1. Why IP is important in the agri-food sector

The agri-food sector, covering the production, processing, packing and distribution of food and drink products, has been experiencing strong growth in Latin America with a positive impact on its competitiveness for more than a decade. The sector currently maintains good dynamism and enjoys a privileged position for further development due to this region’s growing population, natural resources, biodiversity and the huge potential of new arable land (especially in Brazil and Argentina).

Latin America is a traditionally net exporting region for agricultural commodities. For instance, in 2014 Brazil (€39.7 billion) and Argentina (€24.5 billion) were among the top 10 exporters of food and drink products. In particular, and according to the Agri-food trade report 2015, in 2015 these two countries continued to rank as one of the top five main EU suppliers. In contrast, Mexico (€16 billion) was one of the main importers in this sector (Source: FoodDrinkEurope).

Economic, social and natural factors make up a very attractive scenario for European SMEs to do business in the agri-food sector in Latin America. However, the consumer’s growing standards in aspects such as food safety, geographical origin, manufacturing processes or the redefinition of competition in the sector, has laid the ground for a new approach to the sector, where differentiation through brands or processes is as important as it is in certain luxury sectors, particularly in the food subsector. According to Gourmand International, Latin America, together with Asia, offers the “most interesting trade” in the sector by year 2017.

Therefore, EU SMEs are, at the moment, able to enter a sector whose degree of maturity in Latin America is much lower than in Europe through a consistent strategy that balances innovation and marketing. IPR are the tools needed to correctly protect the intangible assets resulting from both of them.

Consequently, section 2 of this guide explains the most important IPRs for competing in the agri-food sector and then focus in section 3 on one of the most important – and specific – IPRs in the agri-food sector: Geographical Indications.
2. How to benefit from IP in the agri-food sector

Intellectual Property Rights (IPRs) are useful tools to protect and exploit your intangible assets. Companies that correctly protect their intangible assets through IPRs may be able:

- To create a new revenue flow by licensing them
- To attract more potential investors or financial institutions
- To increase the company's competitiveness in the market
- To improve future profitability
- To apply for public loans or grants

Since the mid 1980’s Intellectual Property Rights have been increasing their importance in the agro-industry and related sectors. According to WIPO’s World Indicators Report 2016, during the period 2005 to 2014 Patent applications in biotechnology (excluding pharmaceuticals) experienced an average growth of 3%, whereas food chemistry average growth amounted to 10% within the same period. In year 2015, worldwide Trademark applications related to food products – classes 29 and 30- were ranked 10th (3,3% of the total applications) and 6th (4,6%), respectively. In Europe, Patent applications before the European Patent Office in biotechnology sector amounted to 5744, being the 10th field with higher number of patents (Source EPO).

Each type of IPR in the agri-food sector is more closely connected to certain products, services or business models, therefore SMEs whose strategy is to differentiate from competitors should develop a strong Trademark portfolio, while innovators investing in improving their products and processes might be interested in applying for a Patent. Producers’ associations, on the other hand, have Geographical Indications and Collective Trademarks to build on the reputation of the characteristics of their products.

**Individual Trademarks**

Trademarks protect signs indicating the entrepreneurial origin of products and services. They might be useful in the case of products that have traditionally been commercialized as basic commodities (e.g. coffee, dairy, fruits, vegetables, meat or cotton), as a tool for differentiating from competitors and even to segment markets. In other cases where the market is highly saturated, a strong branding strategy is a must, as is the case of energy drinks, where companies such as Coca Cola (Monster), Red Bull or PepsiCo (Rockstar) have developed proactive Trademark protection policies combined with aggressive marketing campaigns.

Trademark lifetime is ten years and can be indefinitely renewed for 10-year periods on payment of the corresponding fees. Keep good track of the renewal dates to avoid losing your rights: they can vary from country to country, since in some countries the 10-year period starts from the filing date and in other cases it starts from the granting date. Should you need more information regarding renewals of IPRs do not hesitate to contact our Helpline.

