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## **GEOGRAPHICAL INDICATIONS A COMPARATIVE RESEARCH BETWEEN EURPEAN UNION, UNITED STATES AND BRAZIL**

*INDICAÇÕES GEOGRÁFICAS UMA PESQUISA COMPARATIVA ENTRE  
EURPEAN UNION, ESTADOS UNIDOS E BRASIL*

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### **Abstract**

This paper aims to clarify the interpretations of article 22 of the 1994 TRIPs agreement in different economic blocks. In addition to the quantitative differences in the number of GIs between blocks, one should also note that it is important in the agreements to understand the different interpretations of intellectual property: a) international interpretations of trade treaties linked to the World Trade Organization (WTO) and intellectual property linked to World Intellectual Property Organization (WIPO), b) interpretations of the national legal framework as, for example, explained in the text by Brazil. The work compares interpretations of the European, United States and Brazil. The most relevant result of this international comparison is to understand that in GI certification the geographical name and sales-related production for consumers in the three blocks have different meanings and are supported by different trading strategies.

**Keywords:** Geographical Indication. TRIPs. Geographic Indication Brazil. Product Origins

## Resumo

Este artigo visa esclarecer as interpretações do artigo 22 do acordo TRIPs de 1994 em diferentes blocos econômicos. Além das diferenças quantitativas no número de IGs entre blocos, deve-se notar também que, nos acordos, é importante entender as diferentes interpretações da propriedade intelectual: a) interpretações internacionais de tratados comerciais vinculados à Organização Mundial do Comércio (OMC) e propriedade intelectual vinculada à Organização Mundial da Propriedade Intelectual (OMPI), b) interpretações da estrutura jurídica nacional, como, por exemplo, explicado no texto pelo Brasil. O trabalho compara interpretações da Europa, Estados Unidos e Brasil. O resultado mais relevante dessa comparação internacional é entender que, na certificação GI, o nome geográfico e a produção relacionada às vendas para os consumidores nos três blocos têm significados diferentes e são suportados por diferentes estratégias de negociação.

**Palavras-chave:** Indicação Geográfica. TRIPS. Indicação Geográfica Brasil. Origens do Produto

## INTRODUCTION

Between the last rounds and international trade negotiations finally came the agreement between EU-Mercosur (June 28, 2019) after 20 years of negotiations. Regarding Geographical Indications -GIs that are among elements outside tariff negotiation, there is a large asymmetry in the number of GIs present in Europe and Mercosur and commercial strategies regarding local production protection and high value added production processes. . There are 347 GIs to be protected in Mercosur, few in relation to more than three smil in Europe, but many in relation to the number below one hundred in Brazil.

The agreement increases the interest in improving action regarding IG and intellectual property as they are part of treaty rules and measures packages, so that having few or no IG certifications can create asymmetries and problems in negotiations. "Switching" between blocks is favorable for speeding up trade, but it is also slow to take place, and anything outside at the time of the deal must hold up new rounds and bear less efficient fists. This is called, for economists, Brazil cost.

However, there are not only negotiation problems in terms of GI numbers but also qualitative regarding the understanding and interpretation of the possible use of certification and the actual protection of intellectual property. The problem is that agreements like the 1994 TRIPS need revision because they leave open interpretations that create conflict. The purpose of the current paper is to report some interpretation of GI that creates difficulties in the negotiations and implementation of agreements. The expected result is that the explanation may serve to understand international negotiations and different strategies. This comparative law approach to trademarks should also be used to train intellectual property and in particular IG courses.

A reflection on this topic is warranted because in the ex-post evaluations of international negotiations there are not only evaluations of possible impacts, but also generally a decision on the rules and different domestic legislations in each country. Barriers and different internal interpretations can cause new barriers to the implementation of agreements and hinder future international trade agreements to the detriment of our economy.

