of a comprehensive, holistic and coherent context-specific territorial development strategy that would foster mutually-reinforcing territorial effects and be customised to the peculiar needs, challenges and priorities of the communities concerned.

Following from the above consideration and as I have argued in different parts of my thesis, the range of potential impacts of GIs, both economic and non-economic, makes it particularly relevant to consider adopting a complementary approach to, and seek convergence among, different certifications. I argue that further research is needed on the use of various certification schemes addressing provenance, quality, tradition, fair trade, and organic farming to determine the costs incurred and the possible mutually-reinforcing processes derived from their use in the marketplace.

Finally, although there is increasing knowledge on the effects of origin labelling, I argue that we are still at the beginning of the process of understanding GIs and that we need to do more fieldwork to develop empirically-grounded theory and sustainable practices. Much of the current research, including my own project, is limited in the absence of more and better data. We need to come to grips with the empirical richness of GIs by examining how the initiatives are built, how they operate and what effects they contribute to deliver.

Bibliography

Books

- Acuña-Alfaro J. (ed.), *Reforming public administration in Vietnam, Current situations and recommendations* (UNDP, The National Political Publishing House, 2009)
- Barham E. and Sylvander, B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011)
- Boulangier P., *Le savon de Marseille* (Equinoxe, 2013)
- Bouvel A., *Principe de spécialité et signes distinctifs* (Litec, 2004)
- Bowen S., *Divided Spirits: Tequila, Mezcal, and the Politics of Production* (University of California Press, 2015)
- Bramley C., Biénabe E. and Kirsten J.F. (eds.), *Developing geographical indications in the South: The Southern African experience* (Springer, 2013)
- Brown J. and Duguid P., *The Social Life of Information* (HBS Press, 2000)
- Bryman A., *Research Methods and Organization Studies* (Unwin Hyman, 1989)
- — *Social research methods* (OUP, 2004)
- Calboli I. and Ng-Loy W.-L. (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture in the Asia-Pacific* (CUP, 2017)
- Correa C., *Trade Related Aspects of Intellectual Property Rights. A Commentary on the TRIPS Agreement* (OUP, 2007)
- Delacotte P. and Cornu B., *Les hommes de la Baie – Mont Saint-Michel* (Ouest & Compagnie, 2011)
- De Roest K., *The production of Parmigiano-Reggiano cheese, The force of an artisanal system in an industrialised world* (Van Gotcum, 2000)
- Drahos P. (ed.), *Regulatory Theory, Foundations and Applications* (ANU Press, 2017).
- European Commission, *The EU Rural Development Policy 2007-2013* (European Commission, Fact Sheet, 2006) <https://ec.europa.eu/agriculture/publi/fact/rurdev2007/2007_en.pdf> accessed 25/07/2018
- Flick U., Kardorff E. and Steinke I., *A companion to qualitative research* (SAGE Publications, 2005)
- Gangjee D., *Relocating the Law of Geographical Indications* (CUP, 2012)

— — *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016)

Gibson W. J. and Brown A., *Working with qualitative data* (SAGE, 2009)

Giovannucci D., Josling T., Kerr W., O'Connor B. and Yeung M.T., *Guide to Geographical Indications: Linking Products and Their Origins* (International Trade Centre, 2009)

Goodman D. and Redclift M., *Refashioning nature: Food, ecology and culture* (Routledge, 1991)

— — and Dupuis E.M. and Goodman M.K., *Alternative food networks: knowledge, practice and politics* (Routledge, 2012)

Heath C. and Kamperman Sanders A. (eds.), *New Frontiers of Intellectual Property Law: IP and Cultural Heritage - Geographical Indications - Enforcement – Overprotection* (Oxford Hart Publishing, 2005)

Kolleen G., *When champagne became French* (The Johns Hopkins University Press, 2003)

Landes W. and Posner R., *The Economic Structure of Intellectual Property Law* (The Belknap Press of Harvard University Press, 2003)

Lecoent A., Vandecandelaere E. and Cadilhon J.J. (eds.), 'Quality linked to geographical origin and geographical indications: lessons learned from six case studies in Asia' (FAO Regional Office for Asia and the Pacific, RAP Publications, 2010)

MacAulay T.G., Marsh S.P. and Van Hung P. (eds.), *Agricultural Development and Land Policy in Vietnam* (Australian Centre for International Agricultural Research, Monograph 126, 2007)

May S., Sidali K.L., Spiller A. and Tschofenand B. (eds.), *Taste – Power – Tradition. Geographical Indications as Cultural Property* (Göttingen Studies in Cultural Property, Universitätsverlag Göttingen, 2017)

Murray L.J., Piper S.T. and Robertson K., *Putting Intellectual Property in Its Place: Rights Discourses, Creative Labor, and the Everyday*, (OUP, 2014)

O'Connor B., *The Law of Geographic Indications* (Cameron May, 2004)

Olszak N., *Le droit des appellations d'origine et des indications de provenance* (Tec&Doc, Paris, 2001)

Ostrom E., *Governing the Commons: The Evolution of Institutions for Collective Action* (CUP, 1990)

Patton M., *Qualitative evaluation and research methods* (SAGE, 1990)

Perri 6 and Bellamy C., *Principles of methodology: research design in social science* (SAGE, 2012)

Pollaud-Dulian F., *La propriété industrielle* (Economica, 2011)

Rautenberg M., Micoud A., Bérard L. and Marchenay P., *Campagnes de Tous Nos Désirs: Patrimoines et Nouveaux Usages Sociaux* (Maison des Sciences de l'Homme 2000)

Sen A., *Development as Freedom* (OUP, 1999)

Sylvander B., Barjolle D. and Arfini F. (eds.), *The socio-economics of origin labelled products in agrifood supply chains: spatial, institutional and co-ordination aspects* (INRA, Actes et Communications 17(1), 2000)

Tirole J., *The Theory of Industrial Organization* (MIT Press, 1988)

Trebilcock M.J. and Daniels R.J., *Rule of Law Reform and Development: Charting the Fragile Path of Progress* (Edward Elgar, 2008)

UNCTAD-ICTSD, *Resource Handbook on TRIPS and Development* (CUP, 2005)

Van Caenegem W. and Cleary J. (eds.), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice No. 58, 2017)

Watal J., *Intellectual Property Rights in the WTO and Developing Countries* (Kluwer Law International, 2001)

Weiss E.A., *Spice Crops* (CABI Publishing, 2002)

World Bank, *Global Economic Prospects and the Developing Countries 2002: Making Trade Work for the Poor* (World Bank, 2002)

Yin R. K., *Case study research: design and methods* (Sage Publications, 2003)

Zografos D., *Intellectual Property and Traditional Cultural Expressions* (Edward Elgar, 2010)

Book contributions

Allaire G. and Sylvander B., 'Globalization and Geographical Indications', in Barham E. and Sylvander B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 106

— — and Sylvander B., Casabianca F. and Thevenod-Mottet E., 'The geographical origin, a complex feature for agro-food products' in Barham E. and Sylvander B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 1

Barham E., "'Translating Terroir' Revisited: The Global Challenge of French AOC Labelling" in Gangjee D. (ed.), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 46

Barjolle D., 'Geographical Indications and Protected Designations of Origin: Intellectual Property Tools for Rural Development Objectives' in Gangjee D. (ed.), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar Publishing, 2016) 440

— — and Sylvander B. and Thévenod-Mottet E., 'Public policies and Geographical Indications' in Barham E. and Sylvander B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 92

Belletti G., 'Origin labelled products, reputation, and heterogeneity of firms' in Sylvander B., Barjolle D. and Arfini F. (eds.), *The socio-economics of origin labelled products in agrifood supply chains: spatial, institutional and co-ordination aspects* (INRA, Actes et Communications 17(1), 2000) 239

— — and Marescotti A., 'Origin products, geographical indications and rural development' Barham E. and Sylvander B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 75

Bérard L., 'Terroir and the Sense of Place' in D. Gangjee (ed.), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 72

— — and Marchenay P., 'Tradition, regulation and intellectual property: local agricultural products and foodstuffs in France', in S.B. Brush and D. Stabinsky (eds.), *Valuing Local Knowledge: Indigenous Peoples and Intellectual Property Rights* (Island Press, 1996) 230

Biénabe E., Kirsten J.F. and Bramley C., 'Collective action dynamics and product reputation' in Bramley C., Biénabe E. and Kirsten J.F. (eds.), *Developing geographical indications in the South: The Southern African experience* (Springer, 2013) 51

Boisvert V. and Caron A., 'Valorisation économique des ressources et nouveaux marchés' in Aubertin C., Pinton F. and Boisvert V. (eds.), *Les marchés de la biodiversité* (IRD éditions, Paris, 2007) 195

Bortolotto C., 'Globalizing Intangible Cultural Heritage? Between International Arenas and Local Appropriations' in Labadi S. and Long C. (eds.), *Heritage and Globalization* (Routledge 2010) 97

Bramley C., Biénabe E. and Kirsten J., 'The economics of geographical indications: towards a conceptual framework for geographical indication research in developing countries' in *The Economics of Intellectual Property: Suggestions for Further Research in Developing Countries and Countries with Economies in Transition* (WIPO, 2009) 109

— — and Marie-Vivien D. and Biénabe E., 'Considerations in designing an appropriate legal framework for GIs in southern countries' in Bramley C., Biénabe E. and Kirsten J.F. (eds.), *Developing geographical indications in the South: The Southern African experience* (Springer, 2013) 15

Chiffolleau Y., 'Les circuits courts de commercialisation en agriculture: diversité et enjeux pour le développement durable' in Maréchal G. (ed.), *Les circuits courts alimentaires* (Educagri, 2008) 21

Cleary J. and Van Caenegem W., 'Mitigating One-Size-Fits-All' Approaches to Australian Agriculture: Is There a Case to be Made for Geographical Indications?' in Van Caenegem W. and Cleary J. (eds.), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice No. 58, 2017) 111

Coombe R.J., Ives S. and Huizenga D., 'Geographical Indications: The Promise, Perils and Politics of Protecting Place-Based Products' in David M. and Halbert D. (eds.), *The SAGE Handbook of Intellectual Property* (SAGE Publications, 2014) 207

— — and Malik S., 'Rethinking the Work of Geographical Indications in Asia: Addressing Hidden Geographies of Gendered Labor' in Calboli I. and Ng-Loy W. (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (CUP, 2017) 87

Crosnier C. and Granger C., 'Le parc national des Cévennes, la population à l'épreuve de la gestion des milieux ouverts' in Picouet M., Sghaier M., Genin D., Abaab A., Guillaume H. and Elloumi M. (eds.), *Environnement et sociétés rurales en mutation: approches alternatives* (IRD Editions, 2004)

De Roest K., 'The dynamics of the Parmigiano-Reggiano production system' in Sylvander B., Barjolle D. and Arfini F. (eds.), *The socio-economics of origin labelled products in agrifood supply chains: spatial, institutional and co-ordination aspects* (INRA, Actes et Communications 17(1), 2000) 272