Although Trademarks are territorial rights, you need to think internationally. When designing your brand, it would be advisable to look for the meaning of the wording in the markets of interest and conduct a prior Trademark search to ensure its availability. Otherwise you face the risk of applying for an offensive, generic or already registered Trademark.

**Prior Trademark Search**

If you are conducting a preliminary search, do not forget to check the most important Nice Classification classes related to agricultural products and services: 5, 29, 30, 31, 32, 33, and 43. Do not hesitate to contact our Helpline, if you need further information about Trademark searches in any Latin American country.

Businesses can benefit from the good reputation of local Trademarks and sign a coexistence agreement (an option not available in all Latin-American countries). Another alternative and interesting strategy, used by Unilever to enter certain Latin American countries, was to acquire local brands, such as Frigo, Algida, Miko, Kibon Langnese, Ola and Holanda, and combine them with its heart-shaped logo into a joint Trademark. This allows Unilever to maintain all the positive associations with the pre-existing Trademark while including all of them under its well-known Trademark umbrella.

For more information on how to register your Trademark in a given Latin America country, we strongly suggest you check our “Trademark Registration Guides” in Argentina, Brazil, Chile and Uruguay and our “Country Factsheets” on Bolivia, Colombia, Costa Rica, Dominican Republic, Ecuador, Mexico, Paraguay, Peru and Venezuela.

**Collective Trademarks**

Collective Trademarks are also very useful in the agri-food sector, namely in two cases: as a substitute for Geographical Indications, and as a guarantee of certain characteristics of products coming from different companies.

An example of the former is the Mexican collective mark “Queso Cotija”, which after failing to register an Appellation of Origin ended up protecting the product through a Collective Trademark, which has served as an effective tool to add value and promote this traditional cheese in Mexico. In some cases, where applying
for a Geographical Indication is too complex or impossible, a Collective Trademark is a suitable tool for complementing or substituting GI protection.

As for the latter, bear in mind that most Latin American countries do not provide for Certification Trademarks (See Glossary); in these countries, Collective Trademarks are a suitable way of including certain characteristics in your products, such as eco-friendly, sustainable, pesticide-free or fair trade origin, that tend to be highly appreciated by consumers.

Patents and Utility Models

Patents and Utility Models protect new and inventive solutions to technical problems (inventions). Some examples of Patents registered in the agri-food sector are technologies used for crop development under extreme, more efficient or cheaper conditions. Packaging and preservation (e.g. Tetra Pack or deep-freezing processes) may also be protected by means of Patents or Utility Models in Latin America, provided the patentability requirements of that particular country are met.

The machinery needed to package or manufacture food or drink products can also be protected. Examples of companies that benefit from this type of protection are Ice Wave, which makes its ice creams on a unique, frozen flat iron in few seconds; Florette, which owns an exclusive, vacuum-packed technology called “New Clean” that keeps the freshness of food much longer or Calippo, whose cardboard folding packaging was protected by a utility model.

Generally speaking, Latin America countries impose the following requirements, in order to have access to Patent protection:

**Novelty:** An invention shall be considered new when it is not included in the state of the art. The state of the art comprises everything that has been made available to the public by written or oral description, by use or marketing or by any other means prior to the filing date of the Patent application or, where appropriate, the recognised priority date.

**Inventive step:** An invention shall be regarded as involving an inventive step if, for an expert with average skills in the technical field concerned, the invention is neither obvious nor obviously derived from the state of the art.

**Industrial applicability:** An invention is deemed industrially applicable when its subject matter may be produced or used in any type of industry. In this context, industry includes all productive activity, including services.

Patents are territorial rights and protection is only provided for the country where protection is sought. For example, should an EU enterprise own a Patent on hydroponic cultivation (or was granted a license to use it) in Europe, it would need to apply for Patent registration in Brazil, Mexico or Chile, if it wants to extend its competitive advantage to those territories. Otherwise, anyone else could exploit its technology without the enterprise being able to do anything about it.

