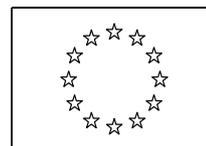




**AFRICAN UNION
COMMISSION**
DIRECTORATE OF RURAL
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DIRECTORATE-GENERAL
FOR AGRICULTURE AND
RURAL DEVELOPMENT



REPORT OF THE WORKSHOP ON GEOGRAPHICAL INDICATIONS
CREATING VALUE THROUGH GEOGRAPHICAL LABELLING AND INDICATIONS: THE POWER OF
ORIGIN
KAMPALA, UGANDA, 10-11 NOVEMBER 2011

INTRODUCTION

At their meeting on 17 November 2010, Mr Dacian CIOLOȘ, European Commissioner for Agriculture and Rural Development and H.E. Mrs Rhoda Peace TUMUSIIME, African Union Commissioner for Rural Economy and Agriculture, agreed that a joint AU-EU workshop on geographical indications be held to review progress in developing geographical indications in Africa and examine strategies for further progress. This initiative forms part of deliverables introduced under the Joint AU-EU College-to-College Declaration adopted on 1 June 2011. The Workshop was held in Kampala on 10-11 November 2011, under the patronage of the Hon. Amelia KYAMBADDE, Uganda Minister for Trade, Industry and Cooperatives, who officially opened the Workshop, H.E. Commissioner Tumusiime, and H.E. Dr Roberto RIDOLFI, Head of the EU Delegation to Uganda, and was hosted and chaired by H.E. Lingston CUMBERBATCH, Director of Trade.Com Facility and Nikiforos Sivenas, Director of International Affairs at the European Commission.

The Workshop brought together about 60 government officials and high-level experts in the field of geographical indications and product development from across sub-Saharan Africa and the EU. The participants mainly comprised stakeholders, representatives of intellectual property offices, researchers, government officials, and other professionals (see list of participants at Annex 1).

The Workshop addressed the use of origin as a tool for development, challenges to developing and protecting Geographical Indications, accessing markets, and working cooperatively on the development of Geographical Indications. The Workshop programme included keynote presentations that described recent developments and current challenges in Geographical Indication system in Africa and case studies presented by the EU and African producers (see Workshop Agenda at Annex 2). They were followed by two roundtables during which participants discussed the role of governments and institutions and networking. The Workshop closed with the concrete recommendations on how to promote GIs in Africa. The copies of the presentations can be found on the following website:

http://ec.europa.eu/agriculture/events/gi-africa-2011_en.htm

OPENING SESSION

The significance of origin as a marketing tool for African product was underlined and framed the Workshop as the culmination of the *Trade.Com Facility* regional seminars on geographical indications (GIs) held in 2010 in Cape Town, Port of Spain and in Douala, as well as the Brussels ACP-EU conference held in 2011.

Africa's trade deficit in agricultural products and the need to improve the value of exports as well as the substantial potential for GIs in Uganda and Africa generally were highlighted. It was underlined that Africa has relied too heavily on commodity markets in the past and not fully exploited the potential of marketing distinctive products. For many African countries the concept of GIs is relatively new and legal frameworks are still in development. Intellectual property in general is not exploited to its potential in Africa. Difficulties in registering GIs and more general problems of developing effective marketing strategies, point to the need for technical assistance.

SESSION 1: ORIGIN AS A TOOL FOR DEVELOPMENT, CHAIRED BY OKAASAI OPOLOT, DIRECTOR OF CROP RESOURCES – MINISTRY OF AGRICULTURE OF UGANDA:

To escape the strictures of commodity markets, producers need to distinguish product in the market place and provide quality products that secure a price premium from consumers. The main advantage of a specific GIs system is that it links the premium product to a delimited area and the traditional producers of that product. The aim is that they secure more of the value added from the marketing chain.

The generally accepted definition of a GI is an '*indication which identifies a good as originating in a territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin*' (from the WTO TRIPS agreement, Article 22). Differences arise in how the GIs are protected, the main systems of interest for Africa being the *sui generis* GI system and the certification trade mark.

A GI system provides a wider and deeper protection than trade marks, preventing in particular 'evocation' of the GI, in addition to the kind of misuses also protected by trade marks. In addition, a name that lacks distinctiveness to be registered as a trade mark (typically the name of a region), can be accepted as a GI. A GI can also be registered even if there is already a trade mark in place, while respecting prior trade mark rights. GIs can also serve to protect names of local products that result from farmers' indigenous knowledge and traditional practices employed in the production. Certification trade marks are frequently used by producers to complement GI protection, in order to promote a product logo or image of a product.