Derruppe J., 'Appellations d'origine, indications de provenance' in *Répertoire de Droit international* (dir.), Encyclopédie Dalloz

de Sainte Marie C. and Bérard L., 'Taking Local Knowledge into Account in the AOC System' in Bérard L., Cegarra M., Djama M., Louafi S., Marchenay P., Roussel B. and Verdeaux F. (eds.), *Biodiversity and Local Ecological Knowledge in France* (INRA/CIRAD, 2005)

Gangjee D., 'Geographical Indications and Cultural Rights: The Intangible Cultural Heritage Connection?' in Geiger C. (ed.), *Research Handbook on Human Rights and Intellectual Property* (Edward Elgar 2015) 544

— — 'Genericide: the death of a Geographical Indication?' in Gangjee D. (ed.) *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016)

— — 'From Geography to History: Geographical Indications and the Reputational Link' in Calboli I. and Ng-Loy W.-L. (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture in the Asia-Pacific* (CUP, 2017) 36

Gervais D., 'A Cognac after Spanish Champagne? Geographical Indications as Certification Marks' in Ginsburg J. C. and Dreyfuss R. (eds.), *Intellectual Property at the Edge* (CUP, 2014) 130

— — and Slider M., 'The Geneva Act of the Lisbon Agreement: Controversial Negotiations and Controversial Results' in Van Caenegem W. and Cleary J. (eds.), *The Importance of Place:*

Geographical Indications as a Tool for Local and Regional Development (Springer - Ius Gentium, Comparative Perspectives on Law and Justice n°58, 2017) 15

Gerz A. and Dupont F., 'Comté Cheese in France: Impact of a Geographical Indication on Rural Development' in van de Kop P., Sautier D. and Gerz A. (eds.), *Origin-Based Products-Lessons for pro-poor market development* (Royal Tropical Institute and CIRAD, 2004) 75

Hermitte M.A., 'Les appellations d'origine dans la genèse des droits de la propriété intellectuelle' in Moity-Maïzi P., de Sainte Marie C., Geslin P., Muchnik J., and Sautier D. (eds.), *Systèmes agroalimentaires localisés, Terroirs, savoir-faire, innovations* (INRA-CIRAD-CNEARC, 2001) 195

Letablier M.T. and Delfosse C., 'Genèse d'une convention de qualité. Cas des appellations d'origine fromagère' in Allaire G. and Boyer R. (eds.), *La Grande Transformation de l'Agriculture* (INRA Economica, 1995)

Lybbert T., 'Commercialising Argan Oil in Southwestern Morocco: Pitfalls on the Pathway to Sustainable Development', in Pagiola S., Bishop J. and Wunder S. (eds.), *Buying Biodiversity: Financing Conservation for Sustainable Development* (World Bank, 2002)

McClintock A., 'Soft-soaping Empire – Commodity racism and imperial advertising' in Mirzoeff N. (ed.) *The Visual Culture Reader* (Routledge, 1999) 506

Marie-Vivien D., 'A comparative analysis of GIs for handicrafts: the link to origin in culture as well as nature?' in Gangjee D. (ed.), *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar, 2016) 292

— — 'Do Geographical Indications for Handicraft Deserve a Special Regime? Insights from Worldwide Law and Practice' in Van Caenegem W. and Cleary J. (eds.), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice n. 58, 2017)

— — 'The protection of Geographical Indications in Vietnam', draft chapter in Calboli I. (ed.), *The protection of Geographical Indications in ASEAN* (expected, publisher unknown)

North D.C., 'The New Institutional Economics and Third World Development' in Harriss J., Hunter J. and Lewis C.M. (eds.), *The New Institutional Economics and Third World Development* (Routledge, 1995)

Olszak N., 'Marques et indications géographiques' in Geiger C. and Schmidt-Szalewski J. (eds.), *Les défis du droit des marques au XXIe siècle: Actes du colloque en l'honneur du Professeur Yves Reboul* (Lexis Nexis, 2011)

Pick B., Marie-Vivien D. and Bui Kim D., 'The Use of Geographical Indications in Vietnam: A Tool for Socio-Economic Development?' in Calboli I. and Ng-Loy W.L. (eds.) *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (CUP, 2017) 305

Réviron S. and Chappuis J.-M., 'Geographical Indications: Collective Organization and Management' in Barham E. and Sylvander B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 45

S. Sabot, 'Une AOC nuit-elle à la biodiversité?' in *Avenir Agricole de l'Ardèche* (Privas, 2000)

Sautier G., Biénabe E. and Cerdan C., 'Geographical Indications in Developing Countries' in Barham E. and Sylvander B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 138

Stiglitz J.E., 'Imperfect Information in the Product Market', in Schmalensee R. and Willig R.D. (eds.), *Handbook of Industrial Organization* (Elsevier Science Publishers, 1989)

Teil G. 'Protecting Appellations of Origin: One Hundred Years of Efforts and Debates' in Van Caenegem W. and Cleary J. (eds), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development* (Springer - Ius Gentium, Comparative Perspectives on Law and Justice No. 58, 2017)

Thévenod-Mottet E., 'Geographical Indications and Biodiversity', in Lockie S. and Carpenter D. (eds), *Agriculture, Biodiversity and Markets* (Earthscan, 2001) 201

— — and Marie-Vivien D., 'Legal Debates Surrounding Geographical Indications' in Barham E. and Sylvander B. (eds.), *Labels of Origin for Food: Local Development, Global Recognition* (CAB International, 2011) 13

Vivas-Eugui V. and Spennemann C., 'The Treatment of Geographical Indications in Recent Regional and Bilateral Free Trade Agreements' in Pugatch M. P. (ed.), *The Intellectual Property Debate: Perspectives from Law, Economics and Political Economy* (Edward Elgar, Cheltenham, 2006)

Zalio P.-P., 'Le "savon de Marseille", Contribution à une sociologie économique des produits' in Stanziani A. (ed.) *La qualité des produits en France (XVIIIe-XXe siècles)* (Belin, 2003)

Articles

Addor F. and Grazioli A., 'Geographical Indications beyond Wines and Spirits: A Roadmap for a Better Protection for Geographical Indications in the WTO/TRIPS Agreement' (2002) 5 *Journal of World Intellectual Property* 865

Agdomar M., 'Removing the Greek From Feta and Adding Korbel to Champagne: The Paradox of Geographical Indications in International Law' (2008) 18 *Fordham Intellectual Property, Media & Entertainment Law Journal* 541

Allaire G., 'Applying economic sociology to understand the meaning of "Quality" in food markets' (2010) 41(1) *Agricultural Economics* 167

Bao J., Bachani A.M., Viet C.P., Quang La N., Nguyen N. and Hyder A.A., 'Trends in motorcycle helmet use in Vietnam: results from a four-year study' (2017) 144 *Public Health* 39

- Barham E., 'Translating terroir: the global challenge of French AOC labeling' (2003) 19 *Journal of Rural Studies* 127
- Barjolle D. and Philippe J., 'Raising Rivals' Costs Strategy and Localised Agro-Food Systems in Europe' (2012) 3(1) *International Journal of Food System Dynamics* 11
- — and Révillon S. and Sylvander B., 'Création et distribution de valeur économique dans les filières de fromages AOP' (2007) 29 *Economie et Sociétés* 1507
- — and Sylvander B., 'Some factors of success for 'origin labelled products' in agri-food supply chains in Europe: market, internal resources and institutions' (2002) 36(9-10) *Economies et sociétés* 1441
- Beebe B., 'Search and Persuasion in Trademark Law' (2005) 103 *Michigan Law Review* 2020
- Belletti G., Marescotti A. and Touzard J-M, 'Geographical Indications, Public Goods, and Sustainable Development: The Roles of Actors' Strategies and Public Policies' (2017) 98(C) *World Development* 45
- Bérard L. and Marchenay P., 'Lieux, temps, et preuves: la construction sociale des produits de terroir' (1995) 24 *Terrain* 153
- Beresford L., 'Geographical Indications: The Current Landscape' (2007) 17 *Fordham Intellectual Property, Media & Entertainment Law Journal* 979
- Biénabe E., Leclercq M. and Moity-Maizi P., 'Le rooibos d'Afrique du Sud: comment la biodiversité s'invite dans la construction d'une indication géographique' (2009) 50 *Autrepart* 117
- — and Marie-Vivien D., 'Institutionalizing Geographical Indications in Southern Countries: Lessons Learned from Basmati and Rooibos' (2017) 98(C) *World Development* 58
- Blakeney M., 'Proposal for the International Regulation of Geographical Indications' (2001) 4 *Journal of World Intellectual Property* 629
- Bowen S., 'The importance of place, re-territorialising embeddedness' (2011) 51(4) *Sociologia Ruralis* 325
- Bowen S. and Zapata A., 'Geographical indications, terroir, and socioeconomic and ecological sustainability: The case of tequila' (2009) (25)1 *Journal of Rural Studies* 108
- Bramley C. and Biénabe E., 'Developments and considerations around geographical indications in the developing world' (2012) 2(1) *Queen Mary Journal of Intellectual Property* 14
- — and Kirsten J.F., 'Exploring the Economic Rationale for Protecting Geographical Indicators in Agriculture' (2007) 46 *Agrekon* 69

Broude T., 'Taking "Trade and Culture" Seriously: Geographical Indications and Cultural Protection in WTO Law' (2005) 26 *University of Pennsylvania Journal of International Law* 623

Bui N.H. and Duc T.N., 'Le développement de l'agriculture vietnamienne au cours des 15 dernières années' (2002) 3(2) *Vertigo – la revue électronique en sciences de l'environnement*, <<https://journals.openedition.org/vertigo/3738>> accessed 20/08/2018

Cañada J. S. and Vazquez A.M., 'Quality certification, institutions and innovation in local agro-food systems: Protected designations of origin of olive oil in Spain' (2005) 21 *Journal of Rural Studies* 475

Casabianca F., Sylvander B., Noël Y., Béranger C., Coulon J.-B., Giraud G., Flutet G., Roncin F. and Vincent É., 'Terroir et typicité: propositions de définitions pour deux notions essentielles à l'appréhension des indications et du développement durable' (2006) 2 *Terroirs viticoles, Actes du VIe Congrès International des Terroirs Viticoles* 544

Chabrol D., Mariani M. and Sautier D., 'Establishing Geographical Indications without State Involvement? Learning from Case Studies in Central and West Africa' (2017) 98(C) *World Development* 68

Chatellier V. and Delattre F., 'La production laitière dans les montagnes françaises: une dynamique particulière pour les Alpes du Nord' (2003) 16(1) *INRA Productions Animales* 61

Conrad A., 'The protection of geographical indications in the TRIPs Agreement' (1996) 86 (1) *The Trademark Reporter* 11

Coombe R.J., Schnoor S. and Ahmed M. 'Bearing Cultural Distinction: Informational Capitalism and New Expectations for Intellectual Property' (2007) 40 *University of California-Davis Law Review* 891

Cortes Martin J. M., 'TRIPs Agreement: Towards a Better Protection of Geographical Indications?' (2004) 30 (1) *Brooklyn Journal of International Law* 117

— — 'The WTO TRIPs Agreement – The Battle between the Old and the New World over the Protection of Geographical Indications' (2004) 7 *Journal of World Intellectual Property* 287

Crespi J. and Marette S., 'Some Economic Implications of Public Labeling' (2003) 34(3) *Journal of Food Distribution Research* 83