Whether you exploit by yourself or in collaboration with a local partner (by means of a license, joint venture or franchise model), Patent protection is particularly recommended if production or breeding will take place on Latin American soil and this is the only way to prevent others from using or copying it.

Patent duration in Latin America is limited to 20 years from the filing date (except in Venezuela, where it is 5 to 10 years) and it cannot be extended. You should note that, generally speaking, granting proceedings tend to be longer than in Europe, however, certain countries, such as Brazil, provide for accelerated processing for registration under certain circumstances. If you want to know more please check our FS How to accelerate your patent application in Brazil or contact us.

Specialized IP advice is highly recommended. The support of an IP expert is very useful to adapt to each country’s specificities and will allow you to choose the most cost-efficient registration strategy. Should you need more information on Patents and Utility Models read our “Country Factsheets” on Argentina, Bolivia, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela or contact our Helpline.

Prior Rights

Conducting a prior Patent search is the best way to know if conflicting rights have already been registered that would impede the exploitation of your technology and reach an agreement if needed.

Our guide How to conduct a patent search: the basics will help you to know more about it.

Trade Fairs

Attending trade fairs like Expo Agro Alimentaria (Mexico) or IOFACH AMERICA LATINA - BIO BRAZIL FAIR could be a good opportunity to meet new potential partners and clients. However, be sure to do it correctly: protect your inventions in advance and prepare yourself to avoid and stop IPR infringements.

See our Factsheet on IP Trade Fairs in Brazil for further information.
Geographical Indications

Geographical indications (GIs) protect products originating in a given geographical area whose quality or characteristics are due to a particular geographical environment (with its inherent natural and human factors) and all or part of the production steps taking place in the defined geographical area. GIs involve regulating the already existing method of production and traditions associated with the protected product so that only those companies producing or marketing products that comply with the regulated standards can use the GI to distinguish their products.

Unlike other categories of IPR, such as Patents (new inventions), Trademarks (new brand names) or Designs (new aesthetical characteristics), GIs do not require innovation, but they tend to protect tradition (existing goods, existing methods of production and existing names of those goods) and are owned only in a collective manner. The collective organization of farmers and the link of GIs to geography enable branding based on the territory of origin.

Other IPRs and means of protection

Trade Secrets: sometimes, the best way to keep the valuable information protected is confidentiality – like the know-how to manufacture food products (e.g. Coca-Cola formula). It would be necessary to adopt reasonable protection measures (i.e. NDA, few people can access the information, TPMs, etc.), but can last as long as it stays secret. This is also very useful for protecting lists of suppliers or marketing plans.

Designs: when inventions do not have a unique functional feature, but/and it does have an aesthetical one (shape, colour, lines, disposition, etc.) it can be protected by means of design.

In an increasingly competitive market, the appearance of the products or their packaging plays a fundamental role. In fact, product attractiveness is one of the strongest considerations for customers when deciding on their purchasing choice. The life cycle of certain aspects of your product (i.e. packaging) can be too short and it is tempting not to register it. However, contrary to Europe, where a 3 year protection period is provided for, Unregistered Designs are not protected in most Latin American countries.

Moreover, be aware that in Latin America, design protection duration varies a lot from country to country (10 to 25 years) and its requirements differ.

Copyrights: catalogues, multimedia contents (videos, pictures, instructions, drawings) or even the company’s mascot can benefit from copyright protection and be licensed to local partners. Furthermore, software (i.e. the computer program used by the collecting or packaging machinery) is protected via copyright in most Latin-American countries where it cannot be patented. The duration may last 50 years from the creation to 100 from the author's death, depending on the country.

Plant Varieties: in Latin America, many countries exclude as patentable subject matters plant varieties and essential biological processes for the production of plants (among others, Mexico, Chile and CAN countries – Bolivia, Colombia, Ecuador and Peru). However, new botanical genera and species (i.e. seedless oranges) can be provided with an exclusive right as a Plant Variety that lasts 20 to 30 years (depending on the country and type of breed).