## METHODOLOGY

The methodological procedure of the work is the bibliographical analysis of international literature, treaties and laws on Geographical Indications. The dialectical method compares the different international legal systems and makes an analysis. The synthesis of these comparisons is found in the results. Like every dialectical method is expected a new work that uses this synthesis to improve the general knowledge on the subject.

The following international bibliography analyzed is the following:

- -Brazil Law No. 9,279 / 1996 and Normative Instruction No. 25/2013 of the National Institute of Industrial Property (INPI).
- -Treated on the World Intellectual Property Organization (WIPO) site and in particular documentation on The Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) and WIPO-WTO Cooperation on the site <https://www.wipo.int/portal/en/index.html>
- -European Union (1998, 2001, 2002, 2004, 2006, 2012, 2013, 2016, 2017, 2018).
- -United States the following sources Geographical Indication Protection in the United States United States Patent and Trademark Office <https://www.uspto.gov/learning-and-resources/ip-policy/geographical-indications/office-policy-and-international-affairs-0>, [https://www.uspto.gov/sites/default/files/web/offices/dcom/olia/globalip/pdf/gi\\_system.pdf](https://www.uspto.gov/sites/default/files/web/offices/dcom/olia/globalip/pdf/gi_system.pdf) and reports Barham (2010), Giovannucci (2009), Limitation of the work is that there is not much literature especially in Brazil regarding international comparisons on GI. It is difficult to compare this work with others. Some studies found address the problem from a point of view, legal and relative to Brazilian norms unrelated to other nations but only in relation to the international framework. The current article intends to overcome this view using a problematization, not only legal, but focusing on commercial and international management.

## INTERNATIONAL LEGAL FRAMEWORK

Considering a more recent timeline, it was in the nineteenth century with the development of a system of international treaties between major powers that became more frequent in regulating international trade matters. The Paris-CUP Union Convention for the Protection of Intellectual Property, signed by 164 countries in 1883, including Brazil, included indications of origin and appellations (or designations) of origin as separate objects of industrial protection, but did not clearly define how to prove them, just as he did not use in his terminology the term Geographical Indication which was coined most often.

**Table 1 International GI legal framework**

| YEAR | Agreement / Treaty      |
|------|-------------------------|
| 1883 | Paris Convention        |
| 1891 | Madrid Agreement        |
| 1958 | Lisbon Agreement        |
| 1967 | Creation of WIPO - WIPO |
| 1994 | WTO - TRIPS Agreement   |

Source: author elaboration. Alessandro@unb.br. 2019

The protection of high-value agricultural products such as wines, it was not until the middle of the twentieth century that a treaty was signed in the Lisbon Agreement on 31 October 1958 to allow the international registration of Designations of Origin, and any of signatory countries of the Paris Convention (in 1883) on intellectual property.

In 1967 the World Intellectual Propriety Organization WIPO was created at the UN - World Intellectual Property Organization WIPO. In accordance with Article 3 of the Convention for the Establishment of the World Intellectual Property Organization, at the time of its establishment in 1967, the main purpose of the organization is to promote the protection of intellectual property internationally. There are currently 184 Associated States, or 90% of the world's countries. WIPO is based on 24 international treaties for its activities. Treaties are divided into three general groups: Intellectual Property Protection; Global Protection System and; Classification.

However, the most important international regulatory framework for the current definition of Geographical Indications came in 1994 when the Agreement on Aspects of Trade Related Intellectual Property Law (TRIPS), which was also known as the TRIPs Agreement, was concluded. on Trade-Related Aspects of Intellectual Property Rights). It is an international treaty, part of the set of agreements signed in 1994 that ended the Uruguay Round and created the World Trade Organization - WTO.

An important aspect is that TRIPs has changed and simplified the concept of GIs that were brought in by previous international agreements (eg Lisbon agreement). Within the rights provided for in the TRIPs Agreement are the Geographical Indications defined in article 22, paragraph 1, as “indications identifying a product as originating in the territory of a member, or region or locality of that territory, when a particular quality, reputation or other product is essentially attributed to its geographical origin.” Here is a comparison of the original articles of the treaties by understanding the differences in interpretation.

