

## Placing value chain stakeholders at the core of Geographical Indication in Vietnam

DANG Duc Chien (RUDEC), Delphine MARIE-VIVIEN (CIRAD)

*Geographical Indications (GIs) are indications of products whose qualities or reputation is attributable to their place of origin. Based on specific know-how and the natural elements of the environment, GIs protect the value of the products and provide benefits for value chain stakeholders (producers, processors, traders, etc.), while supporting biodiversity and traditional knowledge in the territory. GIs are of growing importance in international trade, as illustrated by the renowned nuoc mam Phu Quoc (fish sauce), Champagne, Basmati rice, Rooibos herbal tea, Kampot pepper, Parmigiano Reggiano cheese or Kobe beef.*

*Vietnam is very active in this field, with 54 GIs registered at the National Office of Intellectual Property (NOIP) for Vietnamese products up to 2017. The first law on the appellation of origin was passed in 1995, then remodeled in 2005 as the Intellectual Property Law. However, in Vietnam, GIs are underused by value chain stakeholders, who do not understand the concept. In addition, consumers do not recognize GIs. GI protection has consequently only led to limited changes in stakeholder practices and only limited benefit. In our research, we identified their management system as a major constraint for GI use.*

We define the term 'management system' as comprising the following key actions:

- Drawing up the book of specifications (BoS): product's characteristics, method of production, geographical area;
- Drawing up the management plan: GI registration (who will be responsible), control, promotion;
- Registering the GI;
- Implementing control of the product and of the production/processor units;
- Promoting and marketing the product;
- Fighting misuses.

Based on an empirical survey of 35 Vietnamese GIs (documentary plus field survey for 8 GIs) and the lessons learnt from international experience in Europe and in Asia, we make recommendations on how to improve the GI management system.

### GI management in Vietnam: many issues

Currently, GI core management by the State often prevents active involvement by value chain stakeholders in the different management steps.

**Little involvement of value chain stakeholders in preparing the GI application documents:** Although Article 88 of the Intellectual Property Law 2005 allows collective value chain organizations to register GIs, in practice, local authorities rather than value chain stakeholders always prepare and apply for GI protection. Books of specifications are not drawn up in collaboration with the value chain stakeholders who have a deep knowledge of the situation. This has resulted in poorly written and unrealistic BoS that do not focus on the specificity of the GI product attributable to its geographical origin. There are no actual provisions for control, and the GI application form is not consistent across GIs.

**Collective GI organizations are usually formed after GI registration.** Moreover, because the collective organization's human and financial capacities are poor, the public funding for GI registration and management is usually allocated to local authorities rather than directly to the collective organizations.

**Collective GI organizations have limited roles in the management of their GI.** Article 121 of the Intellectual Property Law 2005 provides that collective organizations can manage GI and thus grant the right to use the GI and control it. However, of the 35 GIs surveyed, only the Hue conical hat is managed by the GI Association. In all other cases, the GIs are managed by provincial and district authorities, who promulgate complicated management regulations (AFD GI Project, 2017).

**Heterogeneity of management models.** The absence of a national regulation defining management rules across provinces and across different GIs in one province leads to confusion.

**The procedure to be followed to become a GI authorized user is an administrative burden for producers and processors.** Management regulations require stakeholders to submit numerous documents (for instance Decision 1401/QD-UBND for the regulation of Phu Quoc fish sauce requires 8 documents). This requires substantial time and energy from both the applicants and the management body, especially in the case of thousands of applicants. Moreover, the law on Promulgation of Legal Documents by People's Councils and People's Committees (Decree 63/2010/ND-CP) does not authorize the local authorities to collect fees for undertaking such administrative procedures.

As a producer of the GI Cao Phong oranges, said, "we do not use the GI logo because it belongs to the district"

**Checking the compliance of GI products with their BoS is a major challenge.** In the absence of a national regulation on how to organize GI control, a typical model of GI control in Vietnam comprises self-control by each producer, internal control by GI collective organizations and external control, usually assigned to administrative bodies, the Directorate for Standards, Metrology and Quality (for 16/35 GIs), or the Department of Agriculture and Rural Development (for 5/35 GIs) (AFD GI Project, 2017). No private accredited certification bodies control GIs. However, the implementation of controls is weak: 7/8 GI cases surveyed in the field had not been subject to controls, only nuoc mam Phu Quoc is controlled by an External Control Board (AFD GI Project, 2017).

**Value chain stakeholders do not endorse the promotion and marketing of GIs,** which is generally the responsibility of local departments such as the Department of Industry and Trade, the Department of Culture, Sports and Tourism, the Center of Investment and Trade Promotion even though these entities have no direct connection to the GI market.

**GI management requires specific skills linked with the GI value chain and financial resources.** Despite being specified in legal documents, most existing GI management systems are inactive because their functions are irrelevant (85%), lack the required human resources (64%), lack experience in quality management (64%) and lack equipment (41%) (AFD GI Project, 2017).