For more information about Plant Varieties, download the second part of this Factsheet titled “IP in the Agri-food sector (II): Plant Varieties”, due to be released soon.
3. Protection of Geographical Indications in Latin America for agri-food products

A. Geographical Indications: the basics

Consumers pay growing attention to the qualities of agri-food products and the awareness of food safety is increasing. One of the most evident consequences of this situation is the success enjoyed by agri-food products that can be associated with a certain place of origin by consumers, for instance the French “Champagne”, the Spanish “Turrón de Alicante”, the Mexican liquor “Tequila” or the Cuban tobacco “Havana”.

In this context, GIs are a key tool for groups of SMEs producing local agri-food products in a defined geographical area. Their collective ownership and management (which fits with the nature of the rural and agricultural economy), the lack of innovation required and their commercial attractiveness make GIs one of the most suitable IP rights for agri-food SMEs.

In general, the basic steps for registering an agricultural GI are:

1) **Identify the specificity of the product**, which may derive from its quality, one of its characteristics or its reputation.
2) **Define the place, territory or region** within which the product presents the specificity.
3) **Identify the specific conditions** of the geographical environment existing in the defined place, territory or region and check that the singularity of the product is essentially or exclusively due to those conditions.
4) **Define and describe in detail the product and its method of production**.
5) **Register the GI** and enjoy the protection granted in the territory for which it has been registered.

Whereas the EU has a single registration procedure of agricultural GIs (with unitary effects in all Member States), recognition of GIs in Latin American countries, in most cases, requires a separate procedure before each national competent authority.

In addition to these registration proceedings, bilateral agreements concluded between the EU and certain Latin American countries establish mutual recognition of existing GIs in each contracting party. In particular, the EU has concluded agreements for mutual recognition of agricultural GIs with Chile, Colombia, Peru, Mexico, Costa Rica, El Salvador, Guatemala and Honduras.

B. Obtaining GI protection in Latin America and certain clarifications

As stated before, protection of a given GI in Latin America may be obtained mainly through two different legal means:

a) **National registration procedure**, before the national competent authority, under the national procedural rules.

b) **Mutual recognition in bilateral agreements**. Some Latin American countries have concluded bilateral agreements with the EU which foresee a simplified registration procedure for existing GIs in each territory and included in a list annexed to the Agreement (extendable to further GIs originally not included therein).

Likewise, there is an international system of protection of GIs (Lisbon System) according to which the applicant entity may obtain protection in several countries (provided those countries have signed the relevant international agreement) by means of a single application filed with the International Bureau. However, such an international system has had very limited success as only a few countries have signed the Lisbon Agreement. In Latin America only Cuba, Costa Rica, Nicaragua, Mexico and Peru are members of the Lisbon System; as far as the EU is concerned, only the Czech Republic, France, Hungary, Italy and Slovakia are members of the Agreement.

Concept GIs group diverse IPRs that are referred to under different names and whose scopes vary depending on the applicable Law in each territory. For instance, in the European Union there are Protected Designations of Origin (PDO) and Protected Geographical Indications (PGI). Whereas both PDOs and PGIs enjoy the same scope of legal protection, the link between the special characteristics of the protected foodstuff or agricultural product and the defined geographical area is tighter in the case of PDOs.

**TIPS and WATCH OUTS**

Currently, the GI sui generis protection system in the EU (PDOs and PGIs) applies to the following products: ‘wines’, ‘aromatised wines’, ‘spirit drinks’ and other ‘agricultural products and foodstuffs’. However, the WTO law does not limit the use of GIs to agricultural products, with this type of protection also covering industrial products and handicrafts, such as “Chulucanas”, a unique type of ceramic that was registered in 2008 in Peru as an Appellation of Origin.

