

IPR

UNIT - 3

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UNIT - 3

Types of Geographical Indications of Goods

Geographical Indications (GIs) are categorized based on the nature of the product and its link to a specific region. Each type highlights the unique characteristics, cultural significance, and economic value associated with the product's geographical origin.

1. Agricultural Products

Goods grown or produced in a region with unique soil, climate, or farming techniques. The geographical environment contributes to their distinctive qualities.

- **Examples:**
 - Basmati Rice (India)
 - Alphonso Mango (Maharashtra)
 - Nagpur Oranges (Maharashtra)
-

2. Handicrafts

Handmade goods reflecting traditional skills, craftsmanship, and cultural heritage of a region.

- **Examples:**
 - Pashmina Shawls (Kashmir)
 - Kanjeevaram Sarees (Tamil Nadu)
 - Madhubani Paintings (Bihar)
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3. Food Products

Specialty food items with unique preparation methods, flavors, or reputation tied to a region.

- **Examples:**
 - Hyderabadi Haleem (Telangana)
 - Tirupati Laddu (Andhra Pradesh)
 - Dharwad Pedha (Karnataka)
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4. Industrial Products

Manufactured goods associated with specific regions due to expertise, quality, or reputation.

- **Examples:**
 - Solingen Knives (Germany)
 - Sheffield Steel (UK)
 - Aranmula Kannadi (Kerala)
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5. Natural Goods

Products derived from natural resources or geographical features unique to a location.

- **Examples:**
 - Himalayan Rock Salt (Himalayas)
 - Makrana Marble (Rajasthan)
 - Kaziranga Tea (Assam)
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Significance of Types

These categories emphasize the diverse cultural, agricultural, and industrial wealth of regions. They not only protect producers but also enhance the global recognition of these unique products, benefiting local economies and preserving cultural identities.

Why Geographical Indications of Goods Need Protection

Geographical Indications (GIs) need protection to preserve their authenticity, economic value, and cultural significance. Without proper protection, GIs can be misused or exploited, leading to economic losses and the erosion of traditional practices.

1. Prevents Misuse and Counterfeiting

- Unauthorized use of GI labels can harm the reputation of genuine products.
 - Counterfeit goods may reduce consumer trust and impact market demand.
 - **Example:** Fake "Darjeeling Tea" harms the brand value and earnings of legitimate producers.
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2. Ensures Economic Benefits

- GI protection ensures fair compensation to producers and artisans who create these goods.
 - Protected GIs command premium pricing in domestic and international markets.
 - **Example:** Farmers producing "Kashmir Saffron" benefit from higher prices due to its GI tag.
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3. Promotes Rural Development

- GIs support local economies by creating employment and improving livelihoods.
 - Artisans, farmers, and small-scale industries benefit directly from protected GI products.
 - **Example:** The Pochampally Ikat Sarees industry sustains weaver communities in Telangana.
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4. Preserves Cultural Heritage

- GI protection safeguards traditional methods and knowledge passed down through generations.

- It prevents the dilution or loss of unique cultural practices tied to products.
 - **Example:** Traditional craft techniques for Mysore Sandal Soap are preserved through GI registration.
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5. Builds Consumer Trust

- GIs assure consumers of the product's quality, authenticity, and origin.
 - Protected GIs distinguish genuine goods from imitations, fostering confidence in buyers.
 - **Example:** Consumers trust GI-tagged "Basmati Rice" as being authentic and premium.
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6. Encourages International Trade

- Protected GIs help products gain recognition in global markets, boosting exports.
 - International agreements like TRIPS ensure GI protection across member nations.
 - **Example:** European recognition of "Darjeeling Tea" as a GI strengthens its global market presence.
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Conclusion

Protecting GIs ensures the economic, cultural, and social well-being of communities that rely on these products. It also safeguards global recognition of unique goods, promoting sustainable development and preserving heritage for future generations.

How Geographical Indications of Goods Get Protection

Geographical Indications (GIs) are protected through legal registration, regulatory frameworks, and enforcement mechanisms. Protection ensures exclusive rights for producers from a specific region and prevents unauthorized use.

1. Registration Process

GIs must be registered under appropriate legal frameworks to gain protection.