Das K., 'International Protection of India's Geographical Indications with Special Reference to 'Darjeeling' Tea' (2006) 9 (5) *Journal of World Intellectual Property* 459

— — 'Socio-economic implications of protecting geographical indications in India' (2009) *Centre for WTO Studies*
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1587352> accessed 03/09/2018

Dedieu B., 'Exode rural et mutations des systèmes de production ovins en Cévennes' (1984) 162 *Economie Rurale* 14

- De Koninck R., 'Les agricultures du Sud-Est asiatique: interrogations sur l'avenir d'un nouveau modèle de développement' (2004) 4 *L'Espace géographique* 301
- Dentoni D., Menozzi D. and Capelli M.G., 'Group Heterogeneity and Cooperation on the Geographical Indication Regulations: The Case of the Prosciutto di Parma Consortium' (2012) *Food Policy* 207
- Dung Cao X. and Tran T.D., 'Transition et ouverture économique au Vietnam: une différenciation sectorielle' (2005) 4 (104) *Economie Internationale* 27
- Durand C. and Fournier S., 'Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies' (2017) 98(C) *World Development* 93
- Esperanza J. S., 'Outsourcing otherness: crafting and marketing culture in the global handicrafts market' (2008) 28 *Research in Economic Anthropology* 71
- Gale F., 'Direct farm marketing as a rural development tool' (1997) 12(2) *Rural Development Perspectives* 19
- Galtier F., Belletti G. and Marescotti A., 'Factors Constraining Building Effective and Fair Geographical Indications for Coffee: Insights from a Dominican case study' (2013) 31(5) *Development Policy Review* 597
- Gangjee D., 'Melton Mowbray and the GI Pie in the Sky: Exploring Cartographies of Protection' (2006) 3(291) *Intellectual Property Quarterly* 291
- — 'Geographical Indications and Cultural Heritage' (2012) 1(4) *The WIPO Journal* 85
- — 'Proving Provenance? Geographical Indications Certification and its Ambiguities' (2015) 98(C) *World Development* 12
- Gasson R., Crow G., Errington A., Hutson J., Marsden A. and Winter D.M., 'The farm as a family business: A review' (1988) 39 *Journal of Agricultural Economics* 1
- Goldman A., 'Outreach of Consumers and the Modernization of Urban Food Retailing in Developing Countries' (1974) 38(4) *Journal of Marketing* 8
- Goodman D., 'Rural Europe Redux? Reflections on Alternative Agro-Food Networks and Paradigm Change' 2004 (44)1 *Sociologia Ruralis* 3
- Gough K. V. and Rigg J., 'Reterritorialising rural handicrafts in Thailand and Vietnam: a view from the margins of the miracle' (2012) 44 *Environment and Planning A* 169
- Granovetter M., 'Economic action and social structure: the problem of embeddedness' (1985) 91(3) *American Journal of Sociology* 481
- Grote U., 'Environmental Labeling, Protected Geographical Indications and the Interests of Developing Countries' (2009) 10(1) *The Estey Centre Journal of International Law and Trade Policy* 94

Gunningham N. and Sinclair D., 'Regulatory pluralism: Designing environmental policy mixes for environmental protection' (1999) 21 *Law & Policy* 49

Hung D.V., Stevenson M.R. and Ivers R.Q., 'Prevalence of helmet use among motorcycle riders in Vietnam' (2006) 12(6) *Injury Prevention* 409

Ilbery B. and Kneafsey M., 'Registering Regional Speciality Food and Drink Products in the United Kingdom: The Case of PDOs and PGIs' (2000) 32(3) *Area* 317

Josling T., 'The War on Terroir: Geographical Indications as a Transatlantic Trade Conflict' (2006) 57 *Journal of Agricultural Economics* 337

Kamperman Sanders A., 'Incentives for Protection of Cultural Expression: Art, Trade and Geographical Indications' (2010) 13 *Journal of World Intellectual Property* 81

Kerr W., 'Enjoying a Good Port with a Clear Conscience: Geographical indicators, rent seeking and development' (2006) 7(1) *The Estey Centre Journal of International Law and Trade Policy* 8

Kolady D.E., Lesser W.H. and Ye C., 'The Economic Effects of Geographical Indications on Developing Country Producers: A Comparison of Darjeeling and Oolong Teas' (2011) 2(2) *The WIPO Journal* 157

Kumar N., 'The revolution in retailing: From market driven to market driving' (1997) 30(6) *Long Range Planning* 830

Le Goffic C., 'L'appellation d'origine, reconnaissance juridique du concept géographique de terroir' (2007) 358(37) *Revue de droit rural* 32

McBride W.D., 'GI Joe? Coffee, location, and regulatory accountability' (2010) 85(6) *New York University Law Review* 2138

Macmillan F., 'The Protection of Cultural Heritage: Common Heritage of Humankind, National Cultural "Patrimony" or Private Property?' (2013) 64(3) *Northern Ireland Legal Quarterly* 351

Marescotti A. and Belletti G., 'Differentiation strategies in coffee global value chains through reference to territorial origin in Latin American countries' (2016) 5(1) *Culture & History Digital Journal* 1

Marette S., 'Can Foreign Producers Benefit from Geographical Indications under the New European Regulation?' (2009) 10(1) *Estey Centre Journal of International Law and Trade Policy* 70

Marie-Vivien D. and Biénabe, E., 'The multifaceted role of the state in the protection of geographical indications: A worldwide review' (2017) 98(C) *World Development* 1

Marie-Vivien D., 'From Plant Variety Definition to Geographical Indication Protection: A Search for the Link Between Basmati Rice and India/Pakistan' (2008) 11(4) *Journal of World Intellectual Property* 321

Marie-Vivien D., Bérard L., Boutonnet J.-P. and Casabianca F., 'Are French Geographical Indications Losing Their Soul? Analyzing Recent Developments in the Governance of the Link to the Origin in France' (2017) 98(C) *World Development* 25

Marie-Vivien D., 'The Role of the State in the Protection of Geographical Indications: From Disengagement in France/Europe to Significant Involvement in India' (2010) 13 *Journal of World Intellectual Property* 121

Marsden T.K., 'New rural territories: regulating the differentiated rural spaces' (1998) 14(1) *Journal of Rural Studies* 107

Marsden T.K., Banks, J. and Bristow, G., 'Food supply chain approaches: exploring their role in rural development' (2000) 40(4) *Sociologia Ruralis* 424

Merges R.P., 'From Medieval Guilds to Open Source Software: Informal Norms, Appropriability Institutions, and Innovation' (2004) SSRN <<http://ssrn.com/abstract=661543>> accessed 17/08/2018

Moran W., 'Rural Space as Intellectual Property' (1993) 12(3) *Political Geography* 263

Morgan K., 'The Exaggerated Death of Geography: Learning, Proximity and Territorial Innovation Systems' (2004) 4 *Journal of Economic Geography* 3

Moustier P., 'Short urban food chains in developing countries: signs of the past or of the future?' (2017) 1(25) *Natures, Sciences, Sociétés* 7

Nelson P., 'Information and Consumer Behaviour' (1970) 78 *Journal of Political Economy* 311

Olszak N., 'Actualité du droit des signes d'origine et de qualité (indications géographiques, labels)' (2007) 9 *Propriété industrielle* 6

Parasecoli F., 'The Gender of Geographical Indications: Women, Place, and the Marketing of Identities' (2010) 10(6) *Cultural Studies/Critical Methodologies* 467

Phuong Le N., 'Commodity Chain of Woodcarvings: Global Impacts and Local Responses: A Case Study in Traditional Craft Village, Red River Delta, Vietnam' (2008) 2(2) *Chiang Mai University Journal of Soc. Sci. and Human.* 5

Prado M.M., 'What is Law and Development?' (2010) 11(1) *Revista Argentina de Teoria Juridica* 13

Quiñones-Ruiz X.F., Penker M., Vogl C.R. and Samper-Gartner L.F., 'Can Origin Labels Reshape Relationships Along International Supply Chains? The Case of Café de Colombia' (2015) 9 *International Journal of the Commons* 416

— — and Penker M., Belletti G., Marescotti A. and Scaramuzzi S., 'Why early collective action pays off: evidence from setting Protected Geographical Indications' (2016) *Renewable Agriculture and Food Systems* 179

— — and Penker M., Belletti G., Marescotti A., Scaramuzzi S., Barzini E., Pircher M., Leitgeb F., Samper-Gartner L.F., 'Insights into the black box of collective efforts for the registration of Geographical Indications' (2016) 57 Land Use Policy 103

Rangnekar D., 'The Challenge of Intellectual Property Rights and Social Justice' (2011) 54(2) Development 212

Raustiala K. and Munzer S.R., 'The Global Struggle over Geographical Indications' (2007) 18 European Journal of International Law 337

Raustiala K. and Sprigman C., 'The Piracy Paradox: Innovation and Intellectual Property in Fashion Design' (2006) 92 Virginia Law Review 1687

Raynolds L.T., 'Re-embedding global agriculture: The international organic and fair trade movements' (2000) 17(3) Agriculture and Human Values 297

— — 'Mainstreaming Fair Trade Coffee: From Partnership to Traceability' (2009) 37(6) World Development 1083

Renting H., Marsden T.K. and Banks J., 'Understanding alternative food networks: exploring the role of short food supply chains in rural development' (2003) 35 Environment and Planning 393

Rosenblatt E., 'A Theory of IP's Negative Space' (2011) 34(3) Columbia Journal of Law & the Arts 338

Russell A.B., 'Using Geographical Indications to Protect Artisanal Works in Developing Countries: Lessons from a Banana Republic's Misnomered Hat' (2010) 19 Transnational Law and Contemporary Problems 705

Scintu M.F. and Piredda G., 'Typicity and biodiversity of goat and sheep milk products' (2007) 68(1-2) Small Ruminant Research 221

Singhal S., 'Geographical Indications and TK' (2008) 11 Journal of Intellectual Property Law and Practice 732

Sonnino R., 'Embeddedness in action: saffron and the making of the local in southern Tuscany' (2007) 24(1) Agriculture and Human Values 61

— — and Marsden T., 'Beyond the divide: rethinking relationships between alternative and conventional food networks in Europe' (2006) 6(2) Journal of Economic Geography 181

Stern S., 'Are GIs IP?' (2007) 29(2) European Intellectual Property Review 39

Sylvander B., Allaire G. and Thévenod-Mottet E., 'Qualité, origine et globalisation: Justifications générales et contextes nationaux, le cas des Indications Géographiques' (2006) XXIX:1 Revue canadienne des sciences régionales 43

Thiedig F. and Sylvander B., 'Welcome to the Club? An Economical Approach to Geographical Indications in the European Union' (2000) 49 Agrarwirtschaft 428

Thirumaran K., Dam M.X and Thirumaran C.M., 'Integrating souvenirs with tourism development: Vietnam's challenges' (2014) 11(1) *Tourism Planning and Development* 57

Torre A., 'Collective action, governance structure and organizational trust in localized systems of production: the case of the AOC organization of small producers' (2006) 18(1) *Entrepreneurship and Regional Development* 55

Tregear A., 'From Stilton to Vimto: using food history to re-think typical products in rural development' (2003) 43(2) *Sociologia Ruralis* 91

