



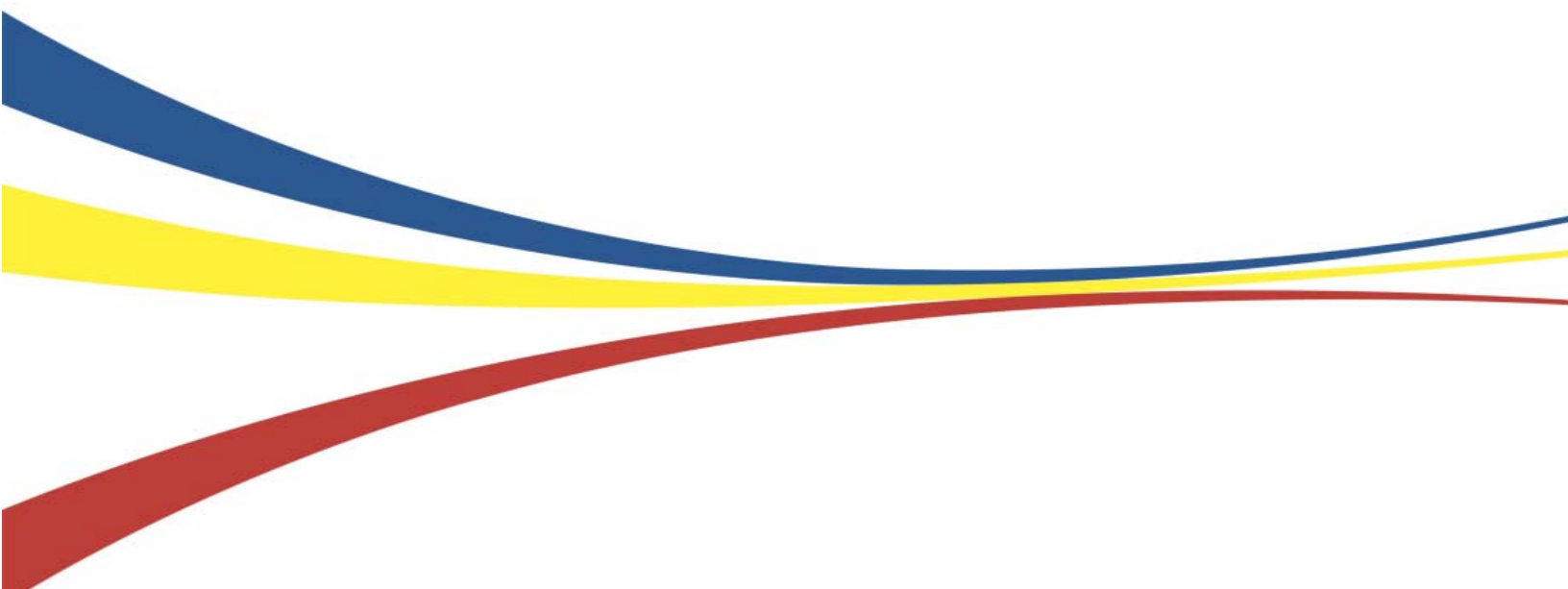
Guidelines
on Protection of Geographical Indication
in ASEAN Member States

December 2020

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1. OVERVIEW OF THE PROTECTION OF GEOGRAPHICAL INDICATIONS IN ASEAN



This guideline is developed by the Department of Intellectual Property (DIP) Thailand, in collaboration with all ASEAN Member States, the ASEAN Working Group on IP Cooperation (AWGIPC) and the ASEAN Secretariat in carrying out Initiative 18.2 of the ASEAN Intellectual Property Rights Action Plan 2016-2025: Evaluate protection mechanisms of Geographical Indications (GIs) and assist in the protection of GIs in ASEAN and foreign market. All information contained in this Guideline is accurate as of 30 December 2020.

Overview

Geographical Indications (GIs) are indications which identify goods as originating in specific places, where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographic origin¹. A GI, therefore, is a distinct type of intellectual property which represents a relationship between the recognizable quality of a product and their specific place of origin, including the unique wisdoms and mancraft possessed in such geographical area. Many countries see an opportunity to commercialize GI products in the market due to their unique cultural and physical attributions in order to create economic welfare and sustainable development to their originated localities.

As the agriculture sector remains a key driver of the ASEAN's economic development, the protection of GIs is considered as an effective mean to add value to agricultural products, local identity and traditional knowledge in the region. On the other hand, GIs could also be a tool for promoting local community's branding, which in turn generates income and enhances the local sustainable development. Since the World Trade Organization Agreement on Trade- Related- Aspects of Intellectual Property Rights (WTO TRIPS Agreement) has entered into force in 1995, each ASEAN Member State (AMS) established its own legal framework for the protection of GIs which can be divided into two (2) major systems, namely the protection under the *sui generis* law and the protection under the trademark system. Currently, there are seven (7) AMSs implementing the *sui generis* law on GI, including Cambodia, Indonesia, Lao PDR, Malaysia, Thailand, Singapore, and Viet Nam. However, Brunei Darussalam, Myanmar and the Philippines protect GIs as collective marks and/or certification marks under their trademark system. Among the *sui generis* system, the scope of protection in six (6) AMSs is applicable to both agricultural and non – agricultural products, while Singapore protects certain category of goods set out by its GI Act 2014.

¹ Article 22.1 of TRIPS Agreement.

The registration procedure of GIs under the trademark system and the *sui generis* system in the region are mostly alike. In principle, they consist of the application filing, the formality and substantive examinations, the publication for opposition, and the registration, provided that the prescribed fees are paid. The timeframe for each process differs among the AMSs in accordance with their respective laws and regulations. The details of the procedural rules may be different in some aspects. In Brunei Darussalam and the Philippines where geographical indications are protected under the Trademark law, the applicants are not required to demonstrate that the GIs are produced or managed in their geographical origin of the goods. However, in some AMS where the *sui generis* system is adopted, a person, an agency, an association, or an organization applying for registration shall be related to the geographical origin of the goods, commercialize or produce the goods for which a geographical indication is used.

When a foreign GI is applied for registration in the AMS, there are two common requirements found in the AMSs implementing the *sui generis* system. Firstly, the GI shall have been registered under the law of the country origin, of which the applicant shall submit evidence. Secondly, where the foreign individual or entity does not have a residency in the filing country, the application shall contain the appointment of an agent or a representative in the filing country. In this case, the application shall enclose a power of attorney. In case of Thailand, the power of attorney shall be certified by the authorized official at the Thai Embassy or the Thai consular office located in the country of residence of the authorizing person.

The term of protection in the countries protected GIs by trademark systems is specified with renewable condition. The protection of GIs in the *sui generis* system is in principle unlimited as long as the given quality, reputation or other characteristic of the product remain essentially attributable to that geographic origin. In this connection, the quality control system of GIs should be in place, and the country GI logo is available in some AMS in order to guarantee or certify the authenticity of such products. In Cambodia, Indonesia, and Malaysia, the producers of the GI products can use such logo, once the product is registered as a GI. However, in Laos PDR and

Thailand, the producers of the GIs shall request for permission of using the logo from the relevant authority, normally the IP Office, after the registration of the GI.

Currently, there are a considerable number of registered GIs in the region, and will likely continue to increase every year. As of May 2020, 525 GIs are registered in ASEAN countries², including 344 local GIs and 181 foreign GIs, showing the awareness and the interest for GI protection in the region.

The ASEAN Member States (AMS) have continued to strengthen cooperation and implement various initiatives under the ASEAN IPR Action Plan 2016-2025 in order to achieve the economic development goals and transform the region to be more competitive and attractive to foreign direct investment. This Guideline therefore aims to provide a comprehensive introduction on the mechanism of GI protection in each AMS in order to achieve Strategic Goal 4 of the IPR Action Plan, aiming at promoting asset creation and the commercialization of GIs in the region. It is also envisioned that this Guideline will be used as a tool to promote better understanding in the use of GIs among stakeholders and potential GI beneficiaries to achieve increased income and sustainable growth for the local community and the ASEAN region as a whole. This Guideline is also considered as the first step for ASEAN to promote the cross registration of GIs within ASEAN and the foreign markets in the years to come.

² Cambodia, Indonesia, Lao PDR, Malaysia, Singapore, Thailand and Viet Nam

2. PROTECTION OF GEOGRAPHICAL INDICATIONS IN EACH ASEAN MEMBER STATE



2.1 Brunei Darussalam

1. General Information

Country Name	Brunei Darussalam
Organization Name	Intellectual Property Office Brunei Darussalam (BruIPO)
Address	Knowledge Hub, Simpang 32-37, Anggerek Desa Technology Park, Berakas BB3713, Brunei Darussalam
Telephone	+673 -2380966
E-mail	enquiries@bruipo.gov.bn
Website	www.bruipo.gov.bn

2. Legal Framework

System of Protection	Trademark Law
Name of Legislation	Trade Marks Act (Chapter 98)

3. Subject Matter

Definition of GI	<p>“ Collective mark ” is defined as <i>‘ a mark distinguishing the goods or services of members of an association which is the proprietor of that mark from those of other undertakings ’</i> (§50 of the Trade Marks Act).</p> <p>“ Certification mark ” is defined as <i>‘ a mark indicating that the goods or services in connection with which it is used are certified by the proprietor of that mark in respect of origin, material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics ’</i> (§52 of the Trade Marks Act).</p>
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products• Wines and spirits (not applicable, subject to public policy)• Non-agricultural products Ex: handicrafts, ceramics, silk, etc.
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name• Contradicting with absolute and relative ground

Relation between Pre-Existing Trademarks and GI	n.a.
Level of Protection (Unlawful acts)	<p>Similar as trade marks registered under the Trade Marks Act such as:</p> <ul style="list-style-type: none"> • GI which is identical or similar to a registered trade mark will not be registered; • Where the GI is prohibited under the Brunei Darussalam’s laws; • Where the GI is made in bad faith; and • Where the GI is identical or similar to a special protected emblems.
Protection of Multi-Component Terms, Translation, and Transliteration of GI name	<p>According to Rule 20 of the Trade Marks Rule, it states that:</p> <ul style="list-style-type: none"> • where a trade mark contains or consists of a word or words in characters other than roman or in a language other than English or Malay, there shall, unless the Registrar otherwise directs, the endorsed on the application form – <ul style="list-style-type: none"> a. a translation and, if the case requires a translation, of each word in English to the satisfaction of the Registrar; and b. the language to which each word belongs • then the Registrar may at any time require a copy of the translation and transliteration, certified or verified to the satisfaction of the Registrar, to be filed with the Registrar
Period of Protection and Measures required to sustain such protection	<ul style="list-style-type: none"> • 10 years and renewable for a period of 10 years

4. Procedure for Registration

Eligible Applicants	Everyone
Application Form	Form TM 32: Application to register a Collective mark or a Certification mark
Supporting Documents	See Filing of Regulation Governing the use of Collective or Certification mark
Specific Requirements for Foreign GIs	Form TM 22: Request to appoint or change an agent or to enter or change an address for service
Chanel for submitting applications	<ul style="list-style-type: none"> • At receiving office

Procedure for Registration and Office timeframe	Please refer to the registration procedure and the timeframe (Figure 1)
Fee	<ul style="list-style-type: none"> • BND 150 per class for registration • BND 125 for publication

5. Opposition Procedure

Eligible Persons	Everyone
Form	Form TM 4: Notice of Opposition
Supporting Documents	<ul style="list-style-type: none"> • Statement of Ground of Opposition
Grounds for Opposition	Similarity
Opposition Procedure	<ul style="list-style-type: none"> • Form TM 4 (<i>Notice of Opposition</i>) with the statement of ground of opposition from third party. • BrulPO will inform the Applicant that there is an opposition filed. • The Opponent to response and file Form TM 5 (<i>Counter-Statement</i>) within 3 months after receiving the notice of opposition.
Fee	<ul style="list-style-type: none"> • Form TM 4 – BND 250 • Form TM 5 – BND 200

6. Cancellation/Invalidation Procedure

Eligible Persons	Everyone
Form	Form TM 18: Application for invalidation
Supporting Documents	<ul style="list-style-type: none"> • Application for declaration of invalidity of a Trade Mark
Grounds for Cancellation/Invalidation	<p>This will be similar to Section 6 of the Trademarks Act, which are:</p> <ul style="list-style-type: none"> • There is already an existing prior application or registration for the same or similar mark in relation to the same or similar goods or services. • Contrary to public policy or accepted principles of morality. • Prohibited by any laws in Brunei Darussalam. • Application is filed in bad faith.

- Cancellation/Invalidation Procedure**
- Received Form TM 18 (*Application for invalidation*) with the Application for declaration of invalidity of a Trade Mark and with a copy send to the agents for the Respondent.
 - BrulPO to inform applicant there is an invalidation filed.
 - Opponent to response and file Form TM 5 (*Counter-Statement*) within 3 months after receiving the notice of opposition.
- Fee**
- Form TM 18 - BND 225
 - Form TM 5 - BND 200

7. Appeal Procedure

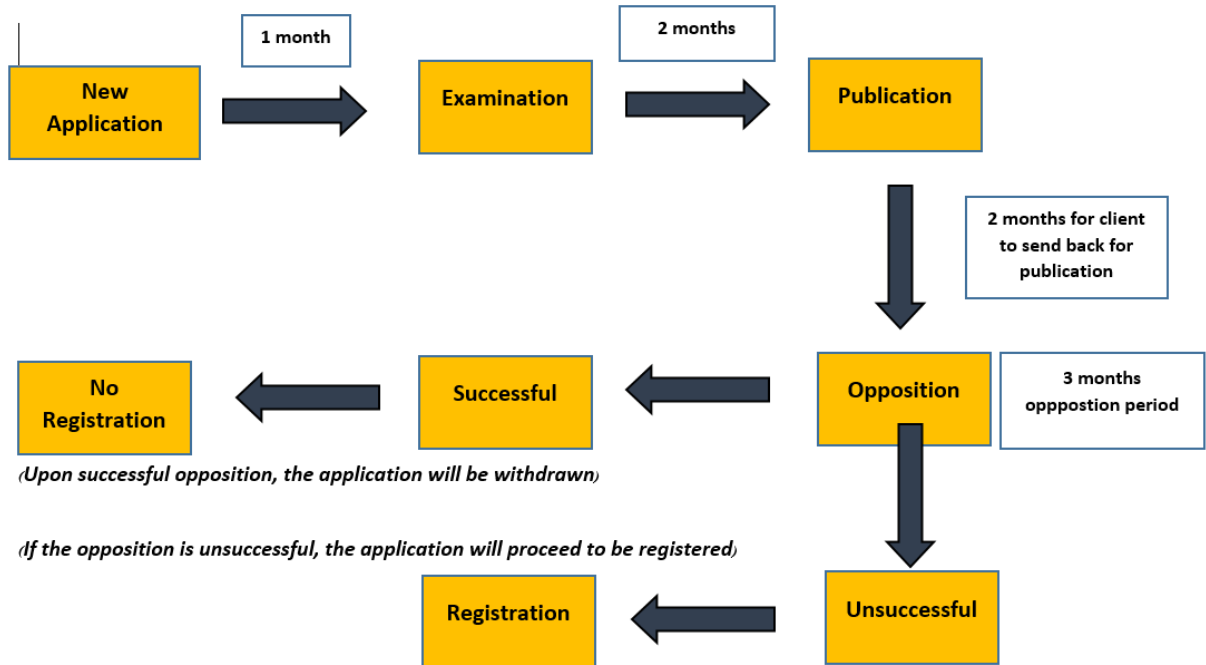
- Possibility to Appeal** x Yes No
- Accredited Authority**
- IP Office
 - Judicial authority

8. Use of GIs

- Eligible persons**
- Producers
 - Traders
- Example of GI logo** n.a.
- Use of GI logo**
- Automatic once the product is registered as GI.
- Quality Control**
- External Control: Applicant to monitor the GI themselves

Figure 1

Registration procedure and timeframe in Brunei Darussalam



2.2 Cambodia

1. General Information

Country Name	Cambodia
Organization Name	Department of Intellectual Property Rights, Ministry of Commerce
Address	Lot 19-61, Russian Federation Blvd., Phum Teuk Thla, Khan Sen Sok, Phnom Penh, Cambodia
Telephone	+855-12 378 680
E-mail	sokhong01@gmail.com
Website	www.cambodiaip.gov.kh

2. Legal Framework

System of Protection	<i>Sui generis</i> law
Name of Legislation	<i>Law on Geographical Indication</i>

3. Subject Matter

Definition of GI	A distinctive name, symbol and/or any other sign which is a name or represents a geographical origin and identifies the goods as originating in such geographical area where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin.
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products• Wines and spirits• Non-agricultural products Ex: handicrafts, ceramics, silk, etc.
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name• Name of a plant variety or animal breed;• contrary to the laws and regulations, morality, religion, good custom or public order;• If it is likely to mislead or confuse the public with respect to the characteristics, the nature, the quality, the place of origin, the production process of the goods and/or its use.

Relation between Pre-Existing Trademarks and GI

- The Ministry of Commerce shall refuse any application for renewal of a mark if it contradicts the provision under Article 23 of GI Law. The decision of refusal shall be initially taken by the Ministry of Commerce or at the request of any interested person.
- Where a geographical indication is definitely registered in accordance with this law, the application for registration of a mark corresponding to one of the situations defined in Article 23 and relating to the same type of goods shall be refused.
- The Ministry of Commerce shall refuse any application for renewal of a mark if it contradicts to the provision under Article 23 of this law. The decision of refusal shall be initially taken by the Ministry of Commerce or at the request of any interested person.
- The use of a mark corresponding to one of the situations defined in Article 23 of GI Law, and which has been registered, in good faith, before either the date of protection of the GI or the filing date of the application for GI registration in the Kingdom of Cambodia, the mark may continue to be used if there are no grounds for invalidation.

Level of Protection (Unlawful acts)

The geographical indications registered in the Kingdom of Cambodia shall be protected against any:

- a. direct or indirect commercial misuse of a registered geographical indication in respect of identical or comparable goods to those of the registered geographical indication where the misuse benefited or would benefit from the reputation of the geographical indication;
- b. unauthorized use, imitation, evocation or translation of the geographical indication even if the true origin of the goods is accompanied by the expression such as "style", "type", "method", "manner", "imitation", or translations of such expressions, or of similar expressions likely to mislead the public;
- c. false or misleading indication as to origin, nature, or specific quality of the goods appearing on packaging, or in advertising materials or on other documents concerning the goods that are likely to mislead its origin;
- d. other practices likely to mislead the public as to the true origin of the goods.

Protection of Multi-Component Terms, Translation, and

The product and its name that are widely known in the sector of production or trade or in the use of related goods.

Transliteration of GI name

Period of Protection and Measures required to sustain such protection The registration of geographical indication shall be valid from the date of the filing of the application provided that its registration is not cancelled or invalidated according to this Law.

4. Procedure for Registration

Eligible Applicants A Geographical Indication Association or producers group, producers and/ or operators organization, which may benefit from the geographical indication, shall be entitled to file an application for registration.

Application Form Application for GI registration

Supporting Documents

1. Statute and Regulation of Association (1 copy)
2. Book of Specifications (1 copy)
3. Map of Delimited Zone (1 copy)
4. Documents describe the monitoring and traceability system in order to certify the source of GI (1 copy)
5. Documents describe the control plan (1 copy)
6. Documents involving in Catalogue of sanction (1 copy)
7. External and Internal report (1 copy)
8. Book of matter accounting (1 copy)
9. Registration and commitment form of the association (1 copy)
10. Control plan (1 copy)
11. Related documents required by the DIP, MoC (if needed)
12. Receipt of payment of fees

Specific Requirements for Foreign GIs Protection in the country of origin

Chanel for submitting applications

- At receiving office
- Website: <http://www.cambodiaip.gov.kh>
- Geneva Act on Lisbon Agreement of WIPO

Procedure for Registration and Office timeframe Please refer to Figure 2

Fee 420,000 Riel = USD\$105

5. Opposition Procedure

Eligible Persons	Within 90 days from the publication date of the registration as provided in Article 12 of the GI Law, any interested person may oppose the GI registration to the Ministry of Commerce.
Form	Request for opposition against GI registration
Supporting Documents	<ol style="list-style-type: none">1. Application for Opposition Against GI Application2. Notarized Affidavit of Opposition3. For Foreign Country: Original of Notarized Power Attorney if the Agent/Attorney is newly appointed.
Grounds for Opposition	<ol style="list-style-type: none">1. Non-compliance with the definitions relating to GI within Article 4 of the GI Law;2. That the registered GI is not able to be registered as a GI as stated in Article 10 of the GI Law.
Opposition Procedure	Please refer to Figure 2
Fee	300,000 Riel = USD\$75

6. Cancellation/Invalidation Procedure

Eligible Persons	<ol style="list-style-type: none">1. Any interested person may appeal to the GI Board or to the competent courts against the decision of the Ministry of Commerce;2. Any interested person may appeal to the competent courts against the decision of the GI Board;3. The appeal shall be lodged within 90days from the date of receiving notification of the decision;4. The appeal decision of the GI Board shall be published in the Official Gazette and publicized.
Form	Request for invalidation of GI registered
Supporting Documents	<ol style="list-style-type: none">1. Application for Invalidation of the GI Registered2. Notarized Affidavit of Invalidation3. Other arguments, facts, evidences4. For foreign Country: Notarized Power of Attorney if the Agent/Attorney is newly appointed.

Grounds for Cancellation/Invalidation	<ul style="list-style-type: none"> • Any interested person may transmit his/ her observation to the Ministry of Commerce to advise the geographical indication association. • Any interested person may request the Ministry of Commerce to invalidate or cancel the geographical indication registration.
Cancellation/Invalidation Procedure	Please refer to Figure 2
Fee	200,000 Riel = USD\$50

7. Appeal Procedure

Possibility to Appeal	x Yes	No
Accredited Authority	<ul style="list-style-type: none"> • IP Office • Judicial authority 	

8. Use of GIs

Eligible persons	<ul style="list-style-type: none"> • Producers • Traders • Processor or other members of the Association
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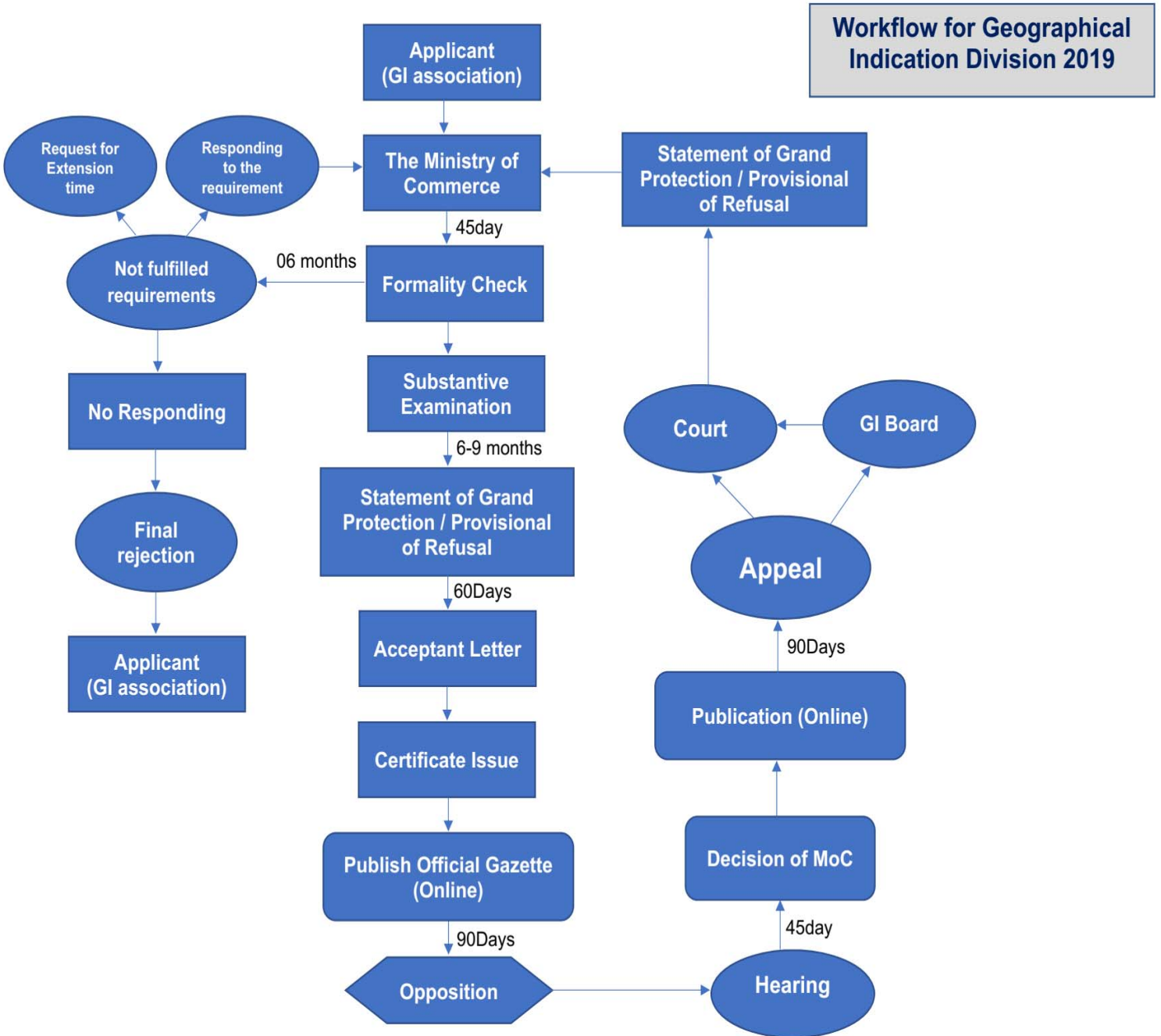


Use of GI logo	<ul style="list-style-type: none"> • Automatic once the product is registered as GI. • When the producers, traders, and Processors are become the member of the Association
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Quality Control	<p>x Internal Control x External Control</p> <p>To ensure the verification of the compliance of goods with the book of specifications.</p>
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Figure 2

Registration procedure and timeframe in Cambodia



2.3 Indonesia

1. General Information

Country Name	Indonesia
Organization Name	Directorate General of Intellectual Property
Address	H.R. Rasuna Said Street Kav. 8-9, South Jakarta
Telephone	+6221 2789 9555
E-mail	subdit.ig@gmail.com
Website	<ul style="list-style-type: none">• dgip.go.id• ig.dgip.go.id

2. Legal Framework

System of Protection	<ul style="list-style-type: none">• <i>Sui generis</i> law• International agreements
Name of Legislation	<ul style="list-style-type: none">• Law of the Republic of Indonesia Number 20 of 2016 Regarding Marks and Geographical Indications• Government Regulation Number 51 of 2007 Regarding Geographical Indications• Law and Human Rights Ministry Regulation Number 12 of 2019 Regarding Geographical Indications

3. Subject Matter

Definition of GI	A sign indicating the area of origin of the goods and/or products due to geographical environmental factors including natural factors, human factors or a combination of these two factors that gives a certain reputation, quality, and characteristics to the goods and/or products.
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products• Wines and spirits• Non-agricultural products Ex: handicrafts, ceramics, silk, etc.
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name

- Contrary to state ideology, statutory regulations, morality, religion, decency, and public order
- Mislead or deceive the public regarding the reputation, quality, characteristics, origin of the source, the process of making goods, and/or their use
- A name that has been used as a plant variety and is used for similar plant varieties, unless there is an addition of words that indicate geographical factor

Relation between Pre-Existing Trademarks and GI

A party in good faith shall still be able to use a sign (pre-existing trademarks) for a period of 2 years as of such sign is registered as a GI, after the period ends the Minister shall cancel and delete the registration of such mark for all or some types of the goods of the same kind (*Law of the Republic of Indonesia Number 20 of 2016*). Furthermore, the cancelation and deletion can only be conducted on mark that already registered less than 5 (five) years, unless the owner of the mark obtains approval from the owner of Geographical Indications. (*Law and Human Rights Ministry Regulation Number 12 of 2019*)

Level of Protection (Unlawful acts)

- Any person who unlawfully uses a sign that has the essential similarity or similarity in whole with another party's Geographical Indications for the same or similar goods and/or products with registered goods and / or products, shall be sentenced to a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp 2.000.000.000 (two billion rupiah)
- Any person who trades goods and/or services and/or products that is known or reasonably suspected of knowing that the goods and/or services and/or products are the result of a criminal offense as referred to in the previous clause, shall be liable to a maximum imprisonment of 1 (one) year or a maximum fine of Rp. 200.000.000 (two hundred million rupiah)

Protection of Multi-Component Terms, Translation, and Transliteration of GI name

- **Multi-Component Terms** A multicomponent term is protected only in its entirety while the individual term could be used by a third party if that component is the term customary in the Indonesian language as the common name for the associated good.
- **Translation, and Transliteration of GI name** If the GI uses foreign language and/or letters other than the Latin letters which are not commonly used in the Indonesian language, it must be accompanied with

an Indonesian language translation, Latin letters which are commonly used in the Indonesian language, as well as its pronunciation in Latin spellings. The transliteration and/or translation is required solely for searching the Trademark and GI Registers. The GI should be used in the form it was registered.

- Furthermore, unlawfully use of a sign that has the essential similarity or similarity in whole with another party's Geographical Indications for the same or similar goods and/or products with registered goods and/or products is prohibited

Period of Protection and Measures required to sustain such protection

Geographical Indications are protected as long as the reputation, quality, and characteristics that are the basis of the protection of Geographical Indications are provided for an item

4. Procedure for Registration

Eligible Applicants

1. An institution that represents the community in a certain geographical area that commercializes an item and / or product in the form of:
 - natural resources;
 - handicraft items; or
 - industrial output
2. Provincial or district/city regional government

Application Form

GI Application Form

Supporting Documents

1. Document Description
2. Letters of recommendation and maps of the area from the competent authority concerning the description of territorial boundaries.
3. Legality of community groups / institutions / associations of applicants for Geographical Indications
4. Abstract or summary document description
5. 2 (two) copies of Geographical Indication Label
6. Proof of payment of the application for registration of Geographical Indications
7. Softcopy of documents (electronic documents) of 1-6.

Specific Requirements for Foreign GIs

1. Document Description

2. Must be submitted through IP consultants/attorneys
3. Special power of attorney, if submitted through an IP consultant
4. Proof of recognition or certificate of registration of Geographical Indications if the application is from abroad
5. Abstract or summary document description
6. 2 (two) copies of Geographical Indication Label
7. Proof of payment of the application for registration of Geographical Indications
8. Softcopy of documents (electronic documents) of 1-6.

Chanel for submitting applications

- At receiving office
- Website: *ig.dgip.go.id*

Procedure for Registration and Office timeframe

1. Application Filing
 2. Formality Examination (30 days)
 3. Announcement (2 months)
 4. Opposition and Rebuttal (If any)
 5. Substantive Examination (150 days)
 6. Appeal and Court (If any)
 7. Registered (Certificate) /Rejected
- Please refer to Figure 3

Fee

1. Application for Registration of Geographical Indications
 - Online (via website) : IDR 450.000/application
 - Offline (at receiving office) : IDR 500.000/application
2. Application for Substantive Examination of Geographical Indications : IDR 1.000.000

5. Opposition Procedure

Eligible Persons

Any interested party

Form

n.a.

Supporting Documents

1. Opposition Letter (contains reasons with sufficient evidence that the Application may not be registered or shall be rejected)
2. Proof of payment of the application for Opposition

Grounds for Opposition

1. Contrary to state ideology, statutory provisions, morality, religion, decency, and public order;

2. The same as the generic name, the name of a plant variety, or the name of an animal species so as to mislead consumers about the origin of the product; or
3. Fully or partly homonym with the name of the Geographical Indication which has been protected in Indonesia.

Opposition Procedure

1. Application filing by the opposant (In publication period)
 2. The copy of letter of opposition sent to the applicant
 3. The applicant is entitled to file rebuttal to the opposition
 4. The opposition and rebuttal are taken into consideration in the substantive examination
- Please refer to Figure 3

Fee

Rp 1.000.000

6. Cancellation/Invalidation Procedure

Eligible Persons

There is no Cancellation Procedure in Indonesian GI Law, only deletion procedure, and It can only be done by the Minister of Law dan Human Rights based on recommendations by the Geographical Indication Expert Team (GIET)

Form

n.a.

Supporting Documents

n.a.

Grounds for Cancellation/Invalidation

- A Geographical Indication shall be deleted if :
1. The reputation, quality, and characteristics that form the basis for the protection of Geographical Indications are no longer fulfilled
 2. It is against state ideology, laws and regulations, morality, religion, decency, and public order

Cancellation/Invalidation Procedure

1. The GIET at its own initiative or based on public reports shall carry out a research on the reputation, quality, and characteristics of a registered Geographical Indication and report to the Minister
2. The GIET conduct an examination and notify the results of its decisions and steps to be taken to the Minister
3. When the requirements for deletion are satisfied, the Minister shall emplement the removal
4. the Minister provides notification Letter to all users of the Geographical Indication

5. The deletion shall be announced in the Geographical Indication Official Gazette

Fee n.a.

7. Appeal Procedure

Possibility to Appeal x Yes No

Accredited Authority

- IP Office
- Judicial authority

8. Use of GIs

Eligible persons

- Producers
- Traders

Example of GI logo



Indonesian GI Logo

Use of GI logo

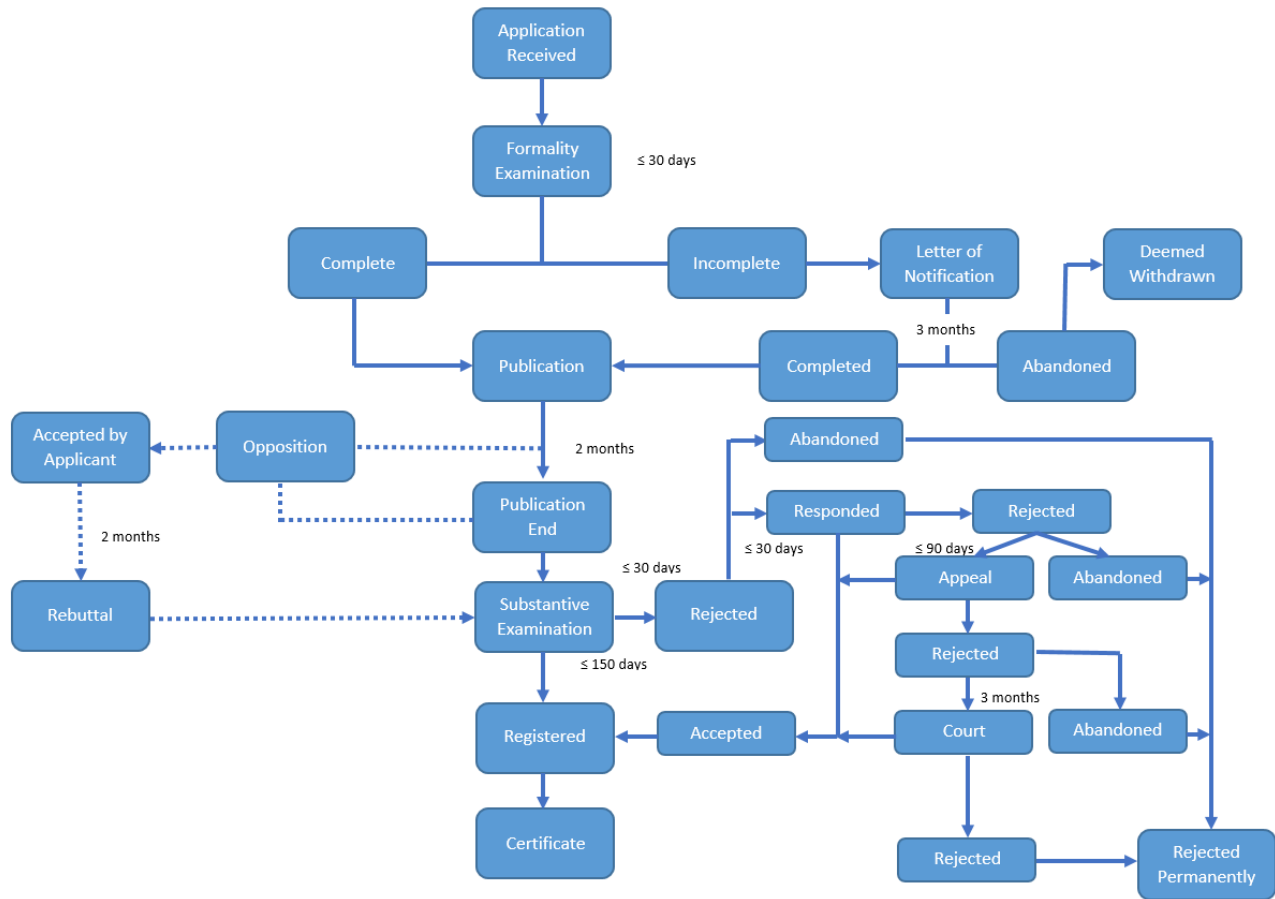
- Automatic once the product is registered as GI.
- Permission from GI Producers Association (as the owner) and IP Office after the GI registration.

Quality Control

- Internal Control
Internal control is carried out by the GI producer association, where in the association there is a quality control team that is responsible for maintaining the reputation, characteristics, and quality of their Geographical Indications products.
- External Control
- External control is carried out by the central government and the regional government in accordance with their authority, it may also be carried out by the community. The external control is conducted to:
 1. Guarantee the existence of the reputation, quality, and characteristic forming the basis of the issuance of the GI; and
 2. Prevent illegal use of the GI

Figure 3

Registration procedure and timeframe in Indonesia



2.4 Lao People's Democratic Republic

1. General Information

Country Name	Lao PDR
Organization Name	Ministry of Science and Technology, Department of Intellectual Property
Address	Nahaidyo Rd, Sidamduan village, Chanthabuly district, Vientiane Capital, Lao PDR
Telephone	+85621 213472
E-mail	dip.laopdr@gmail.com
Website	https://dip.gov.la

2. Legal Framework

System of Protection	National Law
Name of Legislation	Law on Intellectual Property Decision on Geographical Indications

3. Subject Matter

Definition of GI	n.a.
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products• Wines and spirits• Non-agricultural products Ex: handicrafts, ceramics, silk, etc.
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name
Relation between Pre-Existing Trademarks and GI	GI which is similar or identical to pre-existing trademark will not be granted protection.
Level of Protection (Unlawful acts)	n.a.
Protection of Multi-Component Terms, Translation, and Transliteration of GI name	n.a.

Period of Protection and Measures required to sustain such protection	Unlimited time
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4. Procedure for Registration

Eligible Applicants	Individual, legal entity or organization
Application Form	Application for GI registration
Supporting Documents	<i>As specified in application form</i>
Specific Requirements for Foreign GIs	Foreign GI need to have evidence of valid protection of geographical indication in the country of origin
Chanel for submitting applications	<ul style="list-style-type: none"> • At receiving office
Procedure for Registration and Office timeframe	Please refer to Figure 4
Fee	Approx. USD\$125

5. Opposition Procedure

Eligible Persons	Any third party
Form	<i>In the process of developing</i>
Supporting Documents	n.a.
Grounds for Opposition	Not defined in the Ministerial decision but need to mention and submit with application for opposition
Opposition Procedure	<ol style="list-style-type: none"> 1. The Department of Intellectual Property shall notify the applicant for geographical indication registration that has been opposed on timely manner after receipt of opposition request; 2. The applicant for geographical indication shall send an explanatory note with evidence of their geographical indication to the Department of Intellectual Property within 60 days of the receipt of a notice on such opposition; 3. The Department of Intellectual Property shall send a copy of explanation to the opponent; 4. The Department of Intellectual Property shall consider explanatory note and evidence; 5. The Department of Intellectual Property shall issue an invitation to the party to explain or show the evidence or provide additional information in case the evidence of the opponent and applicant for geographical indication registration is incomplete or inaccurate; 6. The Department of Intellectual Property shall consider the opposition request according to evidence available, if the

- applicant for geographical indication registration or the opponent fails to explain and show evidence or provide additional information within 60 days of the issuance of invitation by the Department;
7. The Department of Intellectual Property shall notify result of consideration with rationale to the applicant for geographical indication registration and opponent;
 8. The Department of Intellectual Property shall reject the application for geographical indication registration in case the Department of Intellectual Property considers that the opposition is reasonable and has sufficient evidence;
 9. The Department of Intellectual Property shall continue considering the application for geographical indication registration in case the Department of Intellectual Property considers that the opposition is not reasonable and has no sufficient evidence.
 10. A party dissatisfied with result of such consideration may lodge an administrative appeal to the Intellectual Property Dispute Settlement Committee of the Department of Intellectual Property within 60 days of issuance of a notice by the Department.

Fee Under consideration

6. Cancellation/Invalidation Procedure

Eligible Persons DIP/Any third party

Form *In the process of developing*

Supporting Documents

Grounds for Cancellation/Invalidation The Department of Intellectual Property may cancel the registration of geographical indication that is protected according to the consideration of the Department or according to the request of a third party in any of the following cases:

1. May not be consistent with the requirements of book of specification;
2. There are no geographical indication products sold in the markets during the last at least 7 years of publication on the Official Gazette on Industrial Property Registration;
3. There is sufficient evidence to convince that geographical indication owner that obtained registration is not the real owner;
4. For foreign geographical indication that are not protected or its protection has ended in the country of origin or its use has been stopped in such country.

Cancellation/Invalidation Procedure

1. The Department of Intellectual Property shall notify geographical indication owner after receiving a request for cancellation revocation from a third party.
2. The geographical indication owner may file an explanatory note to the Department of Intellectual Property within 60 days of issuance a notice by the Department.

3. The Department of Intellectual Property shall issue a letter on cancellation geographical indication and notify geographical indication owner, in case geographical indication owner has no any responses, it is considered that geographical indication owner consent with the cancellation of his or her geographical indication registration.
4. The Department of Intellectual Property shall cancel geographical indication registration in case the third party has file a lawsuit to people's court and it has a final court decision on cancellation of geographical indication registration according to Article 139 of Law on Intellectual Property.
5. The Department of Intellectual Property shall notify result of cancellation of geographical indication registration to geographical indication owner and the third party who has filed a rancellation request.
6. The Department of Intellectual Property shall record in the database and publish such cancellation on the Official Gazette on Industrial Property Registration

Fee Under consideration

7. Appeal Procedure

Possibility to Appeal Yes No

Accredited Authority

- IP Office

8. Use of GIs

Eligible persons

- Producers
- Traders

Example of GI logo



Use of GI logo

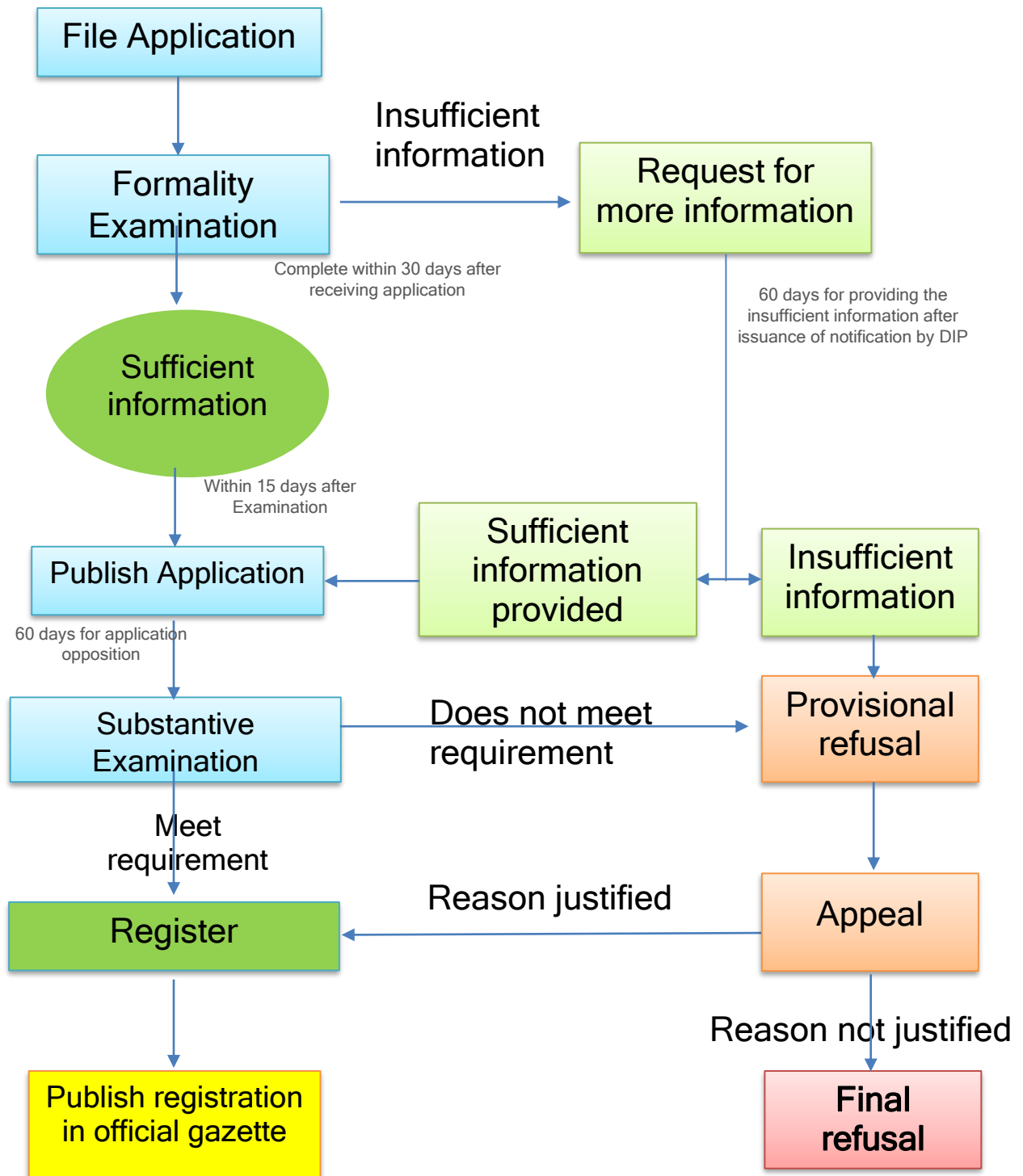
- Permission from IP Office after the GI registration.

Quality Control

- Internal Control
- External Control

Figure 4

Registration procedure and timeframe in Lao PDR



2.5 Malaysia

1. General Information

Country Name	Malaysia
Organization Name	Intellectual Property Corporation of Malaysia
Address	Menara Uoa Bangsar, Jalan Bangsar Utama 1, Bangsar, 59000 Kuala Lumpur, Wilayah Persekutuan Kuala Lumpur
Telephone	+603-2299 8400
E-mail	ipmalaysia@myipo.gov.my
Website	www.myipo.gov.my

2. Legal Framework

System of Protection	<ul style="list-style-type: none">• <i>Sui generis</i> law• Trademark Law• Judicial decisions• Geographical Indication (GI) Act 2000
Name of Legislation	Geographical Indication (GI) Act 2000

3. Subject Matter

Definition of GI	An indication which identifies any goods as originating in a country or territory, or a region or locality in that country or territory, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin;
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products• Wines and spirits• Non-agricultural products Ex: handicrafts, ceramics, silk, etc.• Miscellaneous
Prohibition of GI Registration	<ol style="list-style-type: none">1. Geographical indications that do not correspond to the meaning of "geographical indication" as defined in section 2 of the Act.2. Geographical indications which are contrary to public order or morality or territory of origin; or3. Geographical indications which are not or have ceased to be protected in their country.4. Geographical indications which have fallen into disuse in their country or territory of origin.

Relation between Pre-Existing Trademarks and GI	<p>Section 6 of the GI Act stated that:</p> <ol style="list-style-type: none"> 1. No action under section 5 of the Act shall be brought against a person for the use of a trade mark which contains or consists of a geographical indication after the expiry of five years- <ol style="list-style-type: none"> (a) from the date such use by that person or his predecessor in title has become generally known in Malaysia; or (b) from the date of registration of the trade mark by that person under the Trade Mark Act 1976 [Act 175], whichever is earlier. 2. Subsection (1) shall not apply where the trade mark was used or registered in bad faith
Level of Protection (Unlawful acts)	<p>Any interested person may institute proceeding in the Court for injunction and damages (S.5 GI Act 2000). The 'interested person' refers to any of the persons specified in S.11 GI Act 2000.</p> <p>The court may grant an injunction to prevent any unlawful use of the geographical indication and award any damages and any other legal remedy or relief as it deems fit</p>
Protection of Multi-Component Terms, Translation, and Transliteration of GI name	<p style="text-align: center;">x Yes No</p>
Period of Protection and Measures required to sustain such protection	<p>A registered geographical indication is given ten years (10) of protection from the date of filling and is renewable for every ten years</p>

4. Procedure for Registration

Eligible Applicants	<ol style="list-style-type: none"> 1. a person who is carrying on an activity as a producer in the geographical area specified in the application with respect to the goods specified in the application, and includes with respect to the such person. 2. a competent authority; or 3. a trade organization or association.
Application Form	Form GI1
Supporting Documents	<ol style="list-style-type: none"> 1. Book of Specification, or 2. Technical Specification
Specific Requirements for Foreign GIs	<ol style="list-style-type: none"> 1. Must be explicit evidence that such geographical indication is protected under the law of such country 2. Has been used continuously until the date of filling an application for registration in Malaysia.
Chanel for submitting applications	<ul style="list-style-type: none"> • At receiving office

Procedure for Registration and Office timeframe	Please refer to Figure 5
Fee	GI1: Application for registration of a GI MYR 250.00 GI2: Form of authorization and request to enter, alter or substitute an address for service MYR 30.00 (Agent appointment form, if any). GI3: Advertisement for registration MYR 45.00

5. Opposition Procedure

Eligible Persons	Any interested person.
Form	Form GI 4 accompanied by the prescribed fee of opposition
Supporting Documents	Ground of Opposition (GOO)
Grounds for Opposition	Yes
Opposition Procedure	Please refer to Figure 6
Fee	GI4 form: Notice of opposition to registration MYR 450.00 GI5 form: Reply to a notice of opposition MYR 300.00

6. Cancellation/Invalidation Procedure

Eligible Persons	Section 22 of the Act. The Registrar may, on the request of any interested person and upon payment of the prescribed fee
Form	Form GI7
Supporting Documents	Regulation 30: A statement setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks
Grounds for	Section 22 of the Act
Cancellation/Invalidation	(a) on the ground that the geographical indication does not qualify for protection as such having regard to section 4; or (b) rectify the registration of a geographical indication on the ground that the geographical area specified in the registration does not correspond to the geographical indication, or that the indication of the products for which the geographical indication is used or the indication of the quality, reputation or other characteristic of such products is missing or unsatisfactory.
Cancellation/Invalidation Procedure	Please refer to Figure 7
Fee	GI7 450.00 MYR, GI8 100 MYR, GI9 300 MYR

7. Appeal Procedure

Possibility to Appeal Yes No

Accredited Authority

- IP Office
- Judicial authority

8. Use of GIs

Eligible persons

- Producers
- Traders

Example of GI logo



Use of GI logo • Automatic once the product is registered as GI.

Quality Control

- Internal Control
- External Control

Applicant to monitor the GI themselves

Figure 5

Registration procedure and timeframe in Malaysia