In most Latin American countries (such as Colombia, Peru, Ecuador and Brazil), “Geographical Indications” are a general category of IP embracing two subcategories: Appellation of Origin (AO) where a given link between the environment and the characteristics of the protected foodstuff must exist, and Indications of Source (IS), where the characteristics of the protected foodstuff are not necessarily linked to the environmental conditions of its geographical origin. On a general basis, ISs do not confer proper exclusive rights and are instead conceived as mere indications of the geographical origin of the goods, subject to the general obligation not to convey misleading information to consumers.

Less common is, for instance, the case of Chilean law, which inspired by EU law distinguishes between Geographical Indications and Appellation of Origin, whose conceptual differences are highly similar to the differences existing between the EU’s PDOs and PGIs, respectively. Other Latin American legal systems (such as Mexican law) simply foresee one single category of GI (commonly named Appellation of Origin).
As per the registration procedure, most Latin American laws establish the following main, common requirements:

- Prior protection in the country of origin (where the GI originates in a third country).
- Identification of the applicant entity.
- Indication of the geographical name to be protected (referring to the defined geographical area).
- Definition of the geographical area of production, extraction, transformation or manufacture of the product distinguished by the GI.
- Detailed and technical description of the goods that are going to be distinguished by the GI, as well as their characteristics or essential qualities.
- Explanation concerning the fact that certain characteristics or qualities of the product are fundamentally or exclusively attributable to its geographical origin.

C. Specific aspects concerning the registration proceedings of GIs in certain Latin American countries

The following table provides for an overview of the main specific aspects (requirements, duration, and fees) for the registration proceedings of GIs in Brazil, Mexico, Peru, Colombia, Ecuador and Chile:

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>RELEVANT AUTHORITY AND SPECIFIC REQUIREMENTS</th>
<th>OFFICIAL FEES (approx.)</th>
<th>DURATION (approx.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BRAZIL</td>
<td>1) Authority: Instituto Nacional da Propriedade Industrial (INPI). 2) Label (only for figurative signs). 3) Translation into Portuguese of all documents.</td>
<td>€600</td>
<td>24 months</td>
</tr>
<tr>
<td>MEXICO *</td>
<td>1) Authority: Instituto Mexicano de la Propiedad Industrial (IMPI).</td>
<td>€70</td>
<td>3 months</td>
</tr>
<tr>
<td>PERU</td>
<td>1) Authority: Instituto Nacional de Defensa de la Competencia y de la Proteccion de la Propiedad Intelectual (INDECOPI). 2) Certification of compliance with the Peruvian Technical Standards, where applicable.</td>
<td>€117</td>
<td>180 working days</td>
</tr>
<tr>
<td>COLOMBIA</td>
<td>1) Authority: Superintendencia de Industria y Comercio (SIC). 2) Where the applicant is an association of producers, disclosure of the total number of producers, manufacturers or extractors within the geographical area.</td>
<td>€197</td>
<td>180 working days</td>
</tr>
<tr>
<td>ECUADOR</td>
<td>1) Authority: Instituto Ecuatoriano de la Propiedad Intelectual (IEPI).</td>
<td>None</td>
<td>8 months</td>
</tr>
<tr>
<td>CHILE</td>
<td>1) Authority: Instituto Nacional de la Propiedad Industrial (INAPI). 2) Technical Report issued by a skilled person stating that the characteristics or features of the product are fundamentally or exclusively due to its geographical origin. 3) Map of the delimited area, considering geographical characteristics and administrative divisions.</td>
<td>€120</td>
<td>8 months</td>
</tr>
</tbody>
</table>

* At this moment, EU applicants cannot directly apply for an AO/GI in before IMPI, since in Mexico the Federal State is the owner of any AO and who authorises third parties to use the AO. An alternative mean of protection that EU producers usually use in Mexico is to register the sign as a Collective Trademark.

Note 1: the estimated length of the proceedings does not include extensions that may be requested by the applicant or derived from formal or substantive defects.