Van Caenegem W., 'Registered geographical indications: between intellectual property and rural policy' (2003) Part I: 6 *Journal of World Intellectual Property* 699

Van Caenegem W., 'Registered GIs: Intellectual property agricultural policy and international trade' (2004) *EIPR* 170

van Ittersum K., Meulenbergh M., van Trijp H. and Candel M., 'Consumers' Appreciation of Regional Certification Labels: A Pan-European Study' (2007) 58 *Journal of Agricultural Economics* 1

Wang M.C., 'The Asian Consciousness and the Interest in Geographical Indications' (2006) 96 *The Trademark Reporter* 906

Wilkinson J., Cerdan C. and Dorigon C., 'Geographical Indications and "Origin" Products in Brazil, The Interplay of Institutions and Networks' (2017) 98(C) *World Development* 82

Winfrey J.A., and McCluskey J., 'Collective reputation and quality' (2005) 87 *American Journal of Agricultural Economics* 206

Xuan T. H., Chi Cuong V., Dao T.A., Thi Phuong N. and Hoang Nam D., 'H'mong cattle systems in Ha Quang, Cao Bang Province' (2017) *Journal of Animal Science and Technology* 89

Zylberg P. 'Geographical Indications v. Trademarks: The Lisbon Agreement: A Violation of TRIPs?' (2002-2003) 62(11) *University of Baltimore Intellectual Property Law Journal* 1

Conference papers and proceedings

Aubert M. and Enjolras G., 'Déterminants de la commercialisation en circuits courts : quels exploitants, sur quelles exploitations?' (7th Journées de Recherches en Sciences Sociales SFER-INRA, Angers, France, 12-13 December 2013)

Barjolle, D. and Chappuis J.M., 'Transaction costs and artisanal food products' (Proceedings of the Annual Conference of International Society for New Institutional Economics, Tübingen, Germany, 22-24 September 2000)

Belletti G., Brazzini A. and Marescotti A., 'To use or not to use protected geographical indications? An analysis of firms' strategic behavior in Tuscany' (3rd AIEEA Conference, Alghero, Italy, 25-27 June 2014)

— — and Burgassi T., Manco E., Marescotti A., Pacciani A. and Scaramuzzi S., ‘The Roles of Geographical Indications (PDO/PGI) on the Internationalisation Process of Agro-food products’ (105th EAAE seminar on international marketing and international trade of quality food products, Bologna, Italy, March 2007)

Benkahla A., Boutonnet J. P. and Napoléone M., ‘Proximités et signalisation de la qualité: approches croisées pour l’étude d’une AOC, Le cas du Pélardon’ (4e Journées de la Proximité, Marseille, France, June 2004)

Boutonnet J.P., Napoléone M., Rio M. and Monod F., ‘AOC Pélardon, filière en émergence. Enseignements et questions vives’ (Symposium International *Territoires et enjeux du développement régional*, Résultats de recherches en partenariat avec cinq régions, Lyon, France, 9-11 mars 2005)

Corniaux, C., Baritoux, V., Madelrieux, S., ‘Entre (re-)localisation et globalisation : analyse des stratégies spatiales des laiteries dans six bassins laitiers’ (8èmes Journées de Recherches en Sciences Sociales, Grenoble, France, December 2014)

Dao T.A., Van Tuan T. and Xuan T. H., ‘Value chain development for mountainous areas: Relation between animal breed and territory. The case of H’mong beef in Cao Ban’ (116th EAAE Seminar *Spatial Dynamics in Agri-Food Systems: Implications for Sustainability and Consumer Welfare*, Parma, Italy, October 2010)

Marie-Vivien D., Pick B. and Dao T.A., ‘Geographical Indications and Trademarks in Vietnam: Confusion or Real Difference?’ (International Conference on Agriculture in an Urbanizing Society, Rome, Italy, 14–15 September 2015)

Marie-Vivien D., Sautier D. and Biénabe E., ‘Bilateral agreements for geographical indications: the evaluation ‘of the local by the local’?’ (XXV ESRS Congress, Florence, Italy, August 2013)

Mongruel R., Davaine A. and Thébaud O., ‘Private adaptation to ecological constraints in a rights-based management system: the strategies of mussel growers in the Mont-Saint-Michel Bay (France)’ (Multidisciplinary Scientific Conference on Sustainable Coastal Zone Management Rights and Duties in the Coastal Zone, Stockholm, Sweden, 12-14 June 2003)

Napoléone M. and Boutonnet J.P., ‘L’AOC Pélardon, fédératrice de nouvelles dynamiques individuelles et collectives’ (6th International Livestock Farming System Symposium, Benevento, Italy, 26-29/08/2003)

— — and Boutonnet J.P., ‘AOC Pélardon: du compromis vers l’émergence d’actions collectives. Dynamiques de systèmes de production et des stratégies de commercialisation’ (Séminaire SFER, Les systèmes de production agricoles: performances, évolutions, perspective, Lille, France, 18–19/11/2004)

Pacciani A., Belletti G., Marescotti A. and Scaramuzzi S., ‘The Role of Typical Products in Fostering Rural Development and the Effects of Regulation (EEC) 2081/92’ (73rd Seminar of the European Association of Agricultural Economists, Ancona, Italy, June 28-30 2001)

Paus M. and Révillon S., 'Crystallisation of Collective Action in the Emergence of a Geographical Indication System' (116th Seminar, Parma, Italy, October 2010)

Tran T.T., Figuié M., Sirieix L. and Moustier P., 'Les produits de terroirs vietnamiens: points de vue des consommateurs locaux' (Colloque International *Localiser les produits: une voie durable au service de la diversité naturelle et culturelle de Sud?* Paris, France, 9-11 juin 2009)

Tregear A., Arfini F., Belletti G. and Marescotti A., 'The impact of territorial product qualification processes on the rural development potential of small-scale food productions' (XI World Congress of Rural Sociology, Trondheim, Norway, July 25-30, 2004)

Van Thinh, N., 'Analysis of factors affecting the income of households making GI products: a case study of Hả Long grilled squid - Quang Ninh Province' (Proceedings of the International Conference for Young Researchers in Economics and Business, Da Nang, Vietnam, October 2017)

Theses

Alexandre C., 'Impacts et perspectives de développement de l'indication géographique Orange de Cao Phong' (Master's thesis, Montpellier SupAgro, 2017)

Anvar S.L., 'Semences et Droit: L'emprise d'un modèle économique dominant sur une réglementation sectorielle' (PhD thesis, Université Paris I Panthéon-Sorbonne, Paris, 2008)

Dao D.H., 'Institutions de gestion de la qualité: action collective et apprentissage organisationnel. le cas de l'Indication Géographique (IG) "Nuoc mam de Phu Quôc" au Vietnam' (Master's thesis, Essor: Développement des territoires ruraux, Ecole Nationale Supérieure Agronomique de Toulouse, Université de Toulouse le Mirail et Ecole Nationale de Formation Agronomique, 2011)

Dung T.T., 'Représentation culturelle et souvenir artisanal, Expérience des touristes au centre du Viet Nam' (Master's thesis, Université du Québec à Montréal, 2016)

Durand C., 'L'émergence des indications géographiques dans les processus de qualification territoriale des produits agroalimentaires - Une analyse comparée entre l'Indonésie et le Vietnam' (PhD thesis, Institut national d'études supérieures agronomiques de Montpellier - SupAgro Montpellier, 2016)

Folkesson C., 'Geographical Indications and Rural Development in the EU' (Master's thesis, Lunds University, 2005)

Le Goffic C., 'La protection des indications géographiques en France, dans la Communauté européenne et aux États-Unis' (PhD thesis, Université Pantheon-Assas Paris II, 2009)

Williams R. M., 'Do Geographical Indications Promote Sustainable Rural Development? Two UK Case Studies and Implications for New Zealand Rural Development Policy' (Master thesis, Lincoln University, 2007)

Guides, Policy briefs, Reports and Studies

Ackermann N. and Russo F., ‘Adding value to traditional products of regional origin: A guide to creating a quality consortium’ (UNIDO, 2010)

Areté, ‘Study on Assessing the Added Value of PDO/PGI Products’ (Study commissioned by the European Commission, 2013) <http://ec.europa.eu/agriculture/external-studies/added-value-pdo-pgi_en.htm> accessed 18/07/2018

Augustin S. and Fell D., ‘Wood as a Restorative Material in Healthcare Environments’ (FPIInnovations, February 2015) <<http://www.woodworks.org/wp-content/uploads/Wood-Restorative-Material-Healthcare-Environments.pdf>> accessed 03/08/2018

Barber T. and Krivoshlykova M., ‘Global market assessments for handicrafts’ (USAID, July 2006) <https://pdf.usaid.gov/pdf_docs/PNADN210.pdf> accessed 02/09/2018

Barjolle D., Bernardoni P. and Renard O., ‘Etude du potentiel de la commercialisation des produits agricoles des pays ACP utilisant les indications géographiques et les marques avec origine’ (Study by REDD SA Lausanne, AGRI-2012-EVAL-05, 2013)

Belletti G. and Marescotti A., ‘Link Between Origin Labelled Products and Rural Development’ (Dolphins Final Report, WP3, 2002)

Biénabe E., Bramley C., Kirsten J. and Troskie D., ‘Linking Farmers to Markets through Valorisation of Local Resources: The Case for Intellectual Property Rights of Indigenous Resources’ (IPR DURAS Project Scientific Report, April 2011)

Bois des Alpes and Communes Forestières, ‘Construire en Bois des Alpes, Etapes clés pour insérer une fourniture de bois certifiée “Bois des Alpes” dans la commande publique’ (Guide pratique, 2013) <<http://www.boisdesalpes.net/doc/guide-juridique-boisdesalpes.pdf>> accessed 15/07/2018

Bois des Alpes and Communes Forestières, ‘Réseau des bâtiments pilotes en Bois des Alpes, Compte-rendu des analyses’ (2015) <<http://boisdesalpes.net/blog/wp-content/uploads/2015/05/Analyses-finales.pdf>> (accessed 2 September 2018)

Bramley C., ‘A Review of the Socio-economic Impact of Geographical Indications: Considerations for the Developing World’ (WIPO Worldwide Symposium on Geographical Indications, Lima, Peru, 22–24 June 2011)

The Catholic Organisation for Relief and Development Aid (CORDAID) & the Netherlands Development Organisation (SNV), ‘Leveraging the Spice Sector for Poverty Reduction in Northern Vietnam’ (Star Anise Market Research and Value Chain Analysis, Project Report, February 2013)

Đức Huấn Đ., Đức Chiến Đ., Phúc Giang Đ., Sỹ Đạt N., Thế Bảo P., Văn Ba N., Văn Tuấn T., Kim Đồng B., Thị Minh Huyền H., Marie-Vivien D. and Sautier D., ‘Rapport - Etude des modèles de gestion des indications géographiques du Vietnam’ (NOIP/AFD, 2017)

ESCAP, 'Sustainable agriculture and food security in Asia and the Pacific, economic and social commission for Asia and the Pacific' (United Nations, ESCAP, 2009)
< <http://www.refworld.org/pdfid/49f589db2.pdf>> accessed 15/07/2018