A *sui generis* GI system is based on criteria relating to the definition of the geographical area, a detailed product specification, and a causal link (between the features of the environment and the savoir faire of the local producers on the one hand and the specificities of the product on the other hand). In addition, a *sui generis* GI system necessitates that adequate controls are in place to guarantee compliance with the specification.

African GIs are beginning to be registered under African systems and 5 names including *Huile d'Argan* have been registered in Morocco. The OAPI (*Organisation Africaine de la Propriété Intellectuelle*) has had a GI registration system in place since 1999 and 3

African GIs could be registered in 2012. A specific project, PAMPIG, has provided assistance to applicants and Member countries of OAPI to develop GIs for registration. On 28.11-2.12.2011 the ARIPO (*African Regional Intellectual Property Organisation*) Ministers' and Administrative Councils meet in Accra to discuss advancing development of a *sui generis* GI system.

SESSION 2: CHALLENGES TO DEVELOPING AND PROTECTING GIS, CHAIRED BY MR NIKIFOROS SIVENAS

Development of GIs in Africa is still at an early stage: it was pointed out that stakeholders and administrations lack awareness and technical capacity. Case studies of GIs registered in the EU (*Darjeeling, Pruneau d'Agen, Riz de Carmargue* and *Comté*) highlighted some of the challenges to GI development as well as the advantages. The challenges include organising producers, defining the product specification, finding agreement on the definition of the geographical zone, and needing a long-term perspective particularly for registrations that are opposed by stakeholders. Some of the advantages noted were additional price premium secured and the legal protection that enables producers in the originating region to determine how the product is produced, rather than leaving such decisions in the hands of downstream processors, blenders, and retailers. Environmental and social advantages of GIs were also emphasised.

Particular demands emanating from the Workshop centred on the needs for:

- Developing **guidance** for potential applicants, including options for products that do not currently meet requirements of GI systems;
- **Mapping** the legal frameworks and possible GIs in Africa;
- Developing appropriate systems of **controls**.
- **Financial assistance**, including the facilitation of the formation of producer groups, delimitation of geographical areas, development of product specifications, and operation of control systems.

Responding to the calls for greater **guidance**, a number of initiatives by international bodies were presented, in part with a view to ensuring coherence and coordination between the different bodies. Initiatives by the FAO (Food and Agriculture Organisation) on technical cooperation including in some African regions were highlighted. In particular the FAO has developed and published a tool-kit, '*Linking People, Places and Products*' that contains a detailed guide to the identification and protection of GIs:

EN: <http://www.foodquality-origin.org/guide/guide.pdf>

FR: <http://www.foodquality-origin.org/guide/giudefr.pdf>

The European Commission distributed a detailed guide on the functioning of the EU system, '*Q&A Manual on European Legislation on Geographical Indications*'. The guide had been prepared under a project in respect of China, and was released for African stakeholders at the Workshop. The European Commission also presented and launched a new '*PDO-PGI guide for applicants from non-EU countries*' that sets out how to formulate a request for registration in the EU. All these documents can be found at:

http://ec.europa.eu/agriculture/events/gi-africa-2011_en.htm

WIPO (the World Intellectual Property Organisation) presented an initiative to assist producers brand origin products.

Concerning **Mapping**, the EU Commission referred to multiple studies, publications, and workshops on GIs in Africa that have compiled lists of potential GIs and legal arrangements. A summary of these was distributed for additions from Workshop participants. The AU drew attention to the African model law for the protection of farmer's and local rural communities' rights including to indigenous knowledge, which can be partly advanced by use of the GI concept. The lists of laws and origin-based products are available as an output of the Workshop:

http://ec.europa.eu/agriculture/events/gi-africa-2011_en.htm

Concerning **control systems**, the Workshop examined the need for 3rd party certification in line with ISO-65 standards that require among other matters impartiality, expertise and exhaustiveness in operation of control systems. Several participants noted the costs of controls can be dissuasive for producers in developing countries.

Some countries operate public inspection systems, free for the producers. In other cases, costs can be spread using group certification and combined audits covering organic and fair trade, for example. For product placed on local and regional markets, auto-control systems, like the PGS (Participatory Guarantee Systems), could be employed, as in the organic sector.

