Models of geographical indication protection in Vietnam: facts, difficulties and prospects

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Abstract
Protecting local speciality agricultural products with a geographical indication approach has become important in the context of Vietnam international integration. Protection of geographical indications for agricultural products is expected to contribute to farmers’ economic improvement and to conserve local biodiversity. A legal framework has been set up and several governmental programmes on geographical indication protection for agricultural food products have been implemented, resulting in the registration of 14 agricultural food products. The building, management and effective protection of geographical indication products face a number of difficulties, such as incomplete administrative system and lack of coherence between rules, controls and sanctions. However, the model of geographical indication building and management for Thieu litchi from Thanh Ha presented in this paper may be a useful reference for stakeholders, research, and producers who want to strengthen local speciality agricultural products according to a geographical indication approach.

Key words: Geographical indication, local speciality food product, quality management, agricultural product distribution, producers’ association.

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I. Relevance and legal framework of geographical indications for food and agricultural products in Vietnam

1.1 Relevance
The renovation in economy and administration in recent years has helped Vietnam not only out of food shortages but also to increasingly export agricultural goods (Athukorala 2009). After joining World Trade Organization (WTO) in January 2007, Vietnam’s agricultural products are facing a fierce competition on both domestic and international markets. On domestic markets, the consumers’ demand is increasing, especially in big cities where high-income groups are emerging and expressing higher requirements in terms of quality, diversity and food safety (Figuié and Moustier 2009). One competitive asset of national products is the Vietnamese consumers’ confidence in food products associated with specific geographical areas that have a special quality reputation (Tran 2005). On external markets, prices of main exports like rice, coffee, rubber, cashew, pepper are continuously fluctuating in the global market. Diversification is therefore required in two directions: i) To produce products at big quantity, average quality ii) To push up export products of high quality and high added value based on Vietnamese products’ specification such as geographical indications.

Typical natural characteristics as well as tradition and people’s skills in different localities are the conditions forming the basis of many famous local quality products (Poulain 1997). This kind of product often suffers abuses to their reputation, either through fraud or through name usurpation, damaging consumers’ trust and discouraging the production. Protecting the names of these products name through geographical indication and maintaining their reputation as a local public good, are mechanisms currently applied by many countries to prevent famous products from being abused in reputation locally and globally. Many countries like France, Italy, Spain, India and Thailand have gained success in the field of geographical indication protection (FAO 2009). At international level, geographical indications were recognized by the 1994 Trade Related Intellectual Property Rights (TRIPS) of WTO, as a full-pledged Intellectual Property Right, on the same level as copyrights or patents.

In Vietnam, protected geographical indication (GI) has recently received attention as a strategy for local speciality food product development. Expected advantages of making good use of GI include increased fame and increased value, as well as preventing appropriation, abuse and fraud for famous products of Vietnam in the domestic and international market – such as the Vietnamese Phu Quoc fish sauce frequently sold on the European market with a wrong indication of origin while it is produced in Thailand. Vietnam hopes to eventually achieve geographical indication registration and protection in Europe through the third-country product application procedure exemplified by Café de Colombia4. Besides, considering the high number of local varieties currently marketed in Vietnam through geographical names and produced within specific ecosystems, GI appears as a possible tool to secure biodiversity and contain its current erosion process. Finally, the geographical indication tools would also enable some rural products to keep the cultural and regional identity and reinforce their commercial strength in the globalization context.

4 In 2007, “Café de Colombia” became the first product from a non-EU nation to obtain the Protected Geographical Indication recognition from the European Union.
Currently, 14 agricultural products have received GI registration in Vietnam, including fish sauce from Phu Quoc, Thanh Ha Thieu Litchi (Hai Duong province) and Hai Hau Xoan perfumed rice (Nam Dinh province). For several other agricultural products, application files for protection are currently being completed, as in the case of Dai Hoang Bananas (Nam Dinh province) or Phuc Trach Pomelo (Ha Tinh province). Potentially, a high number of agricultural products of Vietnam might be protected. However, the evidence available on the implementation processes for protection, use and management of geographical indications in Vietnam points out to several legal, economic and social problems which need to be addressed in order to bring into play the potential advantages from geographical indication. The issue at stake is not just a matter of experience or skills but relates to the organisational model required for ensuring the economic efficiency of the product differentiation scheme.