European Commission, 'Why Do Geographical Indications Matter to Us?' (MEMO/03/160, July 2003) <http://europa.eu/rapid/press-release_MEMO-03-160_en.htm> accessed 26/07/2018

— — 'Green paper on agricultural product quality: product standards, farming requirements and quality schemes', COM(2008) 641 final

— — 'Workshops on Geographical Indications - development and use of specific instruments to market origin-based agricultural products, making particular use of GIs in African ACP countries' (European Commission, 2011) <http://ec.europa.eu/agriculture/events/2014/gi-workshops/training-brochure_en.pdf> accessed 30 March 2018

— — 'Europeans' attitudes towards food security, food quality and the countryside' (Report, Special Eurobarometer 389, July 2012)
<http://ec.europa.eu/public_opinion/archives/ebs/ebs_389_en.pdf> accessed 21/08/2018

— — 'Rural Development in the EU, Statistical and Economic Information' (Report, European Union, December 2013)
< https://ec.europa.eu/agriculture/sites/agriculture/files/statistics/rural-development/2013/full-text_en.pdf> accessed 02/09/2018

European Court of Auditors, 'Do the Design and Management of the Geographical Indications Scheme Allow it to be Effective?' (Special Report No 11, Luxembourg, 2011)

FAO and EBRD, 'Strengthening sustainable food systems through geographical indications - An analysis of economic impacts' (FAO Investment Centre, 2018)
<<http://www.fao.org/3/I8737EN/i8737en.pdf>> accessed 18/08/2018

Fforde A., 'Decentralization in Vietnam-working effectively at provincial and local government level. A comparative analysis of long an and Quang Ngai provinces' (Report prepared for the Australian Agency of International Development, 2003)

FranceAgriMer, 'L'image de la moule en France auprès des consommateurs de moules et des professionnels de la filière' (Les Etudes de FranceAgriMer, 2014)

Gerla D., 'Exemple de gestion d'un bassin mytilicole, la Baie du Mont St-Michel' (Rapports Internes de la Direction des Ressources Vivantes de l'IFREMER, 1990)

Hughes, J., 'Coffee and Chocolate: Can We Help Developing Country Farmers through Geographical Indications?' (Report prepared for the International Intellectual Property Institute, 2009)

INAO, 'Guide du demandeur pour la reconnaissance en qualité d'organisme de défense et de gestion' (Janvier 2016)

INAO, 'Guide du demandeur d'une appellation d'origine protégée (AOP) ou d'une indication géographique protégée (IGP) à l'exception des vins, boissons alcoolisées et boissons spiritueuses' (November 2017)

Larson J., 'Relevance of geographical indications and designations of origin for the sustainable use of genetic resources' (Study prepared for the Global Facilitation Unit for Underutilized Species, FAO, 2007)

Larson J., 'Geographical indications, *in situ* conservation and traditional knowledge' (ICTSD Policy Brief, October 2010)

London Economics, 'Evaluation of the CAP Policy on Protected Designations of Origin (PDO) and Protected Geographical Indications (PGI)' (Final Report, 2008)

Moustier P., Dao T.A. and Sacklokh S., 'Linking small-scale farmers to supermarkets and other quality chains' (Final Superchain report)
<https://agritrop.cirad.fr/553967/1/document_553967.pdf> accessed 03/09/2018

NOIP, 'Guide à la construction du projet "Gestion et Développement des IGs"' (NOIP, 2009)

— — 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques collectives utilisées pour les spécialités locales"' (NOIP, 2009)

— — 'Guide à la construction du projet "Etablissement, Gestion et Développement des marques de certification utilisées pour les spécialités locales"' (NOIP, 2009)

OECD, 'Appellations of Origin and Geographical Indications in OECD Member Countries: Economic and Legal Implications' (COM/AGR/APM/TD/WP(2000)15/FINAL)

Ollagnon M. and Touzard J.-M., 'Indications géographiques et développement durable: Enquête nationale sur les actions des organisations de gestion locale des IG' (Rapport de recherche, ANR/PRODDIG, 2007)
<https://www.researchgate.net/profile/Jean_Marc_Touzard/publication/272444703_Indications_geographiques_et_developpement_durable/links/54e469280cf2b2314f60d0c7/Indications-geographiques-et-developpement-durable.pdf> accessed 02/08/2018

Rangnekar, D., 'Geographical Indications: A Review of Proposals at the TRIPS Council' (UNCTAD/ICTSD Capacity Building Project on IPR and Sustainable Development, 2002)

— — 'The Socio-Economics of Geographical Indications: A Review of the Empirical Evidence from Europe' (UNCTAD/ICTSD Issue Paper No. 4, 2004)

— — 'Geographical Indications and Localisation: A Case Study of Feni' (ESRC Report, 2009)

Révion S. and Paus M., 'Special report: Impact analysis methods, WP2, Social and Economic Issues' (SINER-GI Project, European Commission – Sixth framework program, February 2006)

Sharma R.W. and Kulhari S., 'Marketing of GI Products: Unlocking their Commercial Potential' (Research Study for the Centre for WTO Studies and Indian Institute of Foreign Trade, 2015)

<<http://wtocentre.iift.ac.in/Papers/Marketing%20of%20GI%20Products%20Unlocking%20their%20Commercial%20Potential.pdf>> accessed 03/09/2018

SNV Sustainable Market Team, 'Leveraging the Spice Sector for Poverty Reduction amongst Ethnic Minority Communities in Vietnam' (Final Project Report, SNV, 2016)

Vandecandelaere E., Arfini F., Belletti G. and Marescotti A., 'Linking people, places and products: A guide for promoting quality linked to geographical origin and sustainable Geographical Indications' (FAO and Siner-GI, 2009)

World Bank, 'Well Begun, Not Yet Done: Vietnam's Remarkable Progress on Poverty Reduction and the Emerging Challenges' (Vietnam Poverty Assessment, World Bank, 2012)

Working papers

Babcock B.A. and Clemens R., 'Geographical Indications and Property Rights: Protecting Value-Added Agricultural Products' (MATRIC Briefing Paper 04-MBP 7, May 2004) <https://lib.dr.iastate.edu/matric_briefingpapers/7/> accessed 02/09/2018

Barjolle D. and Sylvander B., 'Some Factors of Success for Origin Labelled Products in Agri-food Supply Chains in Europe: Market, Internal Resources and Institutions' (2002) Working Paper for Les Cahiers de l'ISMEA <<http://www.origin-food.org/pdf/partners/bs19%20fev02.pdf>> accessed 03/09/2018

Downes D. and Laird S., 'Community Registries of Biodiversity-Related Knowledge: The Role of Intellectual Property in Managing Access and Benefit' (1999) Paper prepared for UNCTAD Biotrade Initiative <<http://www.ciel.org/Publications/CommunityRegistries.pdf>> accessed 03/09/2018

Escudero S., 'International Protection of Geographical Indications and Developing Countries' (2001) South Centre, TRADE Working Paper No.10

Frangouides, K., 'L'occupation du domaine public maritime par des cultures marines, le cas de la Baie du Mont-Saint-Michel' (1999) Coastman Working Paper n°11 <http://coastman.free.fr/wp/Coastman_WP11.pdf> accessed 03/09/2018

Gopalakrishnan N.S., Nair P.S. and Babu A.K., 'Exploring the relationship between geographical indications and traditional knowledge: an analysis of the legal tools for the protection of geographical indications in Asia' (2007) ICTSD Working Paper <<http://www.measwatch.org/sites/default/files/bookfile/MonMarch2009-14-28-16-GlandTKGopalakrishnan.pdf>> accessed 03/09/2018

Kirk M. and Anh Tuan N. D., 'Land-Tenure Policy Reforms, Decollectivization and the Doi Moi System in Vietnam' (2009) IFPRI Discussion Paper <<http://www.ifpri.org/publication/land-tenure-policy-reforms>> accessed 03/09/2018

Nguyen T., Hoang G. and Nguyen K., 'Geographical Indications and Quality Promotion of Agricultural Products in Vietnam: An Analysis of Government Roles' (2016) SECO/WTI Academic Cooperation Project Working Paper Series 15/2016 <http://seco.wti.org/media/filer_public/10/45/10458906-339d-4e76-830d-dea921307f10/working_paper_no_15_2016_nguyen.pdf> accessed 03/09/2018

Révillon S., Thévenod-Mottet E. and El Benni N., 'Geographical indications: creation and distribution of economic value in developing countries' (2009) NCCR Working Paper n°14, <http://phase1.nccr-trade.org/images/stories/publications/IP5/report_IP5_GI_Value_2009.pdf> accessed 03/09/2018

Schejtman A. and Berdegú J.A., 'Rural Territorial Development' (2004) Documento de Trabajo N° 4, Programa Dinámicas Territoriales Rurales, RIMISP <http://www.rimisp.org/wp-content/files_mf/13663830272004_schejtman_berdegue_rural_territorial_development.pdf> accessed 02/09/2018

Teuber R., Anders S. and Langinier C., 'The Economics of Geographical Indications: Welfare Implications' (2011) Working paper No. 2011-6, SPAA Network <https://sites.ualberta.ca/~langinie/papers/Lit-Overview_GI_Paper_04_2011.pdf> accessed 02/09/2018

Varma A., 'ASEAN-India free trade agreement: an assessment of merchandise exports and imports' (2015) MPRA Paper 75035 <<https://mpra.ub.uni-muenchen.de/75035/>> accessed 25/04/2018

Zografos D., 'Geographical Indications and Socio-economic Development' (2008) IQSensato Working Paper n°3 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1628534> accessed 15/08/2018

WIPO and WTO documents

WIPO, 'The Definition of Geographical Indications' October 2002 (SCT/9/4)

— — 'Technical and Procedural Aspects Relating to the Registration of Certification and Collective Marks' August 2010 (WIPO/Strad/INF/6)

WTO, 'Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS Agreement to products other than wines and spirits' May 2005 (WT/GC/W/546)

— — 'Review under Article 24.2 of the Application of the Provisions of the Section of the TRIPS Agreement on Geographical Indications' November 2003 (IP/C/W/253/Rev.1)

— — 'European Communities: protection of trademarks and geographical indications for agriculture products and foodstuffs' March 2005 (WT/DS174/R)

ANNEX 1

List and codification of interviews conducted in Vietnam

All interviewees were guaranteed anonymity. I removed all potential information that may help identify those interviewees who requested it.