**Table 2 - Comparison of IG interpretations in international agreements**

| LISBOA  | TRIPS  | WIPO   |
|---|--|--|
| Art.2 Appellation of origin is ... the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors. | Art. 22. 1 Geographical Indication as ...indications which identify a good as originating in the territory of a Member [of the World Trade Organization], 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. | The following distinction is made between indications of source and appellations of origin: “indication of source” means any expression or sign used to indicate that a <i>product or service</i> originates in a country, a region or a specific place, whereas “appellation of origin” means the geographical name of a country, region or specific place which serves to designate a <i>product</i> originating therein the characteristic qualities of which are due exclusively or essentially to the geographical environment, including natural or human factors or both natural and human factors. |

Source: Agreements. Elaboration Alessandro Aveni 2019

Based on our translation, in our view, the appellation of origin (Lisbon) has changed a change in interpretation over time from a) protecting a geographical “nickname” (Lisbon) to b) certification (geographical indication) ) of the relationship between product and geographical region (TRIPS) up to c) division of indication of

precedence (which includes services and could be a mark with geographical origin) and designation of origin that maintains the characteristic of the relationship between geographical origin and characteristic qualities of the product. (WIPO).

This brief review of the international framework may also include the bilateral agreements on GIs and wines, and recently, on 28 June 2019, the EU-MERCOSUR international trade agreement, which agrees to withdraw tariffs on 91% of the products it markets. The European Union exports to Mercosur within 10 years. Conversely, tariffs of 92% on products that Mercosur exports to the European Union will be withdrawn within 10 years. Among non-tariff agreements Mercosur will protect names of 357 European products as geographical indications (such as Parma ham and Port wine) and EU will recognize names of traditional Mercosur products such as Brazilian cachaça and Mendoza wine (Argentina ). With regard to GIs in this agreement it is important to signal a relative asymmetry problem between protected European GIs and Mercosur's. This asymmetry can be seen in the difference between GI for the protection of local products obtained from human capital and those from a region in Brazil.

## **COMPARISON OF INTERNATIONAL IG INTERPRETATIONS**

GIs identify a product as originating in the territory of a member of the World Trade Organization, or region or locality of that territory, when a particular quality, reputation or other feature of the product is essentially attributed to its geographical origin. Article TRIPS 22 then configures generic protection, but it is not very clear as to how geographical names should be protected. The differences are mainly in the protection related to the relationship between geographical origin and the production processes that originate the products that interest the consumer. Among other problems, the legislation on wines and alcohol has always been negotiated separately from other products, as art. 22 does not clearly explain the outcome of a winemaking process and the emphasis on its environment and human resources (working methods).

The interpretation of GI, according to that used for WIPO for IG, divides the certification into Origin Indication and Denomination of Origin. The first is any expression or sign used to indicate that a product or service originated in a specific country, region, or place. Designation of Origin is a geographical name of a specific country, region or place where it is used to designate the origin of the product of that place by characteristic qualities that are due solely or essentially to the geographical environment, including natural and / or human factors or both ( WIPO 2008, p. 120). Thus there are differences of interpretation between art. 22 of TRIPS and WIPO. In particular, WIPO recognizes services as IG and also differentiates IG into only two typologies, in our view, confusing certification with sign and brand. WIPO should better clarify the guidance on GI, as it is an agency acting as a repository for intellectual property and cannot create interpretations that are not clearly embedded in international treaties such as TRIPS, as this may create international interpretative uncertainty.

Not surprisingly, there are other interpretations of GI between trading blocks. For example, the European bloc considers that there are three essential characteristics in a GI that must exist at the same time: a) it must be a product (somewhere the service), b) the products originate from a specific locality or place, c) the products have characteristics or quality that are strictly linked to the geographical name and originated in place. For European Union there are certifications: DOP - IGP - ETG. The PDO certificate in English PDO is the certificate granted when the product has

characteristics and qualities originating in the region of production and must be processed and prepared exclusively in the same region. PGI or PGI in English is the certificate of preparation or process in the region, but not necessarily with all characteristics and quality originating in the same geographical region.

