

Geographical Indications and Biodiversity: Bridges Joining Distant Territories

Jorge Larson Guerra

Many studies show that labelling indicating geographic origin can contribute to *in situ* conservation of biological diversity and the protection of traditional knowledge and practices. This angle is worth a closer look now that geographical indications have become a major issue at the WTO and a bargaining chip in the Doha Round.

In situ conservation of biodiversity is a complex process involving the protection and restoration of the diversity of rural landscapes, the sustainable use of biological resources and the viability of traditional rural livelihoods. Not only economic, but social, cultural and environmental values are at stake and geographical indications (GIs) can offer a bridge between consumers and producers for the mutual recognition of such processes and the values they can represent.

GI labelling principles are closely related to those of trademarks: they must be non-misleading and informative, as well as allow the identification of the producer of goods and services. They are, in a sense, a “guarantee” to the consumer and they promote a corporate image that includes reputation and responsibility.

GI certification is based on a combination of first-party verification and state oversight or even direct involvement. They are a collective guarantee related to the biological identity and the quality of the product. Third party certification labelling developed in the context of eco-labelling can play a role. A strategy that combines eco-labels with GI certification could strengthen small rural producers’ development, conservation and marketing efforts. The important issue is that both eco-labels and GI certificates can be accountable if developed according to known, public and verifiable standards that contribute to consumer confidence through meaningful rules.

In many developed countries origin-related labelling has evolved slowly and now includes a complex mix of GIs and trademarks, most often protecting processed goods ranging from wines and spirits to cheeses and hams, honeys and other horticultural produce. Developing countries, however, are only at the beginning of their regulation history with regard to GIs and trademarks, as well as the basic legal requirements related to environmental and forestry regulations.

In developing countries, where the harvest and commercialisation of biological resources remains largely non-differentiated by brandnames or other consumer-oriented indications, GIs are not only a matter of market access or regional protectionism. They also serve as a tool for legally regulating harvesting practices and promoting rational land use strategies that relate directly to *in situ* conservation of biological diversity.

In this context, a broader understanding of the meaning of ‘misleading’ would be very useful, in particular to weed out labels that are deceptive because of what they do not say. Most non-timber forest products now available in the market (in Mexico as well as other countries) are ‘informal’ if not outright illegal. This is why, in particular, non-timber forest products managed collectively – or being decimated by the tragedy of the commons – are at the crossroads of *in situ* conservation and regional development.

Limited productions and sustainability

A finished product labelled by the producers retains more value in its region of origin. It should be transformed, packaged and labelled there. Limited productions are – or should I say ought to be – a necessary consequence of denominations of origin and other geographical indications. This practice has direct implications for sustainability because it sets a rational and verifiable limit to what can be produced within a certain area.

However, if markets demand more, there is a threshold beyond which a product cannot be sustained with the productivity of a region. Demand leads to pressure for imitations and foreign inputs involving complex vertical integration and the interests of a globalised industry. This process undermines ‘originality’ – and sometimes reputation – but history shows that for resources and products not yet traded internationally the potential for conflict between agro-industrial manufacturers of generics and traditional producers of ‘specifics’ is more limited.

Thoughts from Mexico

The Mexican laboratory of globalisation offers valuable lessons with regard to GIs and *in situ* biodiversity conservation. GIs do not contribute to conservation by definition; they need a policy context and much more. But they point to an interesting path of differentiation that complements other strategies.

Tequila is Mexico’s best-known AOC (appellation d’origine contrôlée). The underlying plant takes seven years to mature and market growth demands huge quantities. Producers and government have allowed the introduction of other sugars (up to 49 percent), a risky strategy that threatens with generification. The tequila agro-industry has also promoted genetic homogeneity and intensive land use, which do not contribute to conservation.

However within *Mezcal* – tequila’s wild forefather and living cousin – there is a wealth of *Agave* species (more than ten) that are cultivated and managed as forest or wild species. It is through ‘single’ mezcals that biodiversity and rural development can be promoted in tandem. While mezcal may seem exotic to non-Mexicans, for us it is a generic, distilled *Agave*. Thus, there is ample room for further differentiation. For instance, a label and a certified GI for *Mezcal*

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Papalote del Chilapan (the product, the species *Agave cupreata* and the region Northeast of Acapulco) would be a just reward for a regional peasant organisation that has been working for over a decade in using maguey and mezcal as cash crops that contribute to environmental restoration and community development.