Note 2: additional expenses, such as fees for publication in the Official Gazettes, may apply in some cases.
The following table provides an overview of the main stages in the registration procedure of GIs in Brazil, Mexico, Peru, Colombia, Ecuador and Chile:

<table>
<thead>
<tr>
<th>Stage</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Application</td>
<td>Payment of fees&lt;br&gt;Peru, Colombia, Ecuador, Mexico: Formal objections&lt;br&gt;Chile: Report MINAGRI (1)</td>
</tr>
<tr>
<td>2. Formal examination</td>
<td>Fulfilment of requirements&lt;br&gt;Mexico: office decides to continue ex officio&lt;br&gt;Peru, Colombia, Ecuador: Admitted&lt;br&gt;Refused: Appeal&lt;br&gt;Peru: Ordinary appeal</td>
</tr>
<tr>
<td>3. Publication</td>
<td>No response&lt;br&gt;Notice to applicants&lt;br&gt;Response</td>
</tr>
<tr>
<td>4. In-depth Examination</td>
<td>Opposition&lt;br&gt;Peru, Colombia, Ecuador, Chile (2), Brazil</td>
</tr>
<tr>
<td>5. Decision</td>
<td>Denied (3)&lt;br&gt;Internal appeal (in Peru known as Reconsideration appeal)&lt;br&gt;Peru, Colombia, Ecuador, Brazil&lt;br&gt;Ordinary appeal&lt;br&gt;Revokes decision&lt;br&gt;Revokes decision</td>
</tr>
<tr>
<td>6. Registration</td>
<td></td>
</tr>
</tbody>
</table>

**NOTES**

(1) Chile requires a report from the Ministry of Agriculture and Irrigation (MINAGRI) for GIs protecting agricultural or agro industrial products only.

(2) During the opposition phase, INAPI (Chile) may raise substantive objections to the applicant, who may reply within the corresponding period.

After the in-depth examination process, INAPI rules a first decision, which can be challenged by ordinary appeal. If admitted, an Executive Decision would be ruled allowing the registration.

(3) Mexico does not provide the chance to appeal before IMPI.
D. Success stories

Not many European GIs protected at EU level have been registered and protected in Latin American countries as yet. In this regard, the Trade Agreement between the European Union and Colombia and Peru, which Ecuador has recently joined, has become the most effective means for European GIs to be protected in Latin America, though such protection can of course only be sought in the contracting countries (Colombia, Peru and Ecuador from January 2017). However, although this Agreement foresees a simplified registration procedure, it still requires GIs listed in the Annexes to complete an objection procedure and be examined.

Some examples of GIs that have successfully completed the simplified procedure regulated in the aforementioned Agreement for registration in Peru are the Appellation of Origin “Champagne”, “Ribera del Duero” and “Cava” for ‘wines’ or “Roquefort” and “Grana Padano” for ‘cheese’.

Other bilateral agreements between the EU and Latin American countries, such as the Agreement establishing an association between the European Community and the Republic of Chile, only contemplates the recognition of GIs for ‘wines’ and not for other agricultural products. Under these circumstances, on January 27, 2011, the Regulating Council of the Protected Geographical Indications “Jijona” and “Turron de Alicante” decided to apply for the registration of both GIs under the Chilean national procedure. After having faced procedural issues, both GIs were eventually granted for ‘nougat’ and ‘hard nougat’, respectively, on September 25, 2012 and May 14, 2013, becoming the first products produced in the EU to be protected as GIs in Latin America under a national procedure.

E. Possible obstacles to the registration of a GI in Latin America

In some cases, the registration and protection of a GI in a third country, including Latin America, may be hindered by the following problems:

- **Pre-existence of registered Trademarks:**
  In some cases, GI owners may be faced with the fact that Trademarks consisting of or containing the expression protected by the GI (in the country or territory of origin, e.g. the European Union) may have been registered and/or used in connection with the same goods in third countries. Generally speaking, applicable Law in Latin America grants priority to those earlier trademarks, unless it is proved that earlier trademarks are deceptive or were applied in bad faith.

