

GUIDELINES FOR FILING OF GI APPLICATION

❖ PRE-REQUISITE & GUIDELINES FOR FILING GEOGRAPHICAL INDICATION APPLICATION

1. Identification of Product?

To ascertain whether product qualifies as a Geographical Indications?

- Originating from a particular Geographical Area.
- Linkage with Geography and the product (Direct / Indirect).
- Reputation of the Product (Local / National / International).
- Historical Origin.
- Uniqueness and Quality of the product. (How it differentiates with other product and How quality is consistently maintained)

For a product to qualify as a GI, it should conform to these five main parameters.

2. Types of goods which qualify of Geographical Indications

Agricultural Goods: Goods of Agriculture / Horticulture / Floriculture / Sericulture / Apiculture / Forest produce and timber goods falls under this Category of goods

Natural Goods: Water, minerals, stone, granite falls under this Category of goods

Manufactured Goods: Manufactured goods can be classified under 5 categories.

1. **Handicrafts** – Pottery, Wood Carving, Stone Carving, Metal works falls under this Category of goods.
2. **Textiles** – Yarn and raw fiber, lace & embroidery, handloom & power loom products falls under this Category of goods.
3. **Industrial goods:** Tools and machinery falls under this Category of goods.
4. **Food Stuffs:** Ready to eat food, confectionary and bakery products, snacks, Meat & Meat based products falls under this Category of goods.
5. **Non-Alcoholic & Alcoholic beverages:** Wines, Beer, Spirit, Fruit drinks and juices.

3. Name of Product?

Name of product can't be coined or created; it should be in existence.

It can be any name, geographical or figurative representation or any combination of them conveying or suggesting the geographical origin of goods to which it applies.

Types of Geographical indications

Direct GI – Where prefix or suffix of Geographical area denotes the origin of the product from a particular geographical Area. Eg: Nagpur orange, Tirupathi Laddu, Banaras Brocades & Sarees, Kashmir Pashmina, Muga Silk of Assam.

Indirect Geographical indications: The nomenclature of the product denotes the origin of the product from a particular geographical Area. Eg: Basmati, Feni, Phulkari, Alphonso

A GI's name doesn't have to correspond exactly to the name of the geographical area.

A GI area can be larger than the boundaries of the extension of the name, and the contrary is also true. For example, the reputed name corresponds to a city located in the production area, but this area is larger than the limits of the city itself. The name can be larger than the effective area of production. The choice of the name should carefully consider the reputation associated to it. In some cases, the renown linked to a place or city known for tourism located in the production area can become an interesting beneficial opportunity.

A GI delimitation should not to be influenced by administrative or political boundaries, except if these boundaries have had a real impact on the territorial extension of the production in the past, or if they correspond to distinct cultural or natural differences which determine the product's characteristics.

4. **Who are the producers?**

To identify the actual number of producers practicing the craft / producing the product

To identify the community involved, in the production process, their traditional and hereditary skill which they possess.

5. **Organization of Producers:**

- Organizing Producers for formation of Association of producers. The Association of Producers needs to represent the interest of producers of concerned goods.
- Producers can be organized together by forming trust, association, society or farmer producer company
- If there exist more than 2 or 3 Association of producers, it is suggested to form an Umbrella organization.

Section 11 (1) of the Geographical Indications of Goods (Registration & Protection) Act, 1999 provides who can become an Applicant or who can file an Application of GI.

As per Section 11 (1) "***Any association of persons or producers or any organization***

or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods, who are desirous of registering a geographical indication in relation to such goods shall apply in writing to the Registrar in such form and in such manner and accompanied by such fees as may be prescribed for the registration of the geographical indication".

Accordingly, Any Association of persons or producers or any organization or authority established by or under any law for the time being in force representing the interest of the producers of the concerned of the concerned goods, who are desirous of registering a geographical indication in relation to such goods.

The expression "authority" has different dimensions and the term is wide enough to include all bodies created by the statute on which powers are conferred to carry out governmental or quasi- governmental functions. It thus includes all constitutional and statutory authorities on whom powers are conferred by law, including even autonomous bodies, and whether or not they are under the control of the Government.

Examples of Applicant:

Commodity boards –Such as Coffee Board, Tea Board, Spice Board & Coir Board, Handicraft Development / Boards / commissionerate, Producer Company, Non Government Organization, Trust, Export Promotion Board or Council, Government Companies & Agricultural Universities

6. Specification & Description of Product:

Specification must describe the specific characteristics of the GI product which are attributable to its geographical origin, justifying the link between the product and the territory (the same product cannot be elaborated in other territories). It must explain how a given quality (the specific attributes that make the product different from others of the same category), a reputation (history of the product, past reputation, current reputation) or other characteristics (for instance know-how) are linked to the origin.