African case studies of GIs and potential GIs in development included *Café du Mont Ziama*; *Vanille de Madagascar*; *Beurre du Karité* (from Burkina Faso); and coffees from *Kenya*. The case studies highlighted the coordination and work needed to develop a GI and need to ensure organisation of producers for identifying the link with the area and establishing the product specification. Issues raised concerned the extent to which technical analysis is needed to show the uniqueness of the product and extent of link to the *terroir*. It was pointed out that the accepted definition of GIs covers names of specific products that are associated by 'reputation' to the geographical zone.

The issue of use of the names of GIs on the **labelling of processed products** was raised in respect of vanilla. On the one hand, processed products offer an important market outlet for quality products and processors should be able to benefit from their use of quality ingredients, while on the other hand a processor should not profit unduly from a perfunctory use of a GI nor mislead consumers. The European Commission distributed its Guidelines on the use of GI names as identified ingredients in processed products that were adopted and published in December 2010:

EN: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0003:0004:EN:PDF>

FR: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0003:0004:FR:PDF>

Production of *Beurre de Karité* provided an example of production that is closely associated with indigenous communities and societal tradition. In this case, local rights to harvest and produce the product are managed by women in society. The *Bark Cloth* made from the *Ficus natalensis* tree in the Buganda kingdom in southeast Uganda dates from the 14th century is an example of a value-added product resulting from traditional indigenous knowledge. Production of the *Echalotte de Dogon* (Mali) also exemplifies a

particular traditional production method. The AU took the opportunity to publicise its policy and model law on the protection of farmers' and indigenous people's rights, which includes the protection of traditional or indigenous knowledge, which can be found at:

http://www.wipo.int/tk/en/laws/pdf/oau_modellaw.pdf

The coffee project in Kenya, managed by the Coffee Board, had reached the stage of identifying the coffee regions where distinct coffees are produced. The regions are dominated by small-holder production, which results in a higher quality of product due to manual handling compared with coffee from larger coffee estates. The next step is to develop specifications and develop a proposal for a GI to be protected under Kenyan law. The marketing of the coffee would also be carried out under an umbrella 'Kenya' brand in addition to the specific GIs.

SESSION 3: ACCESSING MARKETS: LOCAL, NATIONAL, REGIONAL AND EU/INTERNATIONAL, Chaired by Mr Nikiforos SIVENAS

The challenge of successful branding was discussed. It was pointed out that only a few per-cent of the final consumer-cost of an agricultural product normally goes to the farmers. The bulk of the value-added in an agricultural product is absorbed by the marketing chain – which is the case for agricultural product (whether GI or non-GI; product of developing or developed countries) in all markets. According to one speaker, branding campaigns should be highly financed and form part of an overall strategy to protect and promote the national brand (e.g. in airport advertising), the regional brand as well as extensive market research.

The Workshop found GIs are a useful tool in marketing and branding of product, but they are only one tool: the others should also be considered, such as market research, cooperation with downstream operators, and trade mark branding. They can be useful in particular to prevent evocations and misuses of the reputed name. In addition, by vesting intellectual property rights with producers, their bargaining power is increased. For example in the case of *Darjeeling*, the use of the valuable *Darjeeling* name to sell tea blended with non-*Darjeeling* tea will be prevented.

WIPO presented a branding product from Uganda where cotton and sesame from the West Nile district had been branded for their origin, using the trade mark instrument. This project necessitated coordination among producers, but did not require development of a specification and establishment of the link to the *terroir* mentioned in the context of certain African GI projects. The WIPO project offered an option for products that do not yet meet the GI criteria.

The cases of South African *Rooibos* and *Bark Cloth* of Buganda highlight the risk that the name of product having reputation that is not protected in export markets may be trade marked by third parties. This can prevent the marketing of the genuine product under its name and in the case of *Rooibos* led to extensive negotiations with a US company that were resolved but at a cost of \$ 1 million to the producers. The trade mark in *Bark Cloth* was registered in a Member State of the EU.

A *sui generis* GI system will allow registration of a GI even in the same name as a prior trade mark, provided the trade mark is not so well renowned that consumers would not be misled, and provided the trade mark owner's rights were otherwise undiminished.

SESSION 4: WORKING TOGETHER ON GIs, CHAIRED BY MR VINCENT FAUTREL (CTA)

Networking, between stakeholders and with policy makers, is a primary aim of a web-based exchange programme operated by the Technical Centre for Agricultural and Rural Co-operation **ACP-EU (CTA)** on behalf of the NGO *OriGIn*. This provides a useful model for potential networking between African stakeholders on GIs. The AUC favoured a specific web-based site for facilitating exchanges between stakeholders in Africa, including the work of the regional intellectual property organisations concerning GIs.