In view of the consumer what must be guaranteed is the typical regional production process. So in Europe there is a GI certification that doesn't exist in TRIPS, and in Brazil, it's the Traditional Specialty Guaranteed ETG certification. This is a name that designates and identifies a product or foodstuff produced from the raw materials or ingredients used or the result of traditional production, processing or composition. Regarding different interpretations of IG certification, if country law has a legal protection called *suis generis* such as between Europe and Brazil, it is not difficult to legally register and protect GI, as the name and characteristics are unique. In countries where, by contrast, there is protection under the law, the use of trademark and collective mark in place of GI can create problems. The cost of GI protection in these countries is higher as it is not just about certification or brand ownership.

For example, with the practice that allows the first to register and have trademark protection, GI producers, when entering the market, may find IG-like brands from their own countries. In this case they either agree or must ask to cancel the competing trademark registered in advance. Always in relation to this problem has the fact that in some case the certification is protected if it is used in the market. That is, certification obtained in one country is not valid worldwide without registration in national systems. If this is not the case, the same problem, as previously reported, can happen again to compete with the first to register and use.

Always with regard to trademark protection another problem arises when the product name is considered common and not source specific. To understand the use of Xerox for photocopy in Brazil. There may also be a problem protecting composite names. IG is also not always protected if you use compound words such as: style, method, or enter local name following foreign product name (eg Californian Champagne, Argentinian Permesan etc.)

There are also different interpretations within the blocs and about IG differences such as PDO and PGI, for example in the EU, where there are different certifications for wine and traditional production. For example, this happens in Brazil where GIs include not only products but also services, thus creating a regional differentiation that is not always supported by all international agreements.

Regarding the typical national legislation, for example, according to Matos and La Rovere (2017), there are also different interpretations of institutions such as Sebrae, MAPA, which disagree with INPI. In some sense as a place of production and process related to quality by the consumer, there are even inverted interpretations about the European interpretation because in Brazil IP is valued more (most GIs in Brazil is IP) when in Europe it is valued more DO and create multiple certifications. The differences in the interpretations of the same legal object results in an asymmetry in the negotiations between GIs between blocks.

To understand this last statement. Declarations of origin DO, for Europeans, focus mainly on the relationship between the value added for local producers and the defense of places with their historical values. Many European GIs are DO-related because they are more difficult to copy. It should also be commented in relation to the interpretative questions cited for Matos and La Rovere (2017), that the human factor is always involved in GI, because there is no way to eliminate in the production and sale process. So this is not the main focus of the differences between interpretations. However, the Brazilian interpretation shows the difficulty of defining the certification of

traditional processes (the European ETG) and how much these factors imply for consumer protection. In Europe consumer protection develops in the articulation between raw material, process (modern or traditional) and region of origin.

## **EUROPEAN UNION**

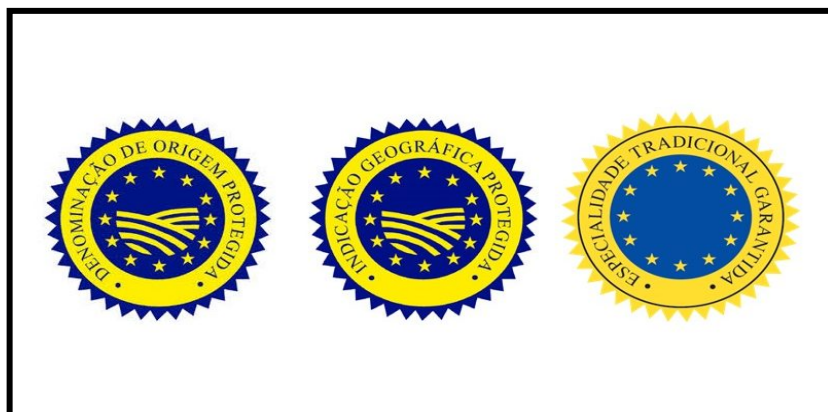
Initially looking at the European point of view, it can be said that the certification that defines the production process, in relation to the geographical environment, can be related to a traditional local process that still follows the times and uses traditional techniques and machines. However, for example, for wine making, the local producer may use up-to-date machines or production methods (collection, storage, bottling etc.). So in the end there are different combinations of production systems being different raw material and origin, but there is no difference in quality protected and consumer protection.

