Identifying the Products and Preserving the Territorial Identity: The Viewpoint of an Experience of Indonesia

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Introduction
About the Country

• Indonesia is an archipelago consists of 17,508 islands under tropic region, inhibited by more than 500 ethnics with different traditional knowledge.

• The country is blessing with mega-diversity, biodiversity in particular.

• Divers unique quality products LINK to geographical factors are found in the country, and having good reputation in the market.
Legal Base of GI Application in Indonesia

• TRIPS Agreement of the WTO
• Law of the Republic Indonesia No. 7/1994 about Ratification of the Agreement Establishing WTO
• Law of the Republic Indonesia No. 15/2001 about Mark
• Government Regulation no. 51/2007 about Geographical Indication
Definition of GI under Indonesian Law

• Indonesia as a member of TRIPS Agreement recognizes GI as a part of IPR

• Definition of GI (Law 15/2001 Article 56 (1):
  "GI shall be protected as a sign which indicates the place of origin of goods, which due to its geographical environment factors, including the factor of the nature, the people or the combination of the 2 factors, gives a specific characteristics and quality on the goods produce therein"
Current Status of GI Registration

• First registration in 2008 (Bali Kintamani Arabika Coffee)
• GI Registered in Indonesia (December 2014):
  – Domestic GI: 26 products
  – Foreign GI: 3 products
• New application: 7 products
• Potential GI products: hundreds
<table>
<thead>
<tr>
<th>Sector</th>
<th>Number of GI</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>22</td>
<td>7 GIs for coffee</td>
</tr>
<tr>
<td>Forestry</td>
<td>1</td>
<td>Forest honey</td>
</tr>
<tr>
<td>Fishery</td>
<td>1</td>
<td>Milk fish</td>
</tr>
<tr>
<td>Animal</td>
<td>1</td>
<td>Wild horse milk</td>
</tr>
<tr>
<td>Handicraft</td>
<td>1</td>
<td>Furniture wood carving</td>
</tr>
</tbody>
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Registered Foreign GI

CHAMPAGNE

PISCO

PARMIGIANO REGGIANO
Product Identification
Product Categories (1)

1. Agricultural products:
   a. Food crops (rice, sweet potato, sagoo, etc.)
   b. Fruits (mangoesten, pamelo, sapota, mango, etc.)
   c. Nuts (cashew nut, candle nut, peanut, etc.)
   d. Stimulant crops (coffee, cocoa, tea, tobacco)
   e. Spices (cinnamon, nutmeg, etc.)

2. Marine and fresh water products:
   a. Fresh fish and fish products
   b. Fresh water fish
   c. Seeweeds
Product Categories (2)

3. Forestry products:
   a. Forest honey
   b. Herbs
   c. Fancy woods

4. Animal husbandary
   a. Salted egg, meats, diary products
   b. Processed meats

5. Handicrafts
   a. Wood carving, artisanal silvers, pottery, etc.
   b. Traditional wovens (songket, ikat, etc.)
GI Potential Products Identification

• At the beginning of GI application, identification was done by the government (DG IPR)
• Local governments started to identify its GI products after having better understanding on GI system
• At the moment the identification is not only done by the government but also by strong participation of local people as producer. Several NGOs also play its important role in supporting local producers to identify their products.
Criteria for products’ Identification

Criteria of GI feasibility

Criteria of GI potential impacts

Criteria of GI potential success

GI 'feasibility': juridical point of view

- Typicity / specificity of the product due to its geographical origin
- Territorial anchorage (link to the terroir)
Product Identification (1): Data Record

Producers
Production area
Supply chain
Markets

Specific Quality and Reputation

Quality identification
Recognizing local people to quality attribute
Domestic and global market reputation
Product Identification (2): GI potential of the local production system and supply chain

- Protect the designs
- Reinforce the sustainability (social & environmental dimensions)

What a GI protection can do?
- Protecting the name, but not the designs
- Reinforce the reputation of products, but at territory level

What kind of difficulties can be expected?
- Traceability
- Demonstration of the specificities due to human and natural / geographical factors
- Delimitation of the production area
Territory Identity Preservation
Preserving the Territorial Identity

• A territory of a country may recognized well through a high quality product link to its geographical factors (*terroir*).