1.2 Intellectual property ownership and management of geographical indications in Vietnam

In 2005, the National Assembly of Vietnam approved the Intellectual Property Law, which defines that

“a geographical indication shall be eligible for protection if it meets the following conditions: i/ the product having the geographical indication originates from the area, locality, territory or country corresponding to such geographical indication; ii/ the product having the geographical indication has reputation, quality or characteristics essentially attributable to the geographical conditions of the area, locality, territory or country corresponding to such geographical indication.” (IPL 2005: Section 6, art.1).

The government has mapped out an active policy relating to geographical indications. Government Decision No. 103/1006/ND-CP dated Sep 22, 2006, and Circular No.01/2007/TT–BKHCN dated Feb 14, 2007 of Ministry of Science and Technology, define the functions of ministries and relevant bodies as follows:

- Ministry of Science and Technology is responsible for issuing national registration, general management on geographical indications.
- Ministry of Agriculture and Rural Development is involved in composing documents for registration. However, its function is not clearly defined though it plays a very important role in land use, seeds, territory and production organization, etc.
- Ministry of Trade and Industry is in charge of support and pushing up trading, especially international trade.
- The Provincial people’s committees are responsible for building the local institutional frame for implementation and management (issuing certificates of geographical indication users, managing and controlling their application); they should also support producers and traders.

According to the Law on Intellectual Property in 2005 and the above mentioned regulations, the geographical indication is implemented in 2 phases.

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5 Based on statistics from the Intellectual Property Department, in 2007, 218 products had been identified by Provinces as potential Protected Geographical Indications (NOIP 2007a).
6 Urban consumers from Hanoi and Ho Chi Minh City interviewed by Tran (2005) identified 265 Vietnamese food products associated with specific geographical areas and a special quality reputation (Tran, 2005). In Vietnamese language, such products are usually referred to as “dac san phuong” (local speciality products).
Phase 1 focuses on preparing the registration application document. This phase is implemented by localities and collective organizations (such as People’s Committees) with the technical support of central bodies (Ministry of Agriculture and Rural Development, Ministry of Science and Technology). The output of this phase is that the product is registered by the Department of Intellectual Property and becomes an asset owned by the state.

Building the system of geographical indication management and application is considered in Phase 2. The local authority (generally the province people’s committee) is assigned to do management on geographical indication, including building and issuing regulations on administration of GI; guiding implementation, in particular assigning the right of use. This authority is also in charge of controls, providing administrative support and taking providences in case of violation in exploiting the geographical indication. At this stage, local organizations and individuals should register for GI use and elaborate their own internal regulations on quality control, geographical indication use and exploitation.

The present strategy of Ministry of Science and Technology is to foster a quick implementation of Phase 1, i.e. the registration for geographical indication products in order to protect ownership rights in this field, thus keeping the benefits for Vietnamese producers in the future. Agricultural products which have been registered in geographical indications include: Phu Quoc fishsauce, Moc Chau shan tea, Buon Ma Thuot coffee, Doan Hung grapefruit, Thanh Ha litchi, Hai Hau Tam Xoan rice, Binh Thuan thanh long (dragonfruit or pitahaya), Lang Son anis, Phan Thiet fish sauce. Documents for other products are being prepared for registration.

However, few localities have yet worked on phase 2; nor has any local producer or group applied yet for the status of authorized GI user.

II. DIFFICULTIES MET AND DIVERSITY OF GI MODELS

These facts reveal a number of difficulties arising during the process of Geographical indication registration and in its later implementation, use and management. Several aspects deserve attention:

- A rapid implementation is taking place, influenced by the context of WTO accession (as also observed for other quality schemes).
- National institution and rules building regarding GI are significant, but not matched by local capacities and resources to implement them.
- The two phase-implementation system enables a rapid registration; but this first phase does not involve directly the responsibility of a supply chain organisation. The management and especially the control procedures are designed implemented only in the second phase. This results in a low involvement and responsibility of economic actors. Individual responsibility intervenes through the requirement of individual registration as a GI user, but this appears as a last and passive stage in the process.
- Accumulation of roles at the level of the province People’s committee: This local organization is frequently in charge of supervising the registration process and acting as the GI applicant towards the national office of intellectual property. After registration, it should bring support producers and traders but it also maintains a key role in defining management and
Finally the situation observed in Vietnam after the 2005 IPR law shows a low participation by economic stakeholders, but an excessive administrative decentralization.