- **Application:** A producer group or organization applies for GI registration, detailing the product's origin, characteristics, and production process.
- **Scrutiny and Publication:** Authorities examine the application, and it is published for public objection.
- **Granting Protection:** Upon approval, the GI is registered, granting legal recognition to the product.

Example: The "Darjeeling Tea" GI registration includes specifications about cultivation and processing within Darjeeling.

2. National Laws

Countries have specific GI laws to protect and regulate their products.

- **India:** The **Geographical Indications of Goods (Registration and Protection) Act, 1999** provides a legal framework for GI registration.
 - **Key Features:**
 - Registration is valid for 10 years and can be renewed.
 - Exclusive rights are granted to registered users.
 - Infringement is punishable by law.
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3. International Agreements

- **TRIPS Agreement (1995):**
 - Administered by the WTO, it mandates GI protection among member nations.
 - Higher protection is provided for GIs of wines and spirits, but member countries can extend similar protection to other goods.
 - Example: India fought for international recognition of "Basmati Rice" under TRIPS.
 - **Bilateral and Regional Agreements:**
 - Countries negotiate specific agreements for GI recognition (e.g., EU's PDO/PGI system).
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4. Certification and Labeling

- GI-protected products are labeled to ensure authenticity and distinguish them in the market.
 - Certification bodies verify that products meet the specified standards.
 - Example: "Mysore Sandal Soap" carries a certified GI label.
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5. Enforcement Mechanisms

- **Monitoring:** Regulatory authorities monitor the market to prevent counterfeiting or misuse of GI names.
 - **Legal Action:** GI holders can sue for infringement if their rights are violated.
 - **Example:** Legal action was taken to protect the GI status of "Champagne" in non-EU countries.
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6. Documentation and Awareness

- Governments and organizations document traditional methods and characteristics of GI goods to strengthen claims.
 - Public awareness campaigns highlight the importance of GI protection for producers and consumers.
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Conclusion

GI protection is achieved through a combination of registration, legal enforcement, and international cooperation. These measures ensure that products linked to specific regions retain their authenticity, economic value, and cultural heritage in both domestic and global markets.

GI Laws

Geographical Indications (GIs) are protected through a combination of international treaties, national legislation, and enforcement mechanisms. These laws safeguard the rights of producers, ensure authenticity, and promote fair trade practices.

1. International GI Laws

The global framework for GI protection is primarily governed by the **TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights)** under the World Trade Organization (WTO).

Key Provisions under TRIPS

1. **Definition:** GIs are indications identifying goods as originating from a specific place, where their quality, reputation, or characteristics are linked to the location.
2. **Minimum Standards:**
 - All WTO members must provide legal means to protect GIs.
 - GIs for wines and spirits receive higher protection (e.g., "Champagne" or "Scotch Whisky").
3. **Enforcement:**
 - Members must establish administrative and legal systems to prevent unauthorized use of GIs.
 - Example: India's compliance led to the enactment of its GI Act.

Regional GI Systems

- **European Union:** PDO (Protected Designation of Origin) and PGI (Protected Geographical Indication) systems offer robust GI protection (e.g., Parma Ham, Roquefort Cheese).
 - **Bilateral Agreements:** Nations negotiate agreements for mutual recognition of GIs (e.g., EU and India's GI negotiations).
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2. National GI Laws

Most countries have specific legislation to protect GIs.

In India

The **Geographical Indications of Goods (Registration and Protection) Act, 1999** governs GI protection.

Key Features of the GI Act, 1999

1. **Registration:**

- Producers or organizations can apply for GI registration.
- Registered GIs enjoy exclusive rights for 10 years, renewable indefinitely.

2. **Protection:**

- Prevents unauthorized use or misuse of GI names.
- Legal action can be taken against violators.

3. **GI Registry:** Established in Chennai, it oversees GI registrations.

4. **Scope:** Includes agricultural goods, handicrafts, food products, natural goods, and industrial products.

Examples of GIs in India

- Darjeeling Tea (first Indian GI).
 - Pashmina Shawls.
 - Tirupati Laddu.
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3. Enforcement of GI Laws

- GI laws provide mechanisms for monitoring and legal enforcement to protect registered GIs.
- Authorities take action against counterfeit products and unauthorized use.
- Producers and associations can file suits for infringement.