The European Union is the economic bloc with the most Geographical Indications. There are more than three thousand indications (more than one thousand only from wines and alcoholics). It is now the world's conglomerate of nations with the most attention to local history and culture. It is logical that the movement be led, I enter the European Union of Italy and France for its traditions and superior cultural characteristics. Local protection, generally in Europe, is made with local pacts between society and the government and the Union to achieve maximum welfare and sophisticated local marketing techniques.

Based on data from the same EU, € 169 million was allocated to promote its agricultural products worldwide by 2018, € 27 million more than in 2017. From October 2016 to October 2017, European agribusiness exports totaled € 137, 4 billion. . Ig stamps at Erupa are fundamentally three, but some countries like Italy have created more differentiations in certifications namely:

- DOP - (eng. PDO) Protected Designation of Origin
  - IGP - (Eng. IPG) Protected Geographical Indication
  - STG - Traditional Specialty Guaranteed
- And in some countries like Italy and France there are even more denominations like:
- DOC - Controlled Origin Denomination (protected)
  - DOCG - Protected and Controlled Designation of Origin (wines)
  - PGI - Protected Geographical Indication
  - STG - Traditional Specialty Guaranteed

In addition to these European recognitions, in more traditional countries such as Italy and France there is the creation of certificates, especially in wines, from the generic protection of products (wines from France) to the most exclusive products of a specific locality and a producer. (wine of a vinciola). Thus, for a product such as wine, in addition to the main European labels, a certification that also welcomes the segmentation of the internal market, and the product will be certified by several quality labels and not only for an IG.



Fonte: <http://www.calendarios.info/denominacoes-indicacoes-geograficas/> . Acesso em junho 2019.

In Portuguese language the stamps are as follows: DOP - IGP - ETG. Regarding the legislation, one can compare PDO with Brazilian DO and PGI with Brazilian PI. Regarding the Brazilian legal framework, the EU has three certifications against two in Brazil. It can be seen in the EU that the local quality and brand protection strategy has a narrowly specialized strategic approach to local marketing and great business impact. This historical evolution depends on the fact that, since the 18th century, Europe has been leading the international trade in traditional product brands and especially wines and alcoholics. Hardly other countries can compete in the future if they do not reach the levels of local promotion specialization such as Europe.

The focus on GIs is therefore the control of production through local processes and resources through the protection of reputation and thereby protecting the consumer. The name is linked to a typical regional geographical name that exists diffusely throughout Europe for historical reasons. Thus the geographical name embedded in the products is a relevant part to identify the origin because it is born historically and must be considered indivisible from the product name. In other words it is as if there is a right of use over the geographical name as well because many of these names are not the current ones used in the national administrative and statistical divisions, but are names of historical relevance such as the most famous French wine region: Champagne, or from Swiss cheese: Emmentaler. So whose historical geographical name is owned by whom? From those who live in the region or from the national community? Europeans have chosen to protect the place. Obviously this can create problems when the historical name is the same as it is used today. For example like the historic town of Parma in Italy that produces cheese, ham milk and other GI protected products.