During the whole process, the participation of individuals or organisations who will use effectively produce and market the geographical indication product, is generally very low. Low involvement during the preparation phase leads to very little attention being paid to the product by production organisations and farmers after it has received Geographical indication protection. It induces lack of learning process by local management organisations as to GI management and using the right. Therefore the competition advantages of Protected Geographical indication products are not brought into play in markets.

The decentralization of functions at the Provincial administrative level seems excessive. First, because as different provinces take different provisions for implementing and controlling GI, the meaning of GI quality scheme may result downgraded or confused. A national arbitrage is necessary. Second because technical support, rules definition and control enforcement should not rely on the same body in order to warrant impartiality. Last, but not least, because the level of protection obtained is a central point in the motivation of producers and processors to participate in the GI scheme. A province-managed control system does not have the reach and power needed to control products marketed or abused at national or international level, as is the case of Phu Quoc fish sauce for example (Vu and Dao, 2007).

The national system lacks equivalence with counterpart system for GI worldwide, especially regarding organization of requirements/controls and producers’ responsibilities. The formulation of geographical indication management system in Vietnam needs to be matched with other countries, especially with the European Union, which is the main potential export market for GI-labelled products.

Differences in GI regulation across countries are normal, as WTO only gives a very general definition, leaving it up to every member-state to define how it shall implement in national law the recognition of GIs. But acceptance of GI registration for their products in Europe is a very important motivation for producers and administration in Vietnam.

Vietnamese / European regulation differ, especially regarding organization of requirements/controls and producers’ responsibilities (see Table 1).

Table 1 – Requirements in registration and protection of GIs in Vietnam and Europe

<table>
<thead>
<tr>
<th>Requirement in registration and protection</th>
<th>Vietnam</th>
<th>Europe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Every organization, individual in area</td>
<td>A group of producers or processors</td>
</tr>
<tr>
<td>Product name</td>
<td>X</td>
<td>x</td>
</tr>
<tr>
<td>Description of product quality, specification</td>
<td>X</td>
<td>x</td>
</tr>
<tr>
<td>Production and trading practice</td>
<td>No</td>
<td>x</td>
</tr>
<tr>
<td>Relation between natural conditions and</td>
<td>X</td>
<td>x</td>
</tr>
<tr>
<td>Production practice</td>
<td>Geographical localizing</td>
<td>X</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------------------</td>
<td>---</td>
</tr>
<tr>
<td>Production condition: compulsory technical protocol</td>
<td>after registration</td>
<td>before registration</td>
</tr>
<tr>
<td>System of production and quality control</td>
<td>No</td>
<td>x</td>
</tr>
<tr>
<td>Application of geographical indication after registering</td>
<td>individual licence required</td>
<td>collective user’s right</td>
</tr>
<tr>
<td>Product’s traceability : control tools, product documents</td>
<td>No</td>
<td>x</td>
</tr>
</tbody>
</table>

This table shows that Vietnam has mainly descriptive requirements, while several conditions on application of geographical indication are lacking. Those important conditions are:

1) Geographical indication must follow a set of compulsory specifications
2) Geographical indications must implement a traceability and control system of control.

Besides, Vietnam is applying for registration and will build the control system later, which is different from Europe, where product specifications and control plans are designed simultaneously.

Due to these differences, many geographically indicated products will be delayed in protection in Europe and other countries. EU regulation 2006/510 states that third-country geographical indication products can be accepted for registration in Europe, granted that

“verification of compliance with the specifications, before placing the product on the market, shall be ensured by one or more public authorities designed by the third country and/or one or more certification bodies. [...] The product certification bodies [...] shall comply with and, from 1 May 2010 be accredited in accordance to European standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating certification systems)” (EU 2006: Art.11)

The ISO/IEC 65 norm implies that the certification body ensures the separation of advisory and certification services; sets up its own internal quality system, employs sufficient and adequately skilled labour force, and respects the criteria of independence and impartiality. Given the current requirements met in Vietnam, registered GI producers face many limitations to use geographical indications in international trade.

Finally, the process and documents to be prepared for the two phases of GI establishment are linked to distinct support institutions: the Ministry of Agriculture and Rural Development and the Ministry of Science and Technology. To promote information and create conditions for efficient registration, application, management and development of geographical indications in provinces, it is essential to clearly define the cooperation between ministries.