It has to include measurable characteristics (chemical composition, shape, taste, colour, etc.), traceable to the final product. Moreover, it has to include elements that are not necessarily noticeable in the final product but which contribute to the above mentioned characteristics and image of the product: for example, biological resources (plant varieties), agricultural practices, maximum yields and duration of ripening/seasoning.

Description:

The description of the product may/should include the raw material, the main physical (shape, weight, appearance, consistency), chemical (presence/absence of additives, residues and so on), microbiological (use of such and such ferments, presence of germs) and/or organoleptic (smell, taste, texture, color, visual and sensory profile) characteristics of the product. The actual presentation of the product in case of meat (fresh, frozen, preserved) may also be the subject of a description.

The description of the product includes:

- raw materials;
- physical characteristics (shape, appearance, etc.) and presentations (fresh, preserved, etc.);
- chemical (additives, etc.);
- microbiological (use of ferments, presence of germs, etc.);
- organoleptic (flavour, texture, colour, sensory profile, aromas, taste, etc.).

With regard to the processing methods (for processed products), for all the stages that are taking place in the territory concerned and as relevant, the description would include:

- production processes, techniques and technical criteria;
- for Agriculture products: varieties, harvesting, storage, etc.

7. Geographical Area of Production and Linkage:

Geographical environment can be understood to include natural factors such as soil and climate, and human factors such as the particular professional traditions of the producers established in a given geographical area.

Along with linkage to the specific geographical location and impact of environmental factors such as soil, water and climatic condition including human factor (if any) involved shall be clearly brought out with supporting documents.

The demarcation of GI Area of production of GI product. If any area is excluded or included, the reason for the same should be provided.

The history of the product is important to consider when defining the production area, as it can evolve over time (it can expand and shrink), according to economic cycles and trade conditions. It can be useful to define the "minimum" area of production where production has always been maintained, as it possesses the optimal conditions that will serve to select the criteria for the GI area's delimitation. Indeed, the delimitation could partly differ from the present location of production, depending on how the potential for production is taken into consideration.

The geographical area corresponds to the territory where the GI product is elaborated or can be elaborated according to the stages defining the GI product (raw material, processing, etc.). In fact, the delimited area of production of a GI product is defined according to the interaction of natural and human resources over time. The delimitation should be based on the link between the product and its geographical origin.

Therefore, the delimitation should take into account four main criteria:

- physical criteria, such as soil, climate, topography, water supply, etc.;
- local practices, such as conditions of cultivation, varieties, harvesting, processing practices, etc.;
- local production history and the GI reputation and;
- localization of the GI producers (actual or potential).

8. Proof of Origin or Historical Origin:

Reputation is closely linked to the history and historical origin of the product. Consequently, the history of the product should be described in order to demonstrate its historical existence in the geographical area and thereby its reputation. The production of a file, containing the key elements of the history of the product, will provide proof of the use of the name and reputation of the product. The first uses of the name, accompanied as far as possible by the first descriptions of the product, and its conversion method will therefore serve as particularly useful initial information.

In this regard, bibliographical reference, including literary quotations and references which bind the product to the place in historical terms, especially in its human skills dimension should be used as basis. In the absence of written references, it is possible to cite oral testimony.

History also contributes to reinforce the linkage of a product to a territory, thus defining the local identity and justifying it for external recognition. Indeed, historical data and documented sources (literature, laws, recipes but also oral sources such as stories and narrations) mentioning the product and the geographical origin in the past are important justifications for

the roots of the product.

The historical elements are not only useful to support the protection of the product's reputation, they also allow for the evolution of the production and the product itself to be seen with a long-term perspective. This is particularly important in order to meet consumer expectations, which evolve generally more slowly than technologies.

Documentary evidence (such as gazetteers, published books & records) relating to proof of origin (historical proof) of product along with usage of Name of the product. If any data or information has been cited from any Article or Book or a manuscript, the reference alongwith the photocopy of the same to provided.

9. Method of Production:

Local stakeholders can make use of the GI and participate in its value creation. If the product characteristics comply with a local tradition and image of quality, the product will preserve and increase the GI's value. But if not, the GI's value will diminish.