An origin linked product can form the foundation of a **sustainable rural development** initiative for local communities. With a view to bringing together producers and other stakeholders in a region to support development of a local product, an '*Inventory Tool*' has been developed by the FAO. The Inventory Tool will shortly be available on-line and enable users to input data on a product and its link with a place in order to assess the extent to which it is an origin linked product. The Inventory Tool also allows stakeholders to identify the strengths, weaknesses and potential development options for the product. It is not necessary for the product to qualify as a GI, nor necessarily to be registered as a GI in order to use the Inventory Tool. The FAO kindly undertook to communicate the Inventory Tool to participants in the AU-EU Workshop, once it is launched.

The Workshop examined the overall framework for **funding for development**. In the agriculture sector. Since agricultural quality schemes such as GIs have the potential to improve economic revenues to farmers and so contribute to wealth creation, this policy should be integrated into national, regional and AU programmes. The G20 Cannes Summit conclusions included aim to promote small holders in value chains.

The AU can act through:

- (1) The Joint Africa-EU Strategy and its implementing instruments (e.g. the African Union Support Programme (55 Mio. Euro) providing institutional support to the AU and its organs), Technical Cooperation Facility, etc.).
- (2) Liaison with the ACP, particular with regard to CTA's work on value chains.
- (3) Guidance and promotion in the existing agricultural funding vehicles, notably the CAADP round-tables (29 so far).
- (4) Liaison with the pan-African Farmers' Organisations (PAFO).

As for national programmes, the Workshop heard that Agriculture, Food Security and Rural Development (AFSRD) has not been included as a focal sector in over half the programmes of African countries. The main funding vehicle for the countries is the National Indicative Programmes (NIPs). However, GI projects can only be funded in the NIPs if GIs have been integrated into the national policy in the first place.

At regional level, funding is also available under the Regional Indicative Programmes (RIPs). As with the national level, the policy must have been integrated into regional policy and projects must assist the process of regional integration.

SESSION 5: CONCLUSIONS. MR NIKIFOROS SIVENAS AND DR SARAH OLEMBO

The Workshop was considered to have been a very useful opportunity to initiate discussion between the government officials and stakeholders about what the major challenges are currently in GI system in Africa and where closer cooperation is necessary. Clear recommendations emerged from the Workshop and there was a general consensus regarding the key opportunities.

Recalling the opening statements from political level at the opening of the Workshop to deliver concrete results, the following recommendations and items were identified:

- There is a need to strengthen **networking** in order to facilitate exchange, share of information and good practice, and monitor progress of development of GIs:
 - the AUC noted that it would investigate the possibilities together with CTA to develop a website;
- A clear **guidance** for the potential GI applicants needs to be developed:
 - The EU guide for stakeholders wishing to apply for GI registration in the EU was distributed at the Workshop;
 - The EU also made available its Guidelines on the use of GI names as identified ingredients in processed goods;
 - The FAO 'Inventory Tool' had been presented and will be distributed to Workshop participants as soon as it is available.
 - The FAO Tool Kit guide to development of a GI and ITC's guide to branding on the basis of origin were also made available.
- There is a need to explore available **financial assistance** to facilitate the GI organisation and development process.
- The appropriate **control systems** have to be set up taking into account the best practice and avoiding cumbersome requirements.
- It is necessary to **enhance awareness** of policy makers and apply **strategic planning**:
 - Participants to the Workshop had contributed to the updating of a list (mapping) of legal provisions in African countries and origin-based products.
 - The AU will use the conclusions of the Workshop to disseminate and spread information on GIs and sensitize policy makers through the various organs of the AU.
 - The AU will encourage the mainstreaming of GI system into national/regional agricultural programmes.
 - Having integrated GIs into the AU's strategic planning for 2012, the AU will also examine the possibility to hold a continental conference on GIs in 2012.

This report is submitted jointly by Mr Nikiforos SIVENAS, Director of International Affairs of the Directorate General for Agriculture and Rural Development of the European Commission, and Dr Abebe Haile-Gabriel, Director of Rural Economy and Agriculture of the African Union Commission, to the attention of Mr Dacian CIOLOŞ, European Commissioner for Agriculture

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