Finally, the question of local participation appears as a key factor in the three points above. Beside the formulation of local institutional systems, organizations and individuals producing products with geographical indication must indeed have their own regulations on quality control, geographical indication use and exploitation. However, the relatively high number of GI already established in Vietnam (15) makes it possible to learn from experience on how to improve these aspects. Among those products with Protected Geographical indication, some have been receiving brought into play with rather good efficiency.
III. MODEL OF STAKEHOLDERS’ PARTICIPATION IN ESTABLISHMENT AND MANAGEMENT OF GI

Several research institutes are currently searching for new models on efficient implementation process for GIs in Vietnam. On behalf of the Ministry of Science and Technology, the Department of Intellectual Property has mandated research institutions to do research and field testing on models of organising the right of use, the internal control, and the external control for protected geographical indications. The Rural Development Centre (RUDEC) is presently launching pilot support projects for Doan Hung grapefruit, Binh Thuan Blue Dragon and Phu Quoc fish sauce. The Centre for Agrarian Systems Research and Development (CASRAD) has worked on Hai Hau aromatic rice, Dai Hoang banana and particularly on the establishment and management of Geographical indication for Thanh Ha Thieu litchi (Truong, 2007).

- **Thanh Ha Thieu litchi**: History and role in the agriculture production of the region

More than a century ago, the Thieu litchi tree from China was acclimated to Thanh Ha (a district in the North of Vietnam belonging to Hai Duong province). Up to 1990, the litchi trees were planted in home gardens mainly for home consumption. In 1993, with the Government policies allowing the conversion of rice land into fruit tree land, Thieu litchi trees started to be expanded by local people, becoming a large scale production area. With population of about 160 000 people, the Thanh ha zone currently has 6744 ha under Thieu litchi trees, which occupy 60% of cultivation land (Hai Duong 2007). Litchi land area is about 2700m2/household in average, added value from litchi planting is about 12.2 million VND/ha (US$ 700 /ha) and it become most important income source for farmers in the zone (Truong, 2007). Nowadays, Thieu litchi trees have expanded to many locals in the Red River Delta.

- **Local Association**: Organisation for utilising and managing Thanh Ha Thieu Litchi under Protected Geographical indication

Sustaining the competitive advantages of Thanh Ha Thieu litchi as a local speciality has raised interest from local people, authorities and research organisations. Since 2003, CASRAD collaborated with local management organisations to build a strategy to bring these advantages into play through an action-research approach. This is one of the methods which focus on producers’ and traders’ knowledge and experience as a basis for product specifications and quality criteria. Producers are associated first informally through ‘groups of interest’ focused on topics such as production, quality management and product distribution to later become an organisation (Olson 1971). In 2004, small groups of farmers founded the Thanh ha Thieu litchi Producers’ Association. The establishment of the association created an opportunity for producers to define and facilitate relationships with service providers on several aspects (input providers, technical support, distribution services). One of the main activities was the construction of a protocol of product quality management from production to pre-processing. It combined people’s experience with some new technical knowledge respecting the principle of not altering any special characteristics of product quality.

- **Quality management**: Important role of Protected Geographical indication products

Thieu litchi quality is widely recognised by Vietnamese consumers, particularly in urban Hanoi market (Tran 2005). It has protected by the government through Geographical indication in 2007 with some special characteristics of product (NOIP, 2007 b). The product quality, linked to the natural conditions of the area and the technical process of producers,
relate to the shape and colour of the litchi rind, and to the colour, aroma and low acidity of the litchi pulp.

To ensure the quality management of the protected geographical indication products, the Thanh Ha Thieu litchi Producers’ Association set up an internal monitoring system for quality with regulated criteria. The association also agreed on a production protocol to be followed by farmers applying for Geographical indication for Thanh Ha litchi. Besides the internal monitoring system for quality, the Association also applies an external monitoring system through hiring professional offices (research institute, public health centre\(^7\)) to evaluate and to declare quality standard of product produced from the Association. Both processes of monitoring the conditions of production and evaluating the final product quality, warrant the products always have the desired special characteristics before reach to consumers.

- **Product classification: a strategic task**

Just before and during harvest periods are extremely important in evaluating and classifying Thieu litchi quality. The Monitoring board evaluates quality of litchi gardens based on the discussed criteria at different periods of time, but the main tasks relate to product assessment and are concentrated in the periods of before and during harvest times. The board decided classifying the Thieu litchi produced in the Association in 3 different types. Type 1 is used for export markets, supermarket retailers and direct clients; type 2 is distributed mainly through system of local collectors and a part for drying; type 3 is used mainly for drying. About 70% of total Thieu litchi production met the type 1 standard, denoting a rather gooo application and implementation of the specifications.