Case Example

India successfully challenged a U.S. company's attempt to trademark "Basmati Rice," securing its status as a GI under the GI Act and TRIPS Agreement.

4. Importance of GI Laws

- Protects the economic interests of producers.
 - Preserves the cultural and traditional identity associated with products.
 - Prevents consumer deception through counterfeit goods.
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Conclusion

GI laws are essential to safeguard the authenticity, quality, and reputation of geographically linked products. They not only support producers but also enhance the recognition of unique goods in domestic and international markets.

GI Act in India

The **Geographical Indications of Goods (Registration and Protection) Act, 1999** is the primary legislation governing Geographical Indications (GIs) in India. It provides a framework for the registration, protection, and enforcement of GIs, ensuring the economic, cultural, and traditional benefits of region-specific goods.

Key Features of the GI Act, 1999

1. Purpose and Scope

- To provide legal protection to GIs of goods originating in India.
 - To prevent unauthorized use of registered GIs by others.
 - Applicable to goods including **agricultural, natural, manufactured products, and handicrafts**.
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2. Definition of Geographical Indication

- A GI is an indication that identifies a product as originating in a specific region, where its quality, reputation, or characteristics are inherently linked to that geographical area.
 - Example: **Darjeeling Tea, Pashmina Shawls, Tirupati Laddu**.
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3. GI Registration Process

- **Application:** Producers, associations, or organizations file for registration with the GI Registry in Chennai.
- **Documentation:** Applicants must provide details of the product, its unique characteristics, and its geographical link.

- **Examination and Publication:** The GI Registry examines the application and publishes it for objections.
 - **Registration:** If no objections are raised, the GI is registered for a renewable period of 10 years.
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4. Rights Conferred by GI Registration

- Exclusive rights to use the GI for registered producers or groups.
 - Prohibition of unauthorized use by others.
 - Legal remedies against infringement.
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5. Duration of Protection

- A GI registration is valid for **10 years** and can be renewed indefinitely upon payment of renewal fees.
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6. Regulatory Body

- The **GI Registry** is located in **Chennai**, India, and oversees all aspects of GI registration and protection.
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7. Penalties for Infringement

- Unauthorized use of a GI is punishable under the Act.
 - Penalties include fines, imprisonment, or both depending on the severity of the violation.
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Notable Examples of Registered GIs in India

1. **Darjeeling Tea** (first registered GI in India).
 2. **Mysore Silk**.
 3. **Alphonso Mango**.
 4. **Kashmir Saffron**.
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Significance of the GI Act in India

- **Economic Benefits:** Provides premium pricing for authentic GI goods, benefitting producers and communities.
 - **Cultural Preservation:** Protects traditional practices and heritage associated with products.
 - **International Recognition:** Aligns with TRIPS Agreement, ensuring global recognition of Indian GIs.
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Conclusion

The GI Act of 1999 plays a critical role in safeguarding India's diverse and unique geographical products. It ensures economic prosperity for local producers, promotes cultural heritage, and enhances India's global trade presence.

Case Study: Three Recent Famous Registered GIs of India

India has a rich heritage of unique products that have gained recognition through Geographical Indication (GI) registration. Here are three recently registered and famous GIs:

1. Kashmir Saffron (Jammu & Kashmir)

- **Registered:** 2020
- **Significance:**
 - Known for its unique flavor, color, and aroma, Kashmir Saffron is considered the world's finest saffron.
 - It is cultivated in specific areas like Pulwama, Budgam, Kishtwar, and Srinagar, benefiting from the region's unique climate and soil.
- **Impact of GI:**
 - Helps farmers fetch premium prices in domestic and international markets.
 - Protects against adulteration and ensures authenticity for consumers.