- **Generic nature of the GI:**
  Geographical expressions that are protected in the European Union as GIs, and consequently identify products originating from a specific area and complying with specific characteristics, may, however, be considered generic names in third countries; i.e. names that identify a certain type of agricultural product or a foodstuff regardless of the place where it is produced. In such cases, registration of the GI may be refused by the third country’s authority.

  In some cases, the name concerned is not only commonly used as a generic name in a third country but also governed by common foodstuffs legislation. This is the case of the Argentinian Food Code which assigns a generic nature to several GIs protected in the European Union, e.g.: “Turrón de Jijona”, “Turrón de Alicante”, “Queso Parmesano” (Parmesan cheese), etc.

  In this scenario, registration of the GI will only be successful where it is preceded by negotiations between both parties’ Governments aimed at the mutual recognition of GIs and the abolition of that regulation. For example, in Colombia many European GIs for cheese were considered generic until both parties (the EU, on the one hand, and Colombia plus Peru, on the other) signed a Trade Agreement on 26 June 2012, providing for mutual recognition and protection in each territory of the other party’s GIs.
F. Trademarks vs Geographical Indications

Substantial differences exist between Trademarks and GIs. The most significant ones may be summarized according to the following table:

<table>
<thead>
<tr>
<th>Geographical Indications</th>
<th>Trademarks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Main purpose</strong></td>
<td></td>
</tr>
<tr>
<td>To distinguish goods in the market from its geographical origin.</td>
<td>To distinguish goods in the market from their commercial origin.</td>
</tr>
<tr>
<td><strong>Management and enjoyment of the rights</strong></td>
<td></td>
</tr>
<tr>
<td>GIs are always managed by collective entities and the derived rights are enjoyed by a plurality of producers or companies.</td>
<td>Trademarks are owned and managed by individual owners (either by a natural or a legal person), with the sole exception of certain type of uncommon trademarks (such as certification or collective marks only recognized in some countries).</td>
</tr>
<tr>
<td><strong>Exclusive rights on the geographical term</strong></td>
<td></td>
</tr>
<tr>
<td>GIs confer exclusive rights on the geographical term (from which every producer or company may benefit as long as their products comply with the specifications of the relevant GI).</td>
<td>On a general basis, trademarks containing a geographical term which refer to the geographical origin of the distinguished good do not confer exclusive rights over this term.</td>
</tr>
<tr>
<td><strong>Scope of protection</strong></td>
<td></td>
</tr>
<tr>
<td>GIs enjoy a wide scope of protection which includes several circumstances such as imitation, the mere evocation (e.g.: if expressions such as “type”, “kind”, “style” are used), or cases where the infringing behaviour exploits the reputation; these circumstances may concur even when no likelihood of confusion exists.</td>
<td>The criterion which defines the scope of protection of trademarks is the likelihood of confusion (or the unfair advantage of the reputation of the trademark as long as this reputation is proven).</td>
</tr>
<tr>
<td><strong>Recognition and legal development</strong></td>
<td></td>
</tr>
<tr>
<td>GIs are not recognized in all countries and their regulation is still under development in several countries where they already exist.</td>
<td>All countries recognize trademarks and the legislation regulating them is reasonably developed.</td>
</tr>
</tbody>
</table>
4. Glossary

**Certification Trademark**: distinctive sign used to indicate that a product or service complies with certain standards or technical specifications, particularly those regarding quality, type, material and methodology used.

**Grace Period**: The grace period is a period of time before the filing date of a Patent/Utility Model/Design application during which public disclosure of an invention (under certain conditions) is allowed without affecting the validity of a subsequent Patent/Utility Model/Design application, provided a complete application is filed within 6 or 12 months of the disclosure.

**Priority Right**: It is a right granted under Paris Convention which entitles the holder to file new applications in any member state during the priority period, keeping the filing date of the first application as priority date. The priority right lasts twelve months for Patent and Utility Models, and six months for Industrial Designs and Trademarks.