## Lessons learned from EU and ASEAN countries

In contrast to Vietnam, GI management in other countries, for example, in EU or in ASEAN countries, is characterized by strong involvement of the GI collective organization, from drafting the BoS, up to the ongoing management of the GI after registration.

**Application for a GI by a collective organization of value chain stakeholders.** In Europe, GI applications can only be filed by a group of producers and/or processors, irrespective of the group's legal status. In France, it is filed by the organization for the Defense and Management of the GI, of which all producers/processors are automatically members and which represents all operators so as avoid any unfair exclusion. Cambodia chose the same system as that in the EU, while Indonesia and Thailand have a mixed system in which a group of producers/traders, or an institution representing the local community or local government/government agency drafts and submits the GI application.

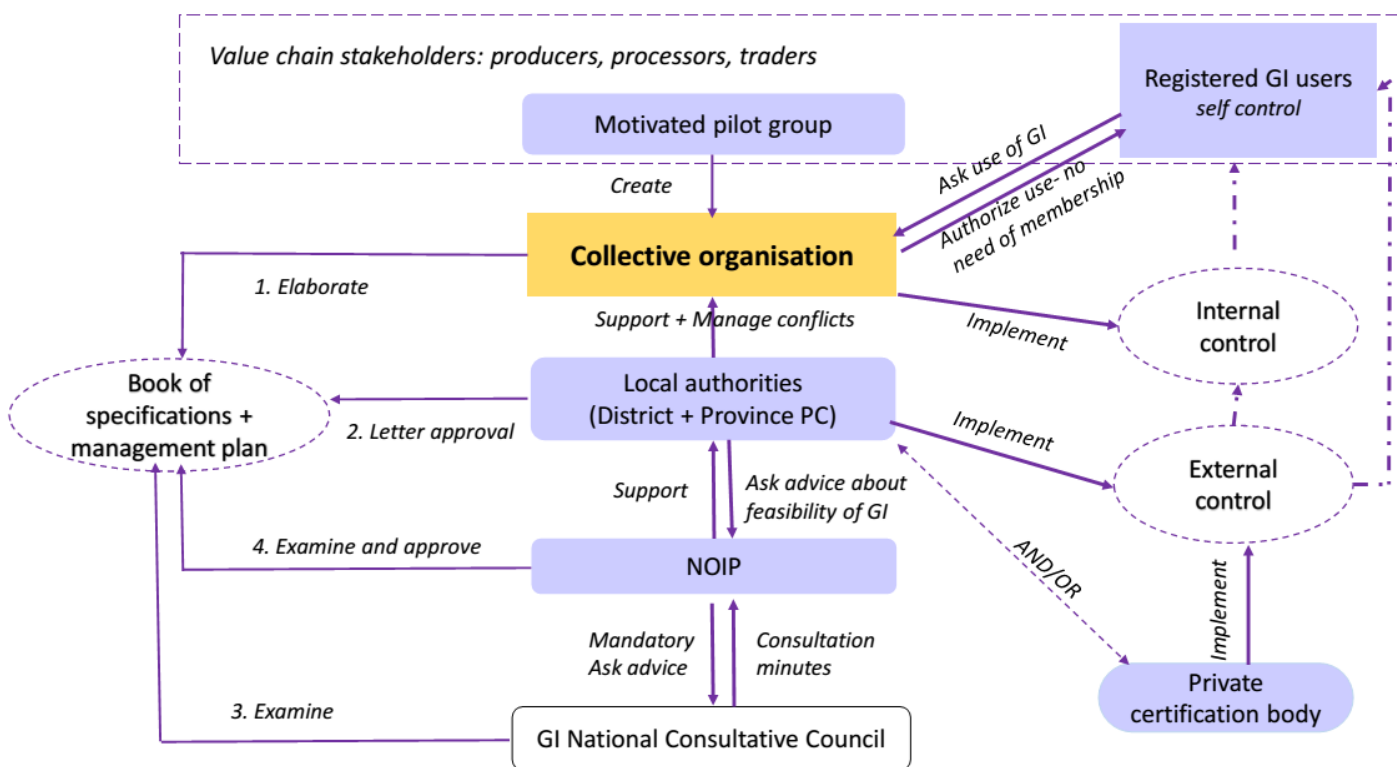
**Collective organization to control the GI in collaboration with public authorities.** The European control system has evolved considerably whereas it is still in its infancy in ASEAN.

- France:  
Control of the GI is shared between the GI collective organization, which is in charge of the internal control of all its members, and a private ISO 17065 accredited certification body for external control. The national GI authority (INAO, The National Institute for Origin and Quality) is responsible for supervising the whole system and approving the control plan for each GI. France chooses external control by private bodies, but the EU regulation also offers the option to choose public authorities for external control as long as they can guarantee objectivity and impartiality.
- Cambodia:  
Cambodia has the same system as France with external control by accredited certification bodies.
- Indonesia and Thailand:  
Both countries offer the choice of implementing external control by public bodies or by private certification bodies. Internal control is implemented by GI Associations when they exist.

**Strong internal control** in all countries strengthens the GI collective organization and supports producers/processors in respecting GI specification by combining training and internal control. It also reduces the costs of external control, which mainly focus on checking how the internal control is monitored, with direct checking of only a limited number of producers/processors at each inspection.