- **Challenges Addressed:** Prevents counterfeiting of saffron labeled as "Kashmir Saffron" in global markets.
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2. Kandhamal Haladi (Odisha)

- **Registered:** 2019
 - **Significance:**
 - A turmeric variety known for its bright yellow color and high curcumin content, grown in the Kandhamal district.
 - Cultivated organically by tribal communities, it holds immense medicinal and culinary value.
 - **Impact of GI:**
 - Increased market demand for the turmeric, leading to better earnings for tribal farmers.
 - Promoted sustainable agricultural practices in the region.
 - **Challenges Addressed:** Secures the reputation of Kandhamal Haladi against inferior imitations.
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3. Tellicherry Black Pepper (Kerala)

- **Registered:** 2022
 - **Significance:**
 - Famous for its bold size, pungency, and rich aroma, this pepper is grown on the Malabar Coast.
 - The product is considered one of the finest black pepper varieties globally.
 - **Impact of GI:**
 - Strengthened export opportunities by distinguishing Tellicherry Black Pepper in international markets.
 - Improved the livelihoods of pepper farmers in Kerala.
 - **Challenges Addressed:** Countered competition from other pepper-producing countries claiming similar quality.
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Conclusion

Recent GI registrations like Kashmir Saffron, Kandhamal Haladi, and Tellicherry Black Pepper underscore the significance of protecting India's unique agricultural and cultural heritage. These registrations not only preserve authenticity but also enhance the economic and social well-being of local communities.

Examples of Medicinal Geographical Indications (GIs)

Medicinal GIs refer to products derived from plants, herbs, or other natural resources with therapeutic properties, whose unique qualities are tied to their geographical origin. These GIs are important for preserving traditional knowledge and ensuring the quality and authenticity of medicinal products.

1. Kashmir Saffron (Jammu & Kashmir)

- **Medicinal Use:** Saffron is known for its anti-inflammatory, antioxidant, and mood-enhancing properties. It is used in traditional medicine for treating depression, stress, and skin disorders.
 - **Geographical Significance:** Grown in the specific climatic conditions of Kashmir, the saffron from this region is considered the finest in the world.
 - **GI Importance:** Protects the product from adulteration and enhances its global recognition as a high-quality medicinal herb.
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2. Madhuca Indica (Mahua) (Central and Eastern India)

- **Medicinal Use:** Mahua flowers are used for their medicinal properties in treating digestive issues, fever, and even as an aphrodisiac. Mahua oil is also used in skincare and haircare.
- **Geographical Significance:** The Mahua tree grows in forests in central and eastern India, particularly in tribal areas, where its traditional medicinal uses are integral to local health practices.
- **GI Importance:** By securing the GI status, Mahua products gain market recognition, ensuring fair compensation for local communities practicing sustainable harvesting.

3. Tulsi (Holy Basil) (India)

- **Medicinal Use:** Tulsi is widely recognized for its numerous health benefits, including anti-inflammatory, antiviral, and immunity-boosting properties. It is used in traditional Ayurvedic medicine to treat colds, respiratory issues, and stress.
- **Geographical Significance:** Though widely grown, some regions of India are known for cultivating the most potent forms of Tulsi, particularly for medicinal uses.
- **GI Importance:** Protects high-quality Tulsi varieties and ensures that they are used authentically in medicinal formulations.

4. Guggul (Commiphora Wightii) (Rajasthan and Gujarat)

- **Medicinal Use:** Guggul is used in Ayurveda for its anti-inflammatory, cholesterol-lowering, and weight management properties. It is also used in the treatment of arthritis, obesity, and cardiovascular health.
- **Geographical Significance:** Guggul is harvested from trees that grow in specific desert regions of Rajasthan and Gujarat, contributing to its distinctive medicinal properties.
- **GI Importance:** GI protection prevents the exploitation of the plant and its resin, ensuring the sustainable harvest of this valuable resource for medicinal purposes.

Conclusion

Medicinal GIs are critical for preserving traditional healing practices, protecting biodiversity, and ensuring the quality and authenticity of medicinal products. These products, such as Kashmir Saffron and Tulsi, are linked to specific regions and contribute to the health and well-being of communities while offering opportunities for sustainable economic growth.

Bioprospecting and Indigenous Knowledge: Need for Their Protection

Bioprospecting refers to the exploration and commercialization of biological resources, including plants, animals, and microorganisms, for the discovery of new products such as medicines, cosmetics, or agricultural innovations.

Indigenous knowledge refers to traditional, local knowledge systems passed down through generations, particularly related to health, agriculture, and natural resource management. Both bioprospecting and indigenous knowledge are crucial for advancing modern science, but they also require protection to ensure ethical use, fairness, and respect for the rights of indigenous communities.