• Identity of the territory must be preserved well due to **its vulnerability to counterfeiting, misusing dan misleading** in order to get advantages from the territory reputation by other parties.

• Indonesia has good lessons from single origin specialty coffees
Lesson from Trademarks Conflicts Using Origin (Territory) Name

Cases of:
1. Gayo Coffee (from Sumatra island)
2. Toraja Coffee (from Sulawesi island)
Lesson from Public Polemics: “DUCTH COMPANY CLAIMS INT’L TRADE RIGHTS OVER GAYO COFFEE”
(The Jakarta Post, 11 February 2008)

- “The Gayo ethnic in Nanggroe Aceh Darussalam may already have lost the right to use their own name in international trade for their own brand of coffee after a Dutch firm officially claim Gayo coffee as its trademark”.
- “The Gayo trademark can only be used in international trade by Amsterdam-based company Holland Coffee B.V.”
- “Holland Coffee claimed to have registered the world as one of its brands, Gayo Mountain Coffee”
This exceptional coffee is exported through Ethiopia's only female miller/exporter, Asnakech Thomas. Native to the Amaro region, Asnakech decided in 2005 to return to Ethiopia and improve the coffee quality and living conditions of her community. Copyright © 2011 Amaro Gayo Coffee. All Rights Reserved (www.amarogayocoffee.com)
Amaro is one of woredas in the Southern Nations, Nationalities, and Peoples Region (SNNPR) of Ethiopia. Because Amaro is not part of any Zone in the SNNPR, it is considered a special woreda, an administrative subdivision which is similar to an autonomous area. Located in the Great Rift Valley, Amaro is bordered on the south by Burji special woreda, on the southwest by Konso special woreda, on the west by Dirashe special woreda, on the northwest by Gamo Gofa and Lake Chamo, and on the north and east by the Oromia Region. It is divided into 34 kebeles. The administrative center of the woreda is Kele. (www.wikipedia.com)
The highest peak in the woreda is Mount Delo (3240 meters), which is part of the Amaro mountains. Much of the western part of this woreda lies inside the Nechisar National Park. The major crops grown in Amaro are teff, corn, wheat, barley, navy beans, and coffee.[1] Amaro has 39 kilometers of all-weather roads and 16 kilometers of dry-weather roads, for an average road density of 36 kilometers per 1000 square kilometers.[2] The Central Statistical Agency (CSA) reported that 1,082 tons of coffee were produced in the year ending in 2005, based on inspection records from the Ethiopian Coffee and Tea authority. (2)
TRADE MARKS WITH TORAJA NAME:

- **Avance Toraja** Coffee (Japan, 2007)
- **Brooks Toraja** (Japan, 2005)
- **Ariosto Toraja** Arabica Coffee Sulawesi, Indonesia (Japan, 2009)
- **Toradja Prince** Coffee (Holland, ?)
- **Toarco Toraja** Coffee (Japan, ?), etc.

- Registered GI product in Indonesia
- Toraja is a name of highland area in South Sulawesi Province (teritory of Indonesia)
- Arabica coffee is main product from Toraja highland
What We Can Learn from the Origin Coffees Lesson?

- Quality of origin products from a territory and its legal protection are very important issues.
- Toraja and Gayo are name of territories as well as name of ethnicities inhabit the lands.
- Toraja and Gayo name used by other parties as trade marks for commercial purposes due to its good reputation.
- Gayo and Toraja coffees are well recognized products, it's high price vulnerable for counterfeiting.
- GI system is an appropriate measure for protecting territory origin products.
What Next?

- Improvement on registration rule and control system as well as providing continues technical supports to producers
- Promoting registered GI products
- Introduction of law enforcement related to GI products
- *Sui Generis* on GI Law
- Member of Lisbon Agreement
Special thank goes to UNCTAD that this presentation possible.