▪ **Group A: Sticky rice from Đông Triều**

Code	Name and function	Date of interview	Place of interview	Method
V-A1	Mr Xhan, Project leader, CASRAD	05/03/2014	Hanoi	Face-to-face, Individual
V-A2	Mr Thang, President of the Association	15/03/2014	Đông Triều, Đông Triều District	Face-to-face, Individual
V-A3	Mr Diem, Chairman, Agricultural Division, DARD	15/03/2014	Đông Triều, Đông Triều District	Face-to-face, Individual
V-A4	Mrs Thoa, Farmer	15/03/2014	Yen Duc Village, Đông Triều District	Face-to-face, Individual
V-A5	Mrs Huyen, Farmer, Head of Hoang Que village Mr Hop, Farmer Mr Hau, Farmer	16/03/2014	Hoang Que Village, Đông Triều District	Face-to-face, Group interview
V-A6	Mr Ngoc Tien, DG of Plant Seed Joint Stock Company	17/03/2014	Mao Khe Town, Đông Triều District	Face-to-face, Individual

Code	Name and function	Date of interview	Place of interview	Method
V-A7	Mr Nghi, Farmers' representative for Hong Phong village Ms Thi Hang, Farmer Ms Thi Thuy, Farmer Ms Dhi Dunh, Farmer (non-member)	18/03/2014	Hong Phong Village, Đông Triều District	Face-to-face, Group interview
V-A8	Ms Thi Manh, Farmer, Head of Yen Khanh ward	19/03/2014	Yen Duc Village, Đông Triều District	Face-to-face, Individual
V-A9	Ms Thoa, Farmer	04/04/2014	Distant	By phone
V-A10	Ms Huyen, Farmer, Head of Hoang Que village	04/04/2014	Distant	By phone
V-A11	Mr Thang, President of the Association	05/07/2017	Distant	By phone
V-A12	Ms Huyen, Farmer, Head of Hoang Que village	06/07/2017	Distant	By phone

▪ **Group B: Pottery from Đông Triều**

Code	Name and function	Date of interview	Place of interview	Method
V-B1	Mr Lenh, President of the Association	15/03/2014	Kim Sen Industrial Park, Đông Triều District	Face-to-face, Individual
V-B2	Mrs Thi Vinh, CEO of Quang Vinh Company	17/03/2014	Ving Hong Village, Đông Triều District	Face-to-face, Individual
V-B3	Group of four potters-producers (anonymous) Quang Vinh Company	17/03/2014	Ving Hong Village, Đông Triều District	Face-to-face, Group interview
V-B4	Mr Sy Nha, Head of Ving Hong village	17/03/2014	Ving Hong Village, Đông Triều District	Face-to-face, Individual
V-B5	Mr Tuyet, CEO of Thanh Dong Company	18/03/2014	Binh Duong Village, Đông Triều District	Face-to-face, Individual
V-B6	Mrs Thi Vinh, CEO of Quang Vinh Company	19/03/2014	Ving Hong Village, Đông Triều District	Face-to-face, Individual
V-B7	Trader (anonymous)	19/03/2014	Bat Trang Pottery Village	Face-to-face, Individual
V-B8	Mrs Thi Vinh, CEO of Quang Vinh Company	15/09/2017	Distant	By phone

▪ **Group C: Fried calamari from Hả Long**

Code	Name and function	Date of interview	Place of interview	Method
V-C1	Mr Bui Kim, Project leader, CASRAD	06/03/2014	Hanoi	Face-to-face, Individual
V-C2	Mr Tuan, Deputy Head, Culture and Tourism Department Mr Thang, Deputy Head, Economic Department Ms Thu, Officer, Economic Department	24/03/2014	Hả Long City	Face-to-face, Group interview
V-C3	Mr Hai, then President of the Association	25/03/2014	Hả Long City	Face-to-face, Individual
V-C4	Mrs Thoan, Producer-trader, Vice-President of the Association	25/03/2014	Hả Long City	Face-to-face, Individual
V-C5	Group of two producer-traders (anonymous)	25/03/2014	Hả Long City	Face-to-face, Individual
V-C6	Mrs Thi Thoa, Producer-trader (non-member)	25/03/2014	Hả Long City	Face-to-face, Individual
V-C7	Ms. Thi Hoang, Producer-trader (non-member)	26/03/2014	Hả Long City	Face-to-face, Individual
V-C8	Ms. Thi Loi Wholesaler-supplier of fresh calamari	26/03/2014	Hả Long City	Face-to-face, Individual

Code	Name and function	Date of interview	Place of interview	Method
V-C9	Ms. Thi Huyen Producer-trader (non-member)	26/03/2014	Hà Long City	Face-to-face, Individual
V-C10	Mrs Kieu, Producer-trader	26/03/2014	Hà Long City	Face-to-face, Individual
V-C11	Producer-trader (anonymous)	26/03/2014	Hà Long City	Face-to-face, Individual
V-C12	Mr Sy Nguyen Head of IP Division, MOST Mr Duong, Deputy Head of IP Division, MOST	27/03/2014	Hà Long City	Face-to-face, Group interview
V-C13	Ms Thu, Officer, Economic Department	27/03/2014	Hà Long City	Face-to-face, Individual
V-C14	Mr Nghi Hiệp, President of the association	22/07/2017	Distant	By phone

▪ **Group D: Vermicelli from Bình Liêu**

Code	Name and function	Date of interview	Place of interview	Method
V-D1	Ms Quyntho, Project leader, CASRAD	30/03/14	Bình Liêu	Face-to-face, Individual
V-D2	Mr Van Mùu, Officer, Bureau of Agriculture	31/03/14	Bình Liêu	Face-to-face, Individual
V-D3	Mr Xuân Bành, President of the Association	31/03/14	Bình Liêu	Face-to-face, Individual
V-D4	Mrs Thanh Hé, Officer, Economic and Infrastructure Department	01/04/2014	Bình Liêu	Face-to-face, Individual
V-D5	Mr Thù, Farmer, Head of Hùc Dong village	01/04/2014	Hùc Dong village, Bình Liêu District	Face-to-face, Individual
V-D6	Mr Thàu, Farmer (non-member)	01/04/2014	Bình Liêu	Face-to-face, Individual
V-D7	Group of three farmers (anonymous)	02/04/2014	Bình Liêu	Face-to-face, Group interview
V-D8	Mr Xuân Bành, President of the Association	07/05/2017	Distant	By phone

▪ **Group E: Conical hat from Huế**

Code	Name and function	Date of interview	Place of interview	Method
V-E1	<p>Mrs. Thuy Hoa, Former President of the Association</p> <p>Mrs. Ha, Current President of the Association, President of the Provincial Women's Union</p> <p>Mrs. Yen, Officer at the Provincial Women's Union</p>	15/04/2014	Huế City	Face-to-face, Group interview
V-E2	Group of 3 brim producers (anonymous)	16/04/2014	Huế City	Face-to-face, Group interview
V-E3	Producer (anonymous)	16/04/2014	Huế City	Face-to-face, Individual
V-E4	Ms. Thuy, Producer-trader	16/04/2014	Huế City	Face-to-face, Individual
V-E5	Group of three leaf collectors/processors	17/04/2014	Huế City	Face-to-face, Group interview
V-E6	Mr. Hung, Head of IP Division, DOST	17/04/2014	Huế City	Face-to-face, Individual
V-E7	Ms. Nhon, Wholesaler	26/03/2014	Huế City	Face-to-face, Individual
V-E8	Mr. Hung, Head of IP Division, DOST	22/05/2016	Distant	By phone

▪ **Group F: H'mong beef from Cao Bằng**

Code	Name and function	Date of interview	Place of interview	Method
V-F1	Mr Xuan Hoang, Project leader, CASRAD	05/03/2014	Hanoi	Face-to-face, Individual
V-F2	Ms Le Thanh, President of the Association	06/05/2014	Cao Bằng	Face-to-face, Individual
V-F3	Trader (anonymous)	06/05/2014	Cao Bằng	Face-to-face, Individual
V-F4	Mr Van Ngan, Owner of the slaughterhouse	06/05/2014	Cao Bằng	Face-to-face, Individual
V-F5	Group of Chinese traders (anonymous)	07/05/2014	Tra Linh market	Face-to-face, Group interview
V-F6	Mr Ly Van Sau, breeder and head of a farmers' group	07/05/2014	Ha Thon Village	Face-to-face, Individual
V-F7	Mr Tan, Director, Department of Planning and Investment	08/05/2014	Cao Bằng	Face-to-face, Individual
V-F8	Mr Khan, Deputy Director, DARD	08/05/2014	Cao Bằng	Face-to-face, Individual
V-F9	Mr Tru, Head of Animal Raising Department, DARD	08/05/2014	Cao Bằng	Face-to-face, Individual
V-F10	Mr Nang Cong, CEO of Ha Anh Company (trader)	17/05/2014	Hanoi	Face-to-face, Individual
V-F11	Mr Viet, CEO of Rural Food Company (trader)	17/05/2014	Hanoi	Face-to-face, Individual

▪ **Group G: Star anise from Lạng Sơn**

Code	Name and function	Date of interview	Place of interview	Method
V-G1	Mr Le Anh, Project leader, Netherlands Development Organisation, SNV	21/03/2014	Hanoi	Face-to-face, Individual
V-G2	Mr Dang Ninh Director, DOST	12/05/2014	Lạng Sơn	Face-to-face, Individual
V-G3	Mr Dac, Director of STAMEC Mrs Tran Thanh Phuang, Deputy Head of STAMEC	13/05/2014	Lạng Sơn	Face-to-face, Group interview
V-G4	Ms Thi Huyen, Sale Manager, Vietnam Star Anise Processing and Exporting Company Limited (AFOREX) Mr Motiani, Indian buyer/importer	14/05/2014	Lạng Sơn	Face-to-face, Group interview
V-G5	Mr Kien, Farmer, President of the Association	15/05/2014	Lạng Sơn	Face-to-face, Individual
V-G6	Group of four producers (anonymous)	15/05/2014	Lạng Sơn	Face-to-face, Individual
V-G7	Mr Que Anh, Director of Vinasamex Company	08/05/2014	Co Bi Village, Gia Lam District	Face-to-face, Individual
V-G8	Mr Le Anh, Project leader, Netherlands Development Organisation, SNV	21/03/2017	Distant	By phone

▪ **Group H: Non-product specific**

Code	Name and function	Date of interview	Place of interview	Method
V-H1	<p>Mr Dinh Sy Nguyen Head of IP Division, MOST, Quang Ninh Province</p> <p>Mr Duong, Deputy Head of IP Division, MOST, Quang Ninh Province</p> <p>Mr Duc, Director, DARD</p> <p>Mr Thang, Vice-Head of Science Division, DARD</p> <p>Mr Dung, Vice-Head, Plantation Department, DARD</p>	13/03/2014	Hà Long City	Face-to-face, Group interview
V-H2	<p>Ngô Tiến Thiệu, Vice Chairman, People's Committee, Đông Triều District</p>	14/03/2014	Đông Triều, Đông Triều District	Face-to-face, Individual
V-H3	<p>Mr Tuat, Vice-Chairman, Economics and Infrastructure Department, Đông Triều District</p>	14/03/2014	Đông Triều, Đông Triều District	Face-to-face, Individual
V-H4	<p>Mr Duc Thanh, Deputy Director, Head of GIs Division NOIP</p>	21/05/2014	Hanoi	Face-to-face, Individual
V-H5	<p>Mr Hoi Director, Law firm CONCETTI</p>	26/05/2014	Hanoi	Face-to-face, Individual

ANNEX 2

List and codification of interviews conducted in France

All interviewees were guaranteed anonymity. I removed all potential information that may help identify those interviewees who requested it.