**PCT**: Patent Cooperation Treaty for the International Registration of Patents is a WIPO treaty that allows its members to get Patent protection in every country member with a single application.
5. Related links & additional information:

Latin America IPR SME Helpdesk
www.latinamerica-ipr-helpdesk.eu

Trade information in agri-food

- Agri-food trade statistical factsheets:

IP statistics and information

- WIPO Guide on IP for Agri-food SMEs:

- WIPO statistical country profiles regarding Patents, Utility Models, Trademarks and Designs:

- Exclusions from patentable subject matter (by WIPO)

- Annual Agri-food trade report 2015

- International Union for the Protection of New Varieties of Plants (UPOV)
  http://www.upov.int/portal/index.html.en

- EU Food and Drink Industry Report 2016

- The Use of Intellectual Property in Brazil, 2014

- The Lisbon System

- Plant varieties protection in Argentina
  http://www.latinamerica-ipr-helpdesk.eu/content/plant-varieties-protection-argentina

- IP at Trade Fairs in Brazil
  http://www.latinamerica-ipr-helpdesk.eu/content/ip-trade-fairs-brazil

- How to conduct a patent search: the basics
  http://www.latinamerica-ipr-helpdesk.eu/content/how-conduct-patent-search-basics

- How to accelerate your patent in Brazil
  http://www.latinamerica-ipr-helpdesk.eu/content/how-accelerate-your-patent-brazil

Intellectual Property Offices

- World Intellectual Property Organization (WIPO)
  http://www.wipo.int/portal/en/

- Andean Community (CAN)
  http://www.comunidadandina.org/

- Instituto Nacional da Propriedade Industrial (INPI)
  http://www.inpi.gov.br/

- Instituto Mexicano de la Propiedad Industrial (IMPI)
  http://www.gob.mx/impi

- Instituto Nacional de Defensa de la Competencia y de la Proteccion de la Propiedad Intelectual (INDECOPI)
  https://www.indecopi.gob.pe/inicio

- Superintendencia de Industria y Comercio (SIC)
  http://www.sic.gov.co/

- Instituto Ecuatoriano de la Propiedad Intelectual (IEPI)
  https://www.propiedadintelectual.gob.ec/

- Instituto Nacional de la Propiedad Industrial (INAPI)
  http://www.inapi.cl/portal/institucional/600/w5-channel.htm

Version: January 2017

All the requirements hereby are updated to the Law in force at this date. Amounts are expressed in Euros and may vary according to the exchange rate and/or later modifications to the regulation in force.
MANAGE YOUR INTELLECTUAL PROPERTY IN LATIN AMERICA

ABOUT LATIN AMERICA IPR SME HELPDESK:
The Latin America IPR SME Helpdesk offers free of charge, first-line support on IP and IP rights matters to facilitate the expansion of European SMEs (EU SMEs and SMEs from the Associated countries) already established at, or working with entities in Latin America as well as those potentially interested in establishing commercial and R&D activities and ventures in these countries.

SERVICES
Helpline: Ask our experts any IP related questions in Latin America! We provide professional IP advice – customized, straightforward, and free of charge. Our Experts will answer your question within three working days.

Newsletter: Keep track of the latest news on IP in Latin America relevant to your business.

Multi-lingual Webportal: Browse our multilingual web portal for a broad range of information and training materials on IP in Latin America in English, Spanish, Portuguese, French and German.

Training: Attend our trainings (online and on-site) and learn more about the key aspects of IPR protection and enforcement issues for doing business in Latin America.

For more information please contact the Helpdesk:
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helpline@latinamerica-ipr-helpdesk.eu

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TEL: +34 96 590 9684
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TEL: +55 21 2237-8728
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TEL: +52 (55) 5483-2252
E-MAIL: mexico@latinamerica-ipr-helpdesk.eu
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WORKING HOUR: 9h00-17h30 (GMT-5)

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