## **UNITED STATES - USA**

The US in turn considers IG a trademark and not a separate site-specific certification of the trademark system. This is because the US does not differentiate GI based on social, historical and commercial considerations. In the American commercial view, in our view, simpler but less sophisticated, tradition (history and society) is not a different system of protecting the market. So the brands that are linked to the historical regions exist, but have less weight than in Europe.

Geographical Indication in the US does not, therefore, extend the protection of the geographical name to trademarks of commercial organizations. You cannot register a unique geographic name as a descriptive mark of a product's origin. This is because it is also considered that consumers can be confused with products from different locations, for products as an equal function. It is a system that ensures that



anyone who feels damaged by certification can claim IG cancellation. Unlike in Europe and Brazil, US law understands that greater protection should not be granted to certification and producers creating monopolies of geographical names, but should guarantee all producers (industrial and artisanal) the same protection with respect to the name. geographical. This fits in with the logic of anti-monopolistic protection and trade openness that is present in American law and policy as always, at least in the theoretical position of free trade.

IG in the US is any name, symbol to define a part of the good or service. There are three types of geographical certification: 1) regional; 2) Well, manufacturing mode, quality, good service characteristics; 3) Compliance certification, or certification mark (as in Brazil). Geographic certification is determined in States with authorization from the public administration. Two elements are considered: first to preserve the freedom of everyone in the region to use the geographical name, second to prevent abuse of the illegal use of the name to the detriment of all who can use it. The logic of this position is that, in general terms, an individual or a company cannot guarantee that a brand can comply with these restrictions, and therefore only the regional government can control and manage the use of the geographical name. The government has the authority to prevent the illegal use of the brand name.

The end, the main difference between the position of Europeans and Americans results from the fact that the latter do not want to place in an GI the exclusivity of the geographical name because it, embedded in an IG certification, is equivalent to a brand (a private property). and no longer allows everyone to use the geographical name (collective property) and can't predict abuse. According to this logic, for Americans, Europeans putting a geographical name name on a brand name will inhibit for others the use of the same name that belongs to everyone.

This interpretation does not lack logic. For example products from the French wine region like Champagne and Parma products could have brands for example non-food products from the same region. How about a Champagne dress or Parmesan shoes? To date I have not had trademark conflicts in these cases, but theoretically could have if everything were relative to the geographical name only. In short, in our view, in the view of US law the issue is to nullify geographical certification to preserve everyone's rights to the name of geographical origin while in Europe the idea is to use the name of geographical origin to preserve rights and renown. history of products.

## **BRAZIL**

Geographical indications identify goods as originating in the territory or a region or locality in that territory, where a quality, reputation or other feature of the good is essentially attributable to its geographical indication. Following OECD (2000) and WIPO (2008) in Brazil GI is related to goods. originating in a particular country, region or locality with IG certification being a sign recognized in that country as a sign indicating that goods: (a) originate in that country; (b) have a quality, reputation or other characteristics attributable to its geographical origin.

Brazil law no. 9,279 / 1996 (Industrial Property Law - LPI) recognizes and regulates the IG is in its Articles 176 to 182. The law is harmonized with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) 1994, intellectual property, which is mandatory for all member countries of the World Trade Organization (WTO or WTO). The requirements for registration of GIs were established by Normative Act no. 134/1997 of the INPI, which identifies the application forms for the registration of GIs, and Resolution no. 75/2000 of the INPI, which presents the conditions for registration of GIs and updated by Normative Instruction no. 25/2013

GI unfolds, following Brazilian law, into two certifications:

- Origin indication IP is the geographical name of a country, city, region or locality within its territory, which has become known as the center of production, manufacture or extraction of a particular product or service.
- Designation of Origin DO is the geographical name of the country, city, region or locality of its territory, which designates a product or service whose qualities or characteristics are due exclusively or essentially to the geographical environment, including natural and human factors.