In other words, the behaviour of each producer can benefit or damage the GI as an asset. As long as a product benefits from a collective reputation, it means that there are already certain local rules followed by producers. However, this reputation can be damaged if producers using the GI name do not respect the principles that made the product typical and valuable. In order for producers to contribute to the preservation of the specific characteristics and the value of the GI product on the market, it is important that some clear rules exist and are enforced.

The first step is to define what makes the GI product famous and different from others, on the basis of objective characteristics, raw materials and processing methods.

The description of the product includes, as relevant:

- raw materials;
- physical characteristics (shape, appearance, etc.) and presentations (fresh, preserved, etc.);
- chemical (additives, etc.);
- microbiological (use of ferments, presence of germs, etc.);
- organoleptic (flavour, texture, colour, sensory profile, aromas, taste, etc.)
- processing methods for all the stages.
- final product, as presented to consumers (packaging & labeling)

10. Uniqueness:

To define what makes the GI product famous and different from others, on the basis of objective characteristics, raw materials and processing methods to define the specific quality and demonstrate its link to geographical origin.

11. Inspection Body:

In order to prevent misuse of GIs and allow them to play their role as a sign of a specific quality linked to geographical origin for producers, consumers, local and global stakeholders, a set of common rules defined at the local level is required in order to:

- clearly identify the product and define its production and processing practices shared by stakeholders using the GI;
- avoid unfair production and commercial practices, preventing abuse or damage to the GI reputation through the making and selling products with different and/or lower quality characteristics while benefiting from the reputation of the quality sign;
- guarantee quality assurance of the product and of the geographical origin, fostering consumer confidence;
- guide the behaviour of local producers and support coordination and cohesion to create, preserve or improve the GI product's reputation and name value.

In order to enforce these local rules, local stakeholders can explore ways to ensure the conformity to the rules established and protect their rights to use the GI under a protection and guarantee system.

An Inspection body provides assurance to consumers and other purchasers of a product's conformity to the specifications established. It includes all the mechanisms put in place in order to ensure the respect of the rules (control) and the related information to consumers (certification).

The quality mechanism depends on specific market conditions and the economic, social and cultural context. In local markets, proximity between producers and consumers allows for the building of trust and the possibility for consumers to check for themselves the conformity through an informal social system within the community. When trust and proximity are not possible or sufficient as a mechanism to ensure the conformity of the product, a more complex guarantee system should intervene:

- to give each producer the ability to ensure himself and prove to the other GI producers, that

he/she continues to produce the product in conformity with the SoP;

- to guarantee society, consumers who buy the GI labeled products, that conformity to the SoP is controlled, ensuring product quality and maintaining confidence and credibility in the GI.

Verification of the product conformity is based on three main components:

- raw material and processes, as defined in the SoP;
- traceability, to ensure the product originates from the GI delimited area;
- final product, as presented to consumers (labelling, aspect, taste, etc.).

Traceability can be ensured with quite simple tools, like those developed for matter of accountability. Eg: Producers have to record their production and sales (per category of product) in a form provided by the GI association. Each record to be signed by the (registered) buyers in log book of the producer. A certificate of delivery shall be issued and signed by both producer and buyer and kept by the buyer to justify the source of supply. These records act as the first step of the traceability system.

❖ **LIST OF DOCUMENTS TO BE SUBMITTED AS PER INDIAN GI ACT & RULES.**

1. Every Application for registration of a Geographical Indication shall be made in the prescribed format on Form GI – 1 and shall be signed by the Applicant or his Agent;
2. Statement of Case shall be accompanied with the Application and shall be signed by the Applicant or his Agent;
3. Documentary evidence relating to the legal status of applicant to be provided such as Bye - laws, Registration certificates, etc;
4. Names and Addresses of the Applicant shall be given in full, together with their nationality, email and contact details and such other particulars as are necessary for identification;
5. Statement of User - An application to register a geographical indication shall, contain a statement of the period during which, and the person by whom it has been used in respect of the goods mentioned in the application. The applicant shall file an affidavit testifying to such user with exhibits showing the geographical indication as used, the volume of sales under that geographical indication, the definite territory of the country, region or locality in the country to which geographical indication relates and such other particulars as the Registrar on perusal of the application may call for from the applicants;
6. Documentary evidence (such as gazetteers, published books & records) relating to proof of origin (historical proof) of product along with usage of Name of GI; Further, bibliographical reference, including literary and scientific quotations and references should be provided as basis.
7. To file copy of Additional Representation containing name of G.I and Applicant, Address, Goods, Class, Specification And Period Of Use;
8. Transliteration and translation - Where an application for a geographical indication contains a word or words in a language other than Hindi or English, the Registrar may ask for an exact translation thereof together with the name of the language, and such translation and name, if he so requires, shall be endorsed and signed as aforesaid;
9. An affidavit as to how the applicant claim to represent the interest of the association of persons or producers or any organization or authority established by or under any law;
10. Two submit certified copies of the map of the territory, region or locality showing the title, name of publisher and date of issue along with the application;

❖ **REQUIREMENT FOR FILING OF GI APPLICATION**

1. NAME OF GI

- To file logo of along with GI for better identification and Protection of GI Rights.