- **Product distribution: Bringing into play advantages of Protected Geographical indication products**

Translating Protected Geographical indication into a value adding process is no easy or systematic side-effect. Substantial marketing efforts are needed. Few products have been able to bring into play economic advantages after protected. Thanh Ha Thieu litchi is one among them.

Since 2007, after defining the collective specifications and obtaining the GI recognition, Thanh Ha Thieu litchi association built a monitoring system for fruit quality. It also started a system of labelling and packaging for the products, implementing a bar code system to assist to trace the origin of the products.

Product distribution activities are organised in direction of diversification from domestic to export markets. Starting from 2007, Thanh Ha Thieu litchi producer’s Association has started been collaborating with agriculture product import – export companies\(^8\) to export Thieu litchi to Germany, Canada and Middle East countries. For domestic market, the Association collaborates with supermarkets and retailing companies to distribute the products. Besides, the Association also collaborates with organisations, schools and hospitals to introduce and distribute the products directly to consumers. The introduction of the products in domestic as well as international fairs is often taking place. (see diagram 1)

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\(^7\) In Vietnam, province-level public health centres have the function of evaluating and declaring agricultural products quality.

\(^8\) Vietnam General company for Vegetable import–export (Hanoi); Thanh Ha Agriculture product processing company (Hai duong); Red Dragon Production and trading service limited company (Hochiminh City).
The collaborations ensure efficiency for participants from different sides. The global economic efficiency for the producers is that the product value increases from 20-30% (Dao et al. 2008). The exact contribution of GI recognition *per se* in this increased efficiency is not easily computable. The GI label is new and not yet known from local consumers in Vietnam, but the reputation of the regional name of this quality fruit is well established. The GI recognition contributes to the buyers’ positive appreciation of the product. As a result, protected Geographical indication Thieu litchi is distributed significantly 15% through high-income channels such as supermarkets, restaurants, and stores. For the export companies, distribution companies and supermarkets systems, the demands for both quality and quantity are always met. Then the product supply ensures to meet demand of domestic and international clients. Through quality monitoring system of producers, the companies’ cost to monitor quality can be reduced and trust established. A more accurate assessment would require nevertheless a longer time span.

**IV. Conclusion**

The rapid implementation of Geographical Indication legal framework in Vietnam over the last decade is largely linked to the context of WTO accession, achieved in 2007, and the firm implementation of TRIPS-compliant policies. Despite many difficulties occurred during implementation, the Vietnamese government has gradually formed the law and regulations on geographical indications. Local authorities are paying more and more attention to geographical indications, many localities having a budget dedicated to apply for protection.

National policies favour rapid implementation and registration of GI for agricultural products and foodstuffs. Stakeholders’ and supply chain organization, training and definition of operational control procedures are postponed to a second phase. This leads to a current situation of low participation and low efficiency. The lack of consistency between rules,
controls and sanctions (or even in some cases the lack of the latter) does not provide effective protection nor incentive for stakeholders. In spite of a high economic potential –given the consumers’ increasing care about product quality and traceability -, geographical indications in Vietnam still have low effective protection and market use.

In this context, the role of agricultural economists is manifold. To document and to assess ongoing experiences is an important task, given that 15 GI have already been registered nationally and that many other application files are under preparation. Economists, as other social scientists, should build on the understanding of people’s actions. As suggested by Eymard-Duvernoy (1995), the role of social researchers is to organize according to specific methods the empirical comprehensions of the actors. This implies to “follow the actors”. Applied research is therefore needed to understand the reasons why the ownership of the GI process by local actors and by markets is uneven and how it can be improved.

On a theoretical level, it is equally essential to discuss the definition of quality, evolving from a normative, ex-ante and administrative definition, to the vision of a multi-stakeholder negotiation arena, in which the quality results from the permanent interaction of producers and markets. In this new vision, the question of quality cannot be separated from the question of co-ordination in the value chains. The quality actually results from this negotiation; it cannot be defined beforehand or externally.

Sharing these analytical results and theoretical views with stakeholders and policy-makers is another task of agricultural economists. It may lead to suggest adjustments in the institutions or procedures for GI management, considering the role of different public levels and of different supply chain actors, towards a sustainable model of building and using protected geographical indication in Vietnam.

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