- **Group A: Marseille soap**

Code	Name and function	Date of interview	Place of interview	Method
F-A1	Ms Bousquet-Fabre, Director, Marius Fabre soap factory	05/02/2014	Salon-de-Provence	Face-to-face, Individual
F-A2	Mr Demeure, Former Director, Fer à Cheval soap factory	06/02/2014	Marseille	Face-to-face, Individual
F-A3	Mr Boulanger, Historian, Chamber of Commerce and Industry of Marseille Provence	06/02/2014	Marseille	Face-to-face, Individual
F-A4	Mr Jaussaud, Director, Grande Savonnerie soap factory	07/02/2014	Marseille	Face-to-face, Individual
F-A5	Daniel Boetto, Director, Sérail soap factory	23/06/2014	Marseille	Face-to-face, Individual
F-A6	Mr Demeure, Former Director, Fer à Cheval soap factory	24/06/2014	Marseille	Face-to-face, Individual
F-A7	Mr Seghin, Director, Fer à Cheval soap factory	25/09/2014	Marseille	Face-to-face, Group interview (InterGI)
F-A8	Mr Bruna, Director, Licorne soap factory	25/09/2014	Marseille	Face-to-face, Group interview (InterGI)

Code	Name and function	Date of interview	Place of interview	Method
F-A9	Sylvain Dijon, Soap-maker, Grande Savonnerie soap factory	25/09/2014	Marseille	Face-to-face, Group interview (InterGI)
F-A10	Mr Demeure, Former Director, Fer à Cheval soap factory	12/11/2015	Distant	By phone, Individual
F-A11	Mr Jaussaud, Director, Grande Savonnerie soap factory	15/02/2016	Distant	By phone, Individual

▪ **Group B: Pélardon cheese**

Code	Name and function	Date of interview	Place of interview	Method
F-B1	Mr Mazenq, Farmer	24/06/2014	Cévennes	Face-to-face, Group interview (InterGI)
F-B2	Ms Calvet, Farmer, President of ODG	24/06/2014	Cévennes	Face-to-face, Group interview (InterGI)
F-B3	Ms Davoult, Director, Coopérative la Fromagerie des Cévennes	25/06/2014	Cévennes	Face-to-face, Group interview (InterGI)
F-B4	Mr Rio, Farmer	25/06/2014	Cévennes	Face-to-face, Group interview (InterGI)
F-B5	Mr Rigotard, Refiner	25/06/2014	Cévennes	Face-to-face, Group interview (InterGI)

Code	Name and function	Date of interview	Place of interview	Method
F-B6	Ms Podeur, Coordinator of ODG	04/07/2014	Distant	By phone, Individual
F-B7	Ms Richer, Territorial delegate, INAO	15/12/2014	Distant	Phone interview, Individual
F-B8	Ms Podeur, Coordinator of ODG	21/06/2017	Distant	By phone, Individual
F-B9	Mr Vincent, Farmer	29/11/2017	Distant	By phone, Individual

▪ **Group C: Mussels from Mt-St-Michel Bay**

Code	Name and function	Date of interview	Place of interview	Method
F-C1	Ms Salardaine, Coordinator of ODG	07/08/2014	Vivier-sur-Mer	Face-to-face, Individual
F-C2	Mr Lebeau, Producer	07/08/2014	Vivier-sur-Mer	Face-to-face, Individual
F-C3	Mr Jagou, Producer Mr Hodbert, Producer and President of ODG	07/08/2014	Vivier-sur-Mer	Face-to-face, Individual
F-C4	Mr Desormeaux, Commercial Director, Mytilimer (packager – commercial enterprise)	08/08/2014	Vivier-sur-Mer	Face-to-face, Individual
F-C5	Mr Cornée, Producer	08/08/2014	Vivier-sur-Mer	Face-to-face, Individual

Code	Name and function	Date of interview	Place of interview	Method
F-C6	Mr Quéma, President, Cultimer (packager – commercial enterprise)	08/08/2014	Vivier-sur-Mer	Face-to-face, Individual
F-C7	Mr Morel, Producer	09/08/2014	Vivier-sur-Mer	Face-to-face, Individual
F-C8	Mr Salardaine, Producer Mr Hurtaud, Producer	09/08/2014	Vivier-sur-Mer	Face-to-face, Group interview
F-C9	Mr Hodbert, Producer and President of ODG	09/08/2014	Vivier-sur-Mer	Face-to-face, Individual
F-C10	Mr Boyaval, Territorial delegate, INAO	06/11/2014	Distant	By phone, Individual
F-C11	Mr Hodbert, Producer and President of ODG	14/06/2017	Distant	By phone, Individual
F-C12	Ms Salardaine, Coordinator of ODG	15/06/2018	Distant	By phone, Individual
F-C13	(anonymous)	16/07/2018	Distant	By phone, Individual
F-C14	Officer of the Mt-St-Michel Bay Centre (anonymous)	16/07/2018	Distant	By phone, Individual

▪ **Group D: Green lentils from Berry**

Code	Name and function	Date of interview	Place of interview	Method
F-D1	Mr Cardaillat, Farmer	11/08/2014	Issoudun	Face-to-face, Individual
F-D2	Mr Perrot, Farmer and President of ODG	11/08/2014	Issoudun	Face-to-face, Individual
F-D3	Ms Taillandier, Commercial Director, Cibèle	12/08/2014	Issoudun	Face-to-face, Individual
F-D4	Farmer (anonymous)	12/08/2014	Issoudun	Face-to-face, Individual
F-D5	Packer (anonymous)	12/08/2014	Issoudun	Face-to-face, Individual
F-D6	Ms Taillandier, Commercial Director, Cibèle	11/04/2017	Issoudun	Face-to-face, Individual

▪ **Group E: Wood from the Alps**

Code	Name and function	Date of interview	Place of interview	Method
F-E1	Mr Portier, Coordinator of the Association	15/10/2014	Villars-de-Lans (Alps)	Face-to-face, Individual
F-E2	Mr Buisson, President, Community of communes of Massif of Vercors	15/10/2014	Villars-de-Lans (Alps)	Conference & Face-to-face, Individual
F-E3	Daniel Bignon, President of the Association	15/10/2014	Villars-de-Lans (Alps)	Conference & Face-to-face, Individual

Code	Name and function	Date of interview	Place of interview	Method
F-E4	Ms Pertourie, Coordinator of the network of pilot projects 'Bois des Alpes'	15/10/2014	Villars-de-Lans (Alps)	Conference & Face-to-face, Individual
F-E5	Mr Blanc, Director, Sawmill Blanc	15/10/2014	Marche (Alps)	Face-to-face, Individual
F-E6	Carpenter (anonymous)	25/06/2017	Distance	Phone, Individual
F-E7	Carpenter (anonymous)	25/06/2017	Distance	Phone, Individual
F-E8	Mr Mermet, Specifier, Inter-professional Federation Bois de Rhône-Alpes	27/06/2017	Distance	Phone, Individual
F-E9	Mr Portier, Coordinator of the Association	13/07/2018	Distance	Phone, Individual

ANNEX 3

Interview guides

1. Producers

Theme 1 – History and typicality of the product

1. Since when has the product been produced in the area?
2. Do you consider the product as a traditional and typical product from the area?
3. Can you describe the specific qualities and characteristics of the product?
4. What are the most important factors for the elaboration of the product?
5. To what extent are they attributable to the place, including the soil, the climate, local practices etc.?
6. Do you think that consumers appreciate the product as a typical product from the area?

Theme 2 – Production of the product

7. Since when have you been producing the product?
8. How big is your production?
9. Has it increased in the past two years?
10. If yes, how did it increase?
11. Do you think it will increase in the future? Why?
12. Have the production techniques you employ changed since the registration of the GI?
If so, how?
13. What are the production costs?
14. Has it increased in the past two years?
15. How much quantity do you produce per year?
16. How much quantity do you sell per year?
17. Has it increased in the past two years? How?

Theme 3 – The association

18. Were you involved in the process of establishing the association?
19. Why did you decide to join the association?
20. What are the main objectives of the association?
21. What are the main activities of the association?
22. What do you think of the association?
23. Is there a cohesion among members of the association/users of the GI?

Theme 4 – Adoption of the GI

24. What do you think of the adoption of the GI?
25. What are the main objectives of the GI?
26. Were you involved in the process of drafting the technical regulations and choosing the logo (for Vietnam)?
27. Was there any issue of disagreement among individuals involved in the elaboration of the technical rules? Which ones?
28. How were these issues resolved?
29. What do you think of the product regulations?
30. According to you, do the production standards comply with the traditional and cultural practices associated with the product?
31. Do the production standards leave room for application of new production techniques?
32. Are production techniques evolving fast?

Theme 5 – Quality control

33. Do you think that the product quality is the same for all producers? Why?
34. Can you tell me how the quality controls are organised and where they take place?
35. Do you think the quality controls are efficient? Why?

Theme 6 – Marketing aspects

36. Is all your production sold with the GI label and packaging?
37. If not, what is the proportion of your production sold with the GI label and packaging?
38. What are the reasons for not selling with the label?
39. Who is responsible for the packaging and labelling of the product?
40. How much does the packaging and labelling cost?
41. What is the selling price?
42. Has it increased since the GI registration?
43. Is the price different from that for equivalent non-GI products?
44. Where do you sell the product?
45. What marketing channels are used to sell this product to final consumers?
46. Is the labelled product sold on different markets than the non-labelled product?
47. Has your income increased?
48. Do you think the GI will help you promote the product and sell more?

Theme 7 – Non-market aspects

49. Have you been involved in any training? Which one?
50. Is there any exchange of good practices among producers? Which ones?
51. Do the production rules adopted in the technical regulations have environmental and cultural impacts? Which ones?
52. Are there any practices adopted informally by producers that impact on the environment or the preservation of traditional cultural practices?

Theme 8 – Conclusion

53. In your opinion, what should change and how could you do better?
54. What are your priorities and challenges for the coming two years?

55. Is there anything that I haven't mentioned which you think would be interesting to discuss?

2. President of the association

Theme 1 – Creation of the association

1. How did the idea of creating the association start? What motivated its creation?
2. Can you describe the different steps taken for the establishment of the association?
3. What are the main objectives of the association?
4. How were you elected or appointed?
5. How many members did the association have when it was created?

Theme 2 – Registration of the GI

6. Can you describe the different steps that were taken for the registration of the GI?
7. For what reasons was it decided to register a collective mark and not a certification mark or a *sui generis* geographical indication (for example)?
8. Was this choice discussed? Among which individuals/organizations?
9. What are the main objectives you aim to achieve through the GI?
10. Can you tell me more about the process of drafting the technical rules of the product and for governing the use of the GI?
11. What experts, individuals and organisations were consulted in this process and how?
12. Was there any issue of disagreement among individuals involved in the elaboration of the technical rules? Which ones?
13. How were these issues resolved?
14. How long did the registration process take?

Theme 3 – Present operation of the association

15. Today, how many members does the association have?
16. Among them, how many are producers and traders?

17. Has membership increased since the creation of the association?
18. Does the association provide its members with raw material (seeds etc.)?
19. Do you aim to increase the association's membership?
20. How would you describe the functioning of the association?
21. Are members of the association actively involved in its management/activities?
22. What are the main activities of the association?
23. Have you received any funding or support such as provision of materials or agricultural inputs? If so, from which institution?
24. How do you evaluate the success of the initiative so far?
25. According to you, are stakeholders satisfied with the association?
26. Is there a cohesion among members of the association?
27. What are the biggest challenges for the well-functioning of the association?