2. DETAILS OF APPLICANT:

- Name and Address of the Applicant
- Documentary evidence relating to legal status of a Association of Producers to be provided such as Memorandum and Articles of Association, Bye-laws, Registration certificates etc.,

3. NAME OF THE GOODS AND CLASS:

- As per Section (2) (1) (f) of G.I. Act 1999.
- Agricultural, Natural, Handicrafts, Industry, Manufactured goods & Food Stuffs
- Classification of Goods as per Schedule 4 mentioned in GI Act, 1999.

4. GI AREA: CERTIFIED COPY OF AREA MAP

- The GI area may be indicated by giving details of the longitude and latitude of the production area. The provided certified map (three copies) issued from a competent statutory authority giving details of the longitude and latitude of the production area.

5. AN AFFIDAVIT TO REPRESENT THE PRODUCERS

- The Applicant to file a notarized affidavit in original stating how the applicant claims to represent and safeguard/protect the interest of producers of proposed GI; Approximate Annual Turnover. The date, month & year of execution of the affidavit should be mentioned.

6. PROOF OF ORIGIN

- Brief description about the origin and the evolution of the GI.

Documentary evidence (such as gazetteers, published books & records) relating to proof of origin (historical proof) of product along with usage of Name of GI.

7. METHOD OF PRODUCTION:

- The general good practices of Production adopted by the producers in the GI Area to be provided.
- The specific standards of Quality and process of sequence of production along with the characteristics which make the product Unique to be provided

8. SPECIFICATION & DESCRIPTION

- Specification of GI product to be to be provided with detailed and clear characteristic and technical specification.

9. UNIQUENESS:

- Peculiar features that makes the GI different from other similar goods.
- The human skill of producer in making of this unique product to be provided.

10. PARTICULARS OF INSPECTION BODY

- The inspection structure should be strengthened with an independent Neutral agency to maintain the quality and regulating the use of Geographical Indications.

❖ **REGISTRATION PROCEDURE**

HOW TO APPLY?

- Application for registration of a GI should be in the prescribed form (GI-1A to 1D). Accompanied by the prescribed fee – Rs.5000/- Per Class.
- It must be made in triplicate along with three copies of a statement of case, accompanied by Additional Representations, certified copies of Map, documents in support of origin.

SIGNING OF THE GI APPLICATION

- GI Agent
- Association : Authorized Signatory
- Body corporate / Organisations / Authority:
- Chief executive, M.D, President, Secretary, or other Principle Officer.

FILING OF GI APPLICATION

- The Application for Registration of GI Application shall be filed with the Geographical Indications Registry, Intellectual Property Office Building, G.S.T. Road, Guindy, Chennai – 600 032.
- E-Filing service was started in March, 2015.

PROCEDURE

- Upon Filing of an Application, a preliminary Examination report is issued for compliance of deficiencies in the Applications as per the GI Act & Rules within One Month.
- Upon receipt of compliance to the Preliminary Examination Report, in case of non-compliance or partial compliance to the deficiencies in the preliminary Examination report a Show Cause Hearing is scheduled.
- The Registrar constitutes a Consultative Group of not more than Seven members, chaired by him along with persons well versed in the subject matter to evaluate and ascertain the correctness of the particulars furnished in Applications and its supporting documents.
- The Applicant is called upon to make a presentation before the Consultative group and based on the recommendation by the Consultative group an Examination Report is issued to the Applicant, to comply within two months.
- Upon compliance, the Application is accepted, the Application proceeds for Publication in the Official Journal. It is made available for public to raise their objection.

- During this time/ period, Any person, on an application to the Registrar along with the requisite fees can oppose the Registration. If the Application is not opposed and time for Opposition has expired, the GI Application is Registered from the date of making the Application and certificate of Registration is issued. The Registration of a GI shall be for ten years and can be renewed from time to time.