**Public authorities to fight frauds on the market.** In Europe and in France, the department for the repression of frauds, including -but not limited to- frauds concerning GIs, conducts inspection in wet markets, supermarkets, etc. and imposes sanctions.

## Recommended management model for Vietnam



## Recommendations

In the EU and ASEAN countries, including in Vietnam, previous experience shows that the most successful GIs are characterized by strong organization of motivated stakeholders from the value chain. We thus recommend that the GI collective organization of the value chain stakeholders is placed at the core of the GI management system. This collective organization should be set up as the first step towards GI protection.

**Core roles of the GI collective organization:**

- Before GI registration:

- Stakeholders who are willing to set up a GI collective organization should be identified, with a president who comes from the value chain;
- Prepare the GI application: BoS and the management plan, including controls (what to control, how, how often, by whom, which sanctions)

- o After GI registration:

- Authorize the use of the GI based on the simple expression of interest in using it and the commitment to respect the BoS instead of administrative procedure endorsed by a public authority;
- Implement internal control of the product, of the farm/processing unit and guide self-control;
- Promote sales and marketing;
- Fight fraud (detect cases of fraud and report to Provincial Peoples' Committee).

**Supporting role for national authorities:**

- MOST in setting up the national GI institutional framework in cooperation with the Ministry of Agriculture and Rural Development (MARD), the Ministry of Industry and Trade (MOIT), in consultation with the GI National Consultative Council (GINCC);

- MOST, MARD and MOIT in implementing policies by selecting the products for GI projects (Program 68) based on the motivation of stakeholders of the value chain;
- NOIP in consultation with GINCC in examining the GI application (BoS and management plan);
- NOIP in publishing all GIs BoS (or a summary of BoS) on its website/Facebook so producers, and processors are aware of GIs;
- MOIT in identifying fraud on the market;
- MOST in setting up an accreditation scheme to authorize domestic private/public certification bodies (Vinacontrol, Cafecontrol, etc.) to control GIs.

### Supporting roles for local authorities:

- Help identifying motivated stakeholders in the value chain;
- Supporting the formation and formalization of the GI collective organization;
- Examining the BoS, including the management plan drawn up by the GI collective organization, making comments and giving their approval before it is transmitted to NOIP by the GI collective organization;
- Creating an External Control Committee: which should bring together experts from DOST, DARD, DOIT and possibly from certification/control bodies.

## Implementation

This management system can be set up with no changes to the existing national legal framework. However, some conditions should be met:

- There is a need to publish guidelines on how to promote this new management model for all GIs in Vietnam;
- There is a need to insure the human and financial resources required for internal control by the GI collective organization and for external control by the Control Committee;
- Effective cooperation will be required between all public authorities at national and local levels.

## Further reading

This policy brief is based on the results of the project “Support for Geographical Indications in Vietnam” (AFD GI Project) funded by the French Development Agency (AFD) and implemented by NOIP, that will soon be published in scientific journals. Further reading on the management of GIs include:

- Marie-Vivien, D., & Biénabe, E. (2017). The Multifaceted Role of the State in the Protection of Geographical Indications: A Worldwide Review. *World Development*, 98 (October), 1-11
- Pick, B., Marie-Vivien, D., & Bui\_Kim, D. (2017). The use of geographical indications in Vietnam: a promising tool for socio-economic development? In I. Calboli & N.-L. Wee\_Loon (Eds.), *Geographical Indication at the Crossroads of Trade, Development and Culture in Asia-Pacific* (pp. 281-304). UK: Cambridge University Press.
- Marie-Vivien, D., Bérard, L., Boutonnet, J.-P., & Casabianca, F. (2017). Are French Geographical Indications losing their soul? Analyzing recent developments in the governance of the link to the origin in France. *World Development*, 98 (October), 25-34.
- Biénabe, E., & Marie-Vivien, D. (2017). Institutionalizing Geographical Indications in Southern Countries: Lessons Learned from Basmati and Rooibos. *World Development*, 98 (October), 58-67.
- Durand, C., & Fournier, S. (2017). Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies. *World Development*, 98 (October), 93-104.
- Marie-Vivien, D., & Vagneron, I. (2018). One size fits all or tailor made? Building an appropriate certification system for Geographical Indications in Asia. *World Food Policy Journal*, xx(xx).

## Author bios

**DANG Duc Chien** is a researcher working for the Institute of Policy and Strategy for Agriculture and Rural Development (IPSARD). His academic background is in agricultural economics and development practice. He recently became more involved in the GI domain focused on reforming the institutional framework of GIs at national level and applying new approaches to GIs at local and product levels.

**Delphine MARIE-VIVIEN (PhD)** is a senior researcher in Intellectual Property Law at Cirad, UMR Innovation, France, posted at IPSARD/RUEDEC, Hanoi, Vietnam since 2012. She has worked and published extensively on GI protection worldwide and particularly in Asia, where she is an expert on the different projects funded by the French AFD.

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