Different perceptions and needs

Precision and confidence in geographical labels are an issue of culture and law enforcement, and the assumptions of governments, producers and consumers vary widely across regions. This is why multilateral agreements on GIs cannot impose a simple rule for all.

The perception by many developing countries of GIs as another technical barrier to trade is not helpful. In the long run, developing economies should not build their growth on replicating products from abroad, but on differentiating their own. They should use their products' identity (often biologically and culturally endemic to the country) and their efforts towards formalisation and sustainability. Competitive advantages are to be found in geographical indications and their growth – in number if not in size as for tequila – will contribute to a diversified rural landscape.

If labelling is challenging for developed economies and industries, picture the complexities of GI labelling in countries whose count of useful biological resources tied to landscape runs to the thousands. Geographical indications may underlie, much more than we think, our long-term ability to sustain viable rural and culturally diverse urban societies. A balance must be reached between the specific and the generic; rural development and access to quality food by all needs both strategies. In a sense, the trend towards the 'GI-fication' of rural products is unavoidable, not only because the exponential growth in their use in the last decade, but also because of the weight of the underlying arguments (to conserve, protect, value and inform). Eventually, GI protection will hit the ground like Newton's apple, and then its seeds will germinate and grow.

Jorge Larson Guerra is a biologist and the Coordinator of the Collective Biological Resources Programme, National Commission for the Knowledge and Use of Biodiversity, Mexico.

The Crowded Trade Agenda of the Kuala Lumpur Biodiversity Meetings

When this issue of Bridges went to press, the seventh Conference of the Parties to the Convention on Biological Diversity (CBD) was about to conclude, and the first Meeting of the Parties to the Cartagena Protocol on Biosafety was due to start in Kuala Lumpur.

Out of dozens of multilateral environmental agreements, the Cartagena Protocol has the most commercially-significant trade implications. It deals with transboundary movements of genetically modified organisms (GMOs, called 'living modified organisms' in the treaty.) The most important substantive questions on the Kuala Lumpur agenda were labelling and other documentation requirements for GMO exports, compliance, and liability and redress.

While the Cartagena Protocol addresses these topics under the angle of biodiversity conservation, the very same issues pit WTO Members who export GMO products against those intent on regulating such imports. The European Union already faces a WTO dispute on its approval processes for GMOs, with a more comprehensive challenge possible on its entire regulatory framework (Bridges Year 8 No. 1, page 10).

The Conference of the Parties to the CBD (COP-7) also addressed a number of trade-related issues, including a draft decision inviting the WTO to consider the risks arising from invasive alien species. COP-6 adopted Guiding Principles for the prevention, introduction and mitigation of the impacts of alien species, but Australia lodged a formal objection motivated by trade concerns (these may include, *inter alia*, prohibiting packaging that could harbour non-native pests). The draft decision at COP-7 also requested the CBD Executive Secretary to collaborate with the WTO on integrating the issue into the WTO's training and capacity-building activities.

Other draft decisions concerned measures to support compliance with the CBD's provisions on prior informed consent of countries providing genetic resources, and the establishment of an international regime on access to genetic resources and benefit-sharing.

The latter two topics are related to – so far inconclusive – discussions at the WTO's Council for TRIPs, where several developing countries have been pressing for mechanisms to protect traditional knowledge and recognition for regimes that aim to regulate access to genetic resources in order to prevent bio-piracy, as well as to reap benefits from the use of traditional knowledge or genetic resources in patented products. CBD Parties were expected to focus on whether the access and benefit-sharing regime should also cover the *products* of genetic resources and their derivatives, as well as associated traditional knowledge, innovations and practices. Another question was how the regime would relate to and integrate existing instruments and processes, including at the WTO, the World Intellectual Property Organization (WIPO) and the International Convention for the Protection of New Varieties of Plants (UPOV).

Parties to the CBD also looked into transfer of technology, with a draft decision stressing the need to create appropriate intellectual property regimes for the transfer, absorption, adaptation and diffusion of technologies. Among suggested activities was analysis of potential benefits, risks and associated costs related to the introduction of "new technologies", obviously including – although not overtly naming – biotechnology.

A draft resolution was also put to the Parties concerning "perverse incentives" that contribute to loss of biodiversity. A CBD Secretariat study has concluded that reducing trade-distorting agricultural subsidies could help conserve and sustainably use biological diversity provided that "well-designed flanking policies" are in place in both subsidising and non-subsidising countries.

The next issue of Bridges will report on the outcome of the Kuala Lumpur meetings, which will also be covered in detail by BRIDGES BioRes available at <http://www.ictsd.org/biores/index.htm>.