1. Ethical Concerns in Bioprospecting

- **Exploitation of Biodiversity:** Bioprospecting can lead to the over-exploitation of natural resources, depleting the very biodiversity that holds the potential for new discoveries.
 - **Example:** The use of neem and turmeric in pharmaceuticals was once patented by companies without recognizing the traditional knowledge of their medicinal properties in India.
 - **Biopiracy:** When companies or individuals use indigenous resources without the consent or compensation to the indigenous people or countries, it leads to biopiracy.
 - **Example:** The patenting of the **Enola bean** (a variety of yellow bean) by a U.S. company, which was originally developed by Mexican farmers, without sharing the benefits.
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2. Importance of Protecting Indigenous Knowledge

- **Preservation of Traditional Practices:** Indigenous knowledge is often tied to sustainable and eco-friendly practices developed over centuries. Protection ensures that this knowledge is not lost or misused.
 - **Example:** The traditional methods used by indigenous communities in the **Andes Mountains** for medicinal plant cultivation help maintain ecosystem balance while meeting health needs.
- **Intellectual Property Rights (IPR) Protection:** Indigenous knowledge should be protected under laws that prevent unauthorized use, ensuring that local communities are credited for their contributions and benefit from commercial exploitation.

- **Example: The Nagoya Protocol (2010)** under the **Convention on Biological Diversity (CBD)** ensures that countries and indigenous communities share the benefits arising from the use of their biological resources.
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3. Need for Fair and Equitable Benefit Sharing

- **Benefit Sharing Framework:** When bioprospecting leads to the commercialization of indigenous resources, it is important that the benefits (such as royalties or commercial products) are fairly shared with the indigenous communities who hold the traditional knowledge.
 - **Example:** The use of **Brahmi** (a medicinal herb) in Ayurvedic medicine has led to patent disputes. Countries like India are working to ensure that traditional knowledge is patented by the rightful holders, ensuring benefit-sharing under the **National Biodiversity Act (2002)**.
 - **Prevention of Unfair Exploitation:** Without proper protection, bioprospecting could lead to the appropriation of indigenous knowledge without consent, causing economic disadvantages for the communities involved.
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4. Legal Frameworks for Protection

- **Convention on Biological Diversity (CBD):** This international treaty, established in 1992, requires countries to protect biodiversity and ensure that resources are used sustainably, with fair and equitable benefit sharing.
 - **Nagoya Protocol (2010):** A supplementary agreement to the CBD that sets rules for access to genetic resources and the fair sharing of benefits derived from their use.
 - **Example:** Countries must seek **prior informed consent (PIC)** from indigenous communities and ensure **mutually agreed terms (MAT)** before using biological resources or traditional knowledge.
 - **Traditional Knowledge Digital Library (TKDL):** India has created the TKDL to document and protect traditional knowledge, making it accessible to patent offices around the world to prevent wrongful patents on Indian traditional knowledge.
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5. Protection of Indigenous Rights

- **Community Consent:** Indigenous people must have the right to give or deny consent for the use of their knowledge and resources.
 - **Example:** The **Indigenous Rights Movement** ensures that indigenous communities are involved in decision-making processes related to bioprospecting activities.
 - **Cultural Sensitivity:** Protection should also consider the cultural importance of knowledge, preventing its exploitation in ways that may undermine indigenous beliefs or practices.
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6. Promoting Sustainable Use and Conservation

- **Conservation of Biological Resources:** By securing the rights of indigenous communities, bioprospecting can be done in a way that supports conservation and sustainable development.
 - **Example:** The **Amazon Rainforest** is a critical source of biodiversity, and indigenous communities have long used its plants and animals for medicinal purposes. Protecting their knowledge can help conserve the forest and promote sustainable use.
 - **Collaboration for Sustainable Development:** Collaboration between indigenous communities, scientists, and businesses can lead to innovations in biotechnology, medicines, and agriculture that support both economic development and environmental sustainability.
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Conclusion

Protecting bioprospecting and indigenous knowledge is essential for ensuring that the benefits derived from biodiversity and traditional practices are shared equitably and sustainably. Legal frameworks, ethical considerations, and respect for the rights of indigenous communities are critical in achieving these goals. Proper protection prevents exploitation, promotes conservation, and ensures that indigenous knowledge continues to play a vital role in global scientific and economic advancements.