Theme 4 – Labelling and market issues

28. How much quantity of the GI product is produced and sold every year by members of the association?
29. Has it increased in the past two years? Why?
30. Is all the production sold with the GI label?
31. If not, what is the proportion of the production sold with the label?
32. What are the reasons for not selling with the label?

Theme 5 – Quality control

33. Do you think that the quality is the same for all producers? Why?
34. Can you tell me how the quality control is organised and who is in charge?
35. Where does the quality control operate?
36. Is the quality control internal/external?

Theme 6 – Promotional activities

37. What activities/programmes have you conducted or are you planning to conduct in order to promote the product and the GI?
38. How do you create value out of the use of the mark?
39. Have you developed any promotional materials?
40. Do you participate in exhibitions, trade fairs etc.? Has there been any use of mass media?
41. Do you think that the local community is better aware today of the specific qualities and production techniques of the rice thanks to the collective mark?

Theme 7 – Non-market aspects

1. Has the association organised any training? Which one?
2. Does the association facilitate the exchange of good practices among producers? How?
3. Do the production rules adopted in the technical regulations have environmental and cultural impacts? Which ones?
4. Are there any practices adopted informally that impact on the environment or the preservation of traditional cultural practices?

Theme 8 – Conclusion

42. What are your top priorities and challenges for the two coming years?
43. Is there anything that I haven't mentioned which you think would be interesting to discuss?

3. Traders

Theme 1 – Creation and operation of the association

1. Were you involved in the process of establishing the association?
2. Why did you decide to join the association?
3. What are the main objectives of the association?
4. What are the main activities of the association?
5. What do you think of the association?

Theme 2 – Use of the GI

6. What do you think of the GI?
7. What are the main objectives of the GI?
8. Were you involved in the process of drafting the technical regulations and choosing the logo (for Vietnam)?
9. What do you think of the GI logo?
10. What are your expectations?
11. Is there a cohesion among members of the association/users of the GI?

Theme 3 – Labelling and marketing aspects

12. Who is responsible for the packaging and labelling of the product?
13. Where does the packaging and labelling take place?
14. How much do the packaging and labelling cost?
15. What is the selling price of one kilo (for example)?
16. Has it increased? Why?
17. Is the price different for the GI-labelled product and the equivalent non-labelled product?

18. Is the production sold locally? In other provinces? On the international market?
19. What marketing channels are used to trade this product?
20. Are there many distributors/traders (intermediary/final)?
21. Is the labelled product sold on different markets than the non-labelled rice?
22. Has consumers' demand increased?
23. Has consumers' demand changed? How?

Theme 4 – Quality controls

24. Do you think that the product quality is the same for all labelled products? Why?
25. Can you tell me how the quality controls are organised and where they take place?
26. Do you think the quality controls are efficient? Why?
27. When was the last time you were inspected?

Theme 5 – Promotional activities

28. What activities/programmes have you conducted or are you planning to conduct in order to promote the product and the GI?
29. How do you create value out of the use of the mark?
30. Have you developed any promotional materials?
31. Do you participate in exhibitions, trade fairs etc.? Has there been any use of mass media?
32. Do you think that the local community is better aware today of the specific qualities and production techniques of the rice thanks to the collective mark?

Theme 6 – Non-market aspects

33. Does the marketing of the GI product have environmental and cultural impacts? Which ones?
34. Are there any practices adopted informally that impact on the environment or the preservation of traditional cultural practices?

Theme 7 – Conclusion

35. What are your top priorities and challenges for the two coming years?
36. Is there anything that I haven't mentioned which you think would be interesting to discuss?

4. Public authorities

(interview guide used with the authorities of the People's Committee of Quang Ninh Province taken as an example)

Theme 1 – Quang Ninh investment in science and technology

1. Quang Ninh Province has started to invest strongly in science and technology, including on branding local products, in 2012. Can you explain why it was decided to invest in science and technology?
2. On 13 February 2012 Quang Ninh Province has adopted the Decision PPC 273/QD-UBND about "Building program and brand development for agricultural products from Quang Ninh by 2015". Can you tell me more about this programme?
3. Why has the branding of local products become a priority for Quang Ninh Province since 2012?

Theme 2 – The selection of the products and the means of protection

4. Can you explain how and on which criteria was the selection of the products made?
5. Are all these products traditional local products that enjoy a specific reputation?
6. Which institutions were involved in the choice of the products?
7. Did the selection of the products involve assistance from technical experts?
8. Can you explain how the choice of a particular means of protection (collective mark, certification mark or *sui generis* GI) was made?
9. Do these three means of protection have different objectives?
10. Which institutions were involved in the choice of the means of protection?
11. Did the selection of the means of protection involve assistance from technical experts?

Theme 3: Implementation of the GI projects

12. How many projects have been implemented so far?
13. Which institutions have been involved in the implementation of these projects?
14. How were the description of the product characteristics and quality drafted?
15. How were the technical production requirements for each product drafted?
16. Did you collect opinions from industry, farmers etc. to draft the technical requirements and the description of the product characteristics and qualities?
17. What was the role of the DARD in this process?
18. Is it possible to know which consultancy firm worked for which product?
19. How do you select the technical consultancy firm? What is their role?
20. Were the districts and communes associated to the implementation of the projects?
How?
21. One of the planned activities in the Decision PPC 273/QD-UBND is to develop quality standards for the products bearing GIs. Can you tell me more about how these standards have been developed?
22. Which institutions have been involved in the development of quality standards?
23. Can you tell me how the process aimed to set up a system for managing the GI was conducted?
24. Can you tell me how the process of setting up associations was conducted?
25. Once the brand is registered, how do you follow up with the post-registration phase, i.e. respect of production or quality standards etc.?
26. Who is responsible for the quality control procedure? How is the quality process organised?

Theme 4: Budget

27. What has been your total budget for all GI projects?
28. Where does the funding come from?
29. For the two projects funded by the state, can you explain why these two products were funded by the Programme 68?
30. Inversely, why did the Programme 68 not fund more products?

31. Do you anticipate an increase in the number of branding projects (hence in the budget)?
32. Do the districts, communes or other institutions/organisations contribute to the funding of these projects?

Theme 5 – Production and marketing activities

33. In addition to supporting products branding, are you also involved in production activities?
34. Do you provide support for developing the production and the marketing of the GI products?
35. Have you organised training seminars or training materials on GIs?
36. Do you also support projects of technical equipment and materials?
37. Do you aim at developing the internal and/or international market for these products?
38. What is the role of the Department of Industry and Commerce in this regard?
39. Do you believe that the GI labels will help promote the products and strengthen their reputation?
40. According to you, is the price of the GI-labelled products higher than the price of other non-branded products?

Theme 6 – General issues and conclusion

41. How do you evaluate the success of the branding programme so far?
42. Are there some projects less successful than others? How do you explain it?
43. How do you think that the programme will evolve in the future?
44. What are your main challenges today for the success for the branding programme?
45. Is there anything that I haven't mentioned which you think would be interesting to discuss?

ANNEX 4

List of protected *sui generis* GIs in Vietnam as of 21 August 2018 (including six foreign GIs)

Registration certificate No	GI	Product	Date of issuance
00001	Phú Quốc	Fish sauce	01.06.2001
00002	Mộc Châu	Tea shan tuyet	06.06.2001
00003 (France)	Cognac	Spirit	
00004	Buôn Ma Thuột	Coffee	14.10.2005
00005	Đoan Hùng	Grapefruit	08.02.2006
00006	Bình Thuận	Dragon fruit	15.11.2006
00007	Lạng Sơn	Anise	15.02.2007
00008 (Peru)	Pisco	Spirit	
00009	Thanh Hà	Litchi	25.05.2007
00010	Phan Thiết	Fish sauce	30.05.2007
00011	Hải Hậu	Oval rice	31.05.2007
00012	Vinh	Oranges	31.05.2007
00013	Tân Cương	Tea	20.09.2007
00014	Hồng Dân	Rice	26.06.2008
00015	Lục Ngạn	Litchi	26.06.2008
00016	Hòa Lộc	Mango	30.09.2009
00017	Đại Hoàng	Banana	30.09.2009
00018	Văn Yên	Cinnamon	07.01.2010
00019	Hậu Lộc	Shrimp paste	25.06.2010
00020	Huế	Conical hat	19.07.2010
00021	Bắc Kạn	Kaki Seedless	08.09.2010
00022	Phúc Trạch	Grapefruit	09.11.2010
00023 (Scotland)	Scotch Whisky	Spirit	
00024	Tiên Lãng	Pipe tobacco	19.11.2010
00025	Bảy Núi	Eight oval rice	10.10.2011
00026	Trùng Khánh	Chestnut	21.03.2011
00027	Bà Đen	Mat	10.08.2011
00028	Nga Sơn	Sedge	13.10.2011
00029	Trà My	Cinnamon	13.10.2011
00030	Ninh Thuận	Grapes	07.02.2012
00031	Tân Triều	Grapefruit	14.11.2012
00032	Bảo Lâm	Red Seedless	14.11.2012
00033	Bắc Kạn	Tangerines	14.11.2012
00034	Yên Châu	Mango round	30.11.2012
00035	Mèo Vạc	Honey	01.03.2013
00036	Bình Minh	Pomelos	29.08.2013
00037	Hạ Long	Fried squid	12.12.2013
00038	Bạc Liêu	Salt	12.12.2013
00039	Luận Văn	Grapefruit	18.12.2013
00040	Yên Tử	Yellow apricot flowers	18.12.2013
00041	Quảng Ninh	Ngan (shellfish)	19.03.2014
00042	Điện Biên	Rice	25.09.2014
00043	Vĩnh Kim	Fruit milk	28.10.2014

00044	Quảng Trị	Pepper	28.10.2014
00045	Cao Phong	Oranges	05.11.2014
00046 (Thailand)	Isan indigeneous silk	Silk	
00047	Van Don	Peanut worm	12.11.2015
00048	Long Khánh	Rambutan	08.06.2016
00049	Ngọc Linh	Ginseng	
00050	Vĩnh Bảo	Tobacco	19.08.2016
00051	Thường Xuân	Cinnamon	10.10.2016
00052	Hà Giang	Orange	10.10.2016
00053 (Cambodia)	Kampong Speu	Sugar Palm	28.12.2016
00054 (Cambodia)	Kampot	Pepper	28.12.2016
00055	Hưng Yên	Longan	23.01.2017
00056	Quang Ba	Kaki (fruit)	05.07.2017
00057	Xin Man	Rice	28.09.2017
00058	Son La	Coffee	28.08.2017
00059	Ninh Thuan	Sheep meat	24.10.2017
00060	Thảm Dương	Rice	08.12.2017
00061	Muong Lo	Rice	22.01.2018
00062	Ben Tre	Green pomelo	26.01.2018
00063	Ben Tre	Coconut and products	26.01.2018
00064	Ba Ria - Vung Tau	Black pepper	12.02.2018
00065	Ô Loan	Seashell	12.02.2018
00066	Binh Phuoc	Cashew nut	
00067	Ninh Binh	Meat mountains goat	04.07.2018
00068	Cao Bằng	Bambou	23.07.2018