GI qualifies and values places and resident social groups. In the producing region, the IGs certification promotes the products and their non-transferable historical and cultural heritage. Inheritance encompasses several relevant aspects: defined production area, typicality, authenticity with which products are developed and discipline regarding the production method, guaranteeing a quality standard. GIs can also help preserve biodiversity, knowledge and natural resources, and make extremely positive contributions to local economies and regional dynamism by providing the real meaning of local value creation. While having a different quality, it is protected by this recognition being unique to producers in that region.

The latest regulation (INPI 95/2018) of Technical Specifications of INPI Recognized Geographical Indications states that must have:

- (a) the geographical name to be protected, whether or not accompanied by the name of the product or service;
- b) the description of the product or service object of the Geographical Indication;
- c) the delimitation of the geographical area according to the official instrument;
- d) the description of the process of extraction, production or manufacture of the product or of rendering of the service, by which the geographical name became known, if it is an IP; OR, description of the qualities or characteristics of the product or services that are due solely or essentially to the geographical environment, including natural and human factors, and their process of obtaining or providing, if it is an OD;
- e) a description of the mechanism of control over producers or service providers who are entitled to use the Geographical Indication, as well as the product or service it distinguishes;
- f) the conditions and prohibitions of use of the Geographical Indication; and
- g) any sanctions applicable to the breach of the preceding paragraph.

The process of consolidation of national GIs has several relevant factors that need to be observed so that this sign can have a significant impact on communities involved. Among these factors, the existence of adequate legal parameters is pertinent to guarantee to real holders their rights, safeguard the interests of consumers and avoid / remedy conflicts.

Faced with a still incipient experience in this process, we have already faced several questions that need legal regulation and a look at the conflicts or obstacles that have emerged during these almost twenty years of Law No. 9,279 / 1996.

Thus, the process of reviewing the current legislation, in addition to being relevant, should rely on experience gained during this period, noting the challenges that emerged in the process of formalization of the GIs, as well as their consolidation after registration. On the other hand, one cannot forget that law is only an instrument in this process, which lacks other tools and actions to take effect.

In this sense, public policies must (and are) renewing themselves in order to qualify producers / providers to act as protagonists in this process, It is essential to

disclose these geographical signs so that the Brazilian consumer begins to value not only these products / services, but the culture and tradition that are related to them. Both misuse of the geographical name by its holders and genericity could may be restricted to the use of this name. A registered indication tends to be become common use, for example, when their holders no longer protect the geographical name, prohibiting third parties who misuse that name. And although the responsibility should not be attributed to these holders, the fact is that when a name becomes common use it loses the object to be protected, no longer refers to its geographical origin, and may induce the consumer in error.

Thus, considering the points succinctly addressed in this study, both from the point of view of consumers, as well as holders of GIs and other distinctive signs, there are several legal / administrative issues that should be reviewed, minimizing losses and conflicts

## **RESULTS AND DISCUSSION**

Based on previous comparisons, interpretations of GI are strongly related to trading practice and the type of competition. A protection implies the creation of a monopoly. However in the economic theory of competition according to the model defined for Shapiro (1983), quality information is not a barrier, but it is the (marketing) cost that reflects product information. This was pointed to Stigler (1961) as a failure in competitive markets. The company's decisions about costs, in-kind information on the quality of its production, are aimed at maximizing profits by reducing imperfect consumer information (Shapiro, 1983).

The company's decision to produce high quality products has dynamic effects. The returns to this decision will be guaranteed in the future as a result of a well-established reputation. The company thus has an interest in investing in its own reputation only when there is a process of consumer awareness about the quality of its product. During the investment period, the producer must sell his product below marginal cost until a reputation is established.

The result of this initial investment means that high quality goods must be sold at premium prices, the premium that represents the returns on the initial investment to build reputation (Shapiro, 1983). Premium pricing is also necessary for the producer to continue his high quality approach and not be tempted into short-term behavior, reducing the quality of product supply in markets.

Based on these considerations on the part of the supply, for the demand the consumer must believe, buying the product, in the production process. In GI this is reported the quality of the raw material, local, and the craft or traditional process and the place of production. Local or quality controlled raw material and the artisanal process for GI are strictly linked to the geographical name. Differences between GI and brands are therefore related to quality information. Information and quality protection is consumer protection. The consumer feels protected and satisfied when buying a product certified for the government.

The difference between a brand and an IG from an information investment standpoint is that the company, with brands, must focus its marketing investment in a short time by competing with the image created in a longer time of certified products. IG.

The relationship between product, process and geographic name thus directly impacts consumer satisfaction. The consumer believes in this relationship and certification. This implies that consumer protection is strictly linked to product name protection linked to geographical name. The origin of either this denomination (stronger

protection) or indication (weaker protection) is related to either the human factor, which is fundamental, the production process and the history of the product (renowned social and historical elements).

Sui generis legal protection is currently the best way to protect this relationship. In relation to comparative analysis then it can be said that the three interpretations (Europe, USA and China) differ in relation to the relation product name - geographical name in the protection of the geographical name, but also in the type of production process that impacts the product.

These considerations can be summarized in the following table. It can be pointed out that the interpretation of Brand with eventual geographic name, predominant for USA and China, ends up not being able to inform better about the complete relationship that produces value for GI and for the consumer, which is: raw material, process of production and relation product name - geographical name. This is because public protection (GI certification) is a premium value, using economic theory, related to places, not companies.

In the end, in our view, based on the evidence, non-sui generis brand protections have a weaker relationship in consumer protection from GI. The US has maximum protection and China has lower relative protection. This is not surprising given the current international trade conflicts.

Europe puts itself in a position of maximum consumer protection, but in relation to the geographical name allows the use for commercial purposes. The geographical name is linked to the product story. This is a position that uses collective rights (national geographical names) for commercial purposes, as seen. By the US you should have consumer protection but also the use of the geographical name because this, even historical, can not become the property of individuals or companies. In China in the end what matters is the production process, that is, that the quality must be respected. Consumer and geographical name protection is less protected, thereby proposing that Chinese products can copy products from other nations. It is of course the results of three different trading strategies that should not be judged in subjective terms, but in terms of what the blocs find best as a trade protection system.

It can be concluded that in relation to GI, Europeans, Americans and Chinese have different visions and business strategies that use IG certification in different ways, using interpretations of the production process and geographical name and combinations of protections. However the problem lies in the correlated interpretations of the trading strategies of the blocs.

Among the Lisbon, Trips and WIPO agreements, there were, in our view, different interpretations of the more specific definition of GI. The problem of intellectual property interpretations is now solved with bilateral treaties rather than domestic laws and treaties. In the treaties the specific issues are eliminated as a package of IG negotiations is placed assessing the overall result in quantitative terms. In our view, this is not the best solution because global agreements such as the latter between the US and Mercosur lose sight of local impacts. In other words, it favors national bloc agreements with expectations of global gains, which serves the political group that subscribes, but that can negatively impact locally and in the long run.

## **CONCLUSION**

The interpretations of IG present in art. 22 of the TRIPS can be questioned regarding the meanings of geographical and consumer name protection. The result of the article's review pointed these differences as part of a national trade strategy that articulates private producers, local and national government and protects local

producers and consumers. The GI protection system depends on national own culture and is used in international negotiations.

If you have a local and national commercial and GI strategy this is used in the treaties. So it is necessary to understand the interpretations of IG in different blocks so as not to be unprepared in the negotiations. It is not simply a legal reading of certification.

As a result it can be suggested that the difficulty in developing GI and international business strategies and related negotiations in Brazil are not so much process or order related, as many academics and practitioners claim. There is also bureaucracy abroad. The point lies in getting an overview of the problems, a global and local strategy, and an articulated national trade policy. The problem must encompass the local community together in a common project and articulating the project with a national and global project. There are different levels of IG governance to be implemented. The big challenge is to associate, lead, produce accurate and valuable information and guide producers with a trade policy that values the local.

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