Positive Protection of Geographical Indications (GIs)

Positive protection refers to the legal framework and measures that actively support and defend the rights of geographical indications (GIs), ensuring that the products that qualify for GI status are protected from misuse or

counterfeiting. It is the proactive protection granted to goods that have been officially recognized as originating from a specific geographical region, where the qualities or reputation of the product are intrinsically linked to that location.

Key Elements of Positive Protection

1. Legal Recognition and Registration

- **Geographical Indication Registration:** The first step in positive protection is the formal recognition and registration of a product as a GI. Once a product is registered, it gets legal protection under national and international laws.
- **Exclusive Rights:** The registered GI owners or producer groups are granted exclusive rights to use the name or mark. These rights are recognized and enforced by legal systems, preventing unauthorized use of the GI by others.

Example: The "**Darjeeling Tea**" has GI protection, and only tea produced in the Darjeeling region under specific conditions can be sold as "Darjeeling Tea".

2. Control over Usage

- **Certification and Monitoring:** Certification bodies, often formed by associations of producers, ensure that only authentic products benefit from GI status. These bodies monitor the quality and authenticity of goods, ensuring adherence to geographical and traditional production standards.
- **Enforcement of Standards:** GI products must conform to strict standards regarding production processes, quality, and other defining characteristics. Regular inspections and audits are conducted to ensure that these standards are maintained.

Example: "**Pashmina Shawls**" have stringent production guidelines and are monitored to ensure that only products made from genuine Pashmina wool in the Kashmir region carry the GI label.

3. Market Protection and Consumer Assurance

- **Consumer Awareness:** Positive protection also involves raising awareness among consumers about the value and authenticity of GI products. This helps consumers distinguish genuine GI goods from counterfeit products.
- **Marketing and Branding Support:** The GI label helps create a distinctive market identity for the product. Through positive protection, producers can

market their products as authentic and of superior quality, which can lead to premium pricing.

Example: "Alphonso Mango", a GI-protected product, is recognized globally for its distinct taste, and consumers trust the GI label to ensure they are purchasing high-quality mangoes from specific regions in India.

4. Legal Remedies Against Infringement

- **Legal Action:** Positive protection provides the legal tools to take action against infringement or misuse of GI names. Unauthorized use of a registered GI can result in legal consequences, such as fines or imprisonment.
- **International Enforcement:** Under agreements like the **TRIPS Agreement**, positive protection is extended internationally, allowing GI holders to take action against misappropriation in foreign markets.

Example: When a company outside India tried to sell rice labeled as "Basmati," India successfully challenged this under the TRIPS framework, protecting the GI status of Basmati rice.

5. Enhancing the Economic Value

- **Fair Trade and Economic Empowerment:** By providing positive protection, GI goods often fetch a higher price due to their quality and authenticity, benefiting local producers. This also promotes sustainable development within the geographical area.
- **Brand Value:** Positive protection increases the market value of GI products by associating them with reputation, quality, and traditional knowledge, leading to better sales and expanded market reach.

Example: "Mysore Silk" enjoys higher sales and recognition in both domestic and international markets due to its positive protection under GI laws.

Conclusion

Positive protection for Geographical Indications ensures that products tied to specific regions are shielded from unfair competition, misrepresentation, and exploitation. By officially recognizing and protecting these goods, positive protection provides economic benefits, fosters fair trade, ensures consumer trust, and helps preserve cultural heritage. Legal mechanisms, market control,

and consumer awareness play key roles in strengthening the positive protection of GIs.

Defensive Protection and Legal Aspects of Geographical Indications (GIs)

Defensive protection refers to measures that prevent the unauthorized use or registration of geographical indications (GIs) by others who are not entitled to use them. Unlike **positive protection**, which grants exclusive rights to the registered users, defensive protection ensures that others cannot improperly claim a GI or use it in a misleading manner. This type of protection is essential for safeguarding the integrity and reputation of GIs, especially when they are not formally registered but still need to be protected from misuse.

Key Aspects of Defensive Protection

1. Preventing Unauthorized Registration

- **Block Misuse:** Defensive protection prevents the registration of a GI name by parties who do not have a legitimate connection to the geographical area or product. It protects the GI from being registered as a trademark by someone who is not entitled to use it.
- **International Protection:** Under defensive protection, GIs can also be protected across borders, preventing foreign entities from registering the GI name as a trademark. This is particularly important for well-known GIs that have established a global reputation, even if they haven't been formally registered in every country.

Example: The name "**Champagne**" can only be used for sparkling wine produced in the Champagne region of France. Defensive protection ensures that no one outside this region can register "Champagne" as a trademark for non-authentic sparkling wine.

2. Protection without Registration

- **Non-Registered GIs:** Defensive protection is particularly useful for products that may not be registered with the relevant authorities but are still well-known in the market. In such cases, defensive protection can be used to

prevent the use of the GI by unauthorized parties, even if the GI hasn't undergone the formal registration process.

- **Generic Terms Prevention:** Defensive protection helps prevent a GI from becoming generic or losing its distinctiveness over time. It ensures that the GI remains associated with the specific quality or reputation of the product from the original region.

Example: "Feta" cheese was once used generically outside Greece. Defensive protection now ensures that only cheese produced in specific regions of Greece can be sold as **Feta**.

3. Legal Remedies and Enforcement

- **Legal Actions Against Misuse:** GIs that enjoy defensive protection can be enforced through various legal means, including **civil actions** and **administrative proceedings**. This helps prevent the unauthorized use or imitation of GIs, thus preserving their integrity.
- **International Agreements:** Defensive protection benefits from international treaties and agreements such as the **TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights)** and the **Madrid Agreement for the Repression of False or Deceptive Indications of Source**. These agreements offer a platform for countries to prevent the misuse of GIs across borders.

Example: If a company in another country falsely claims the use of **"Basmati"** rice without adhering to Indian standards, India can use defensive protection mechanisms to stop such registrations under international agreements like **TRIPS**.

4. Role of National and International GI Authorities

- **National Registries:** In many countries, GIs can be protected through national registries, even if they are not formally registered. These authorities play a role in defending the name from unauthorized use by monitoring trademarks, certifications, and other forms of intellectual property.
- **International Enforcement:** International protection for GIs can also come from treaties like **TRIPS**, which mandates that member countries provide

mechanisms to protect GIs from unfair competition and misuse, even if they are not registered in those countries.

- **Multilateral Protection:** The **Lisbon Agreement** and the **TRIPS Agreement** are key international agreements that provide defensive protection for GIs. These agreements ensure that GIs are protected in member countries, even if not formally registered in each country.
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Legal Aspects of Defensive Protection

1. Role of Trademarks in Defensive Protection

- **Opposition to Trademarks:** If an entity tries to register a GI as a trademark in a country, the rightful holders can file an opposition to prevent such registration. This is a key component of defensive protection.
 - **Protection from Misleading Marks:** Defensive protection also helps prevent the use of trademarks that may mislead consumers into thinking that a product originates from a particular geographic region when it does not.
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2. Certification and Collective Marks

- **Certification Marks:** GIs can be registered as **certification marks** that verify the geographical origin and quality standards of a product. Even if a GI is not registered, defensive protection can prevent unauthorized use of these marks by ensuring that they are used only by those meeting the established criteria.
 - **Collective Marks:** Some regions may use **collective marks** to represent the GI, and defensive protection ensures that only authorized members of a specific group can use the mark, preventing misuse by others.
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3. Strengthening the Role of Enforcement

- **Customs and Border Protection:** Defensive protection can extend to customs authorities, allowing them to prevent the importation of counterfeit or infringing products bearing GI names. This ensures that only authentic goods reach international markets.
- **Market Surveillance:** Continuous monitoring of markets, especially in e-commerce and global trade, is critical to ensuring that GIs are not misused.

Enforcement mechanisms are critical in keeping fraudulent products off the market.

Conclusion

Defensive protection is crucial for preserving the reputation and value of geographical indications, particularly for products that are well-known and recognized globally. While positive protection grants rights to the producers, defensive protection ensures that no one can take advantage of the GI's reputation without authorization. Both types of protection work together to safeguard GIs, maintain their authenticity, and support fair trade practices. The legal tools available for defensive protection, including trademark opposition, international agreements, and market surveillance, are integral in ensuring that GIs are not misused or exploited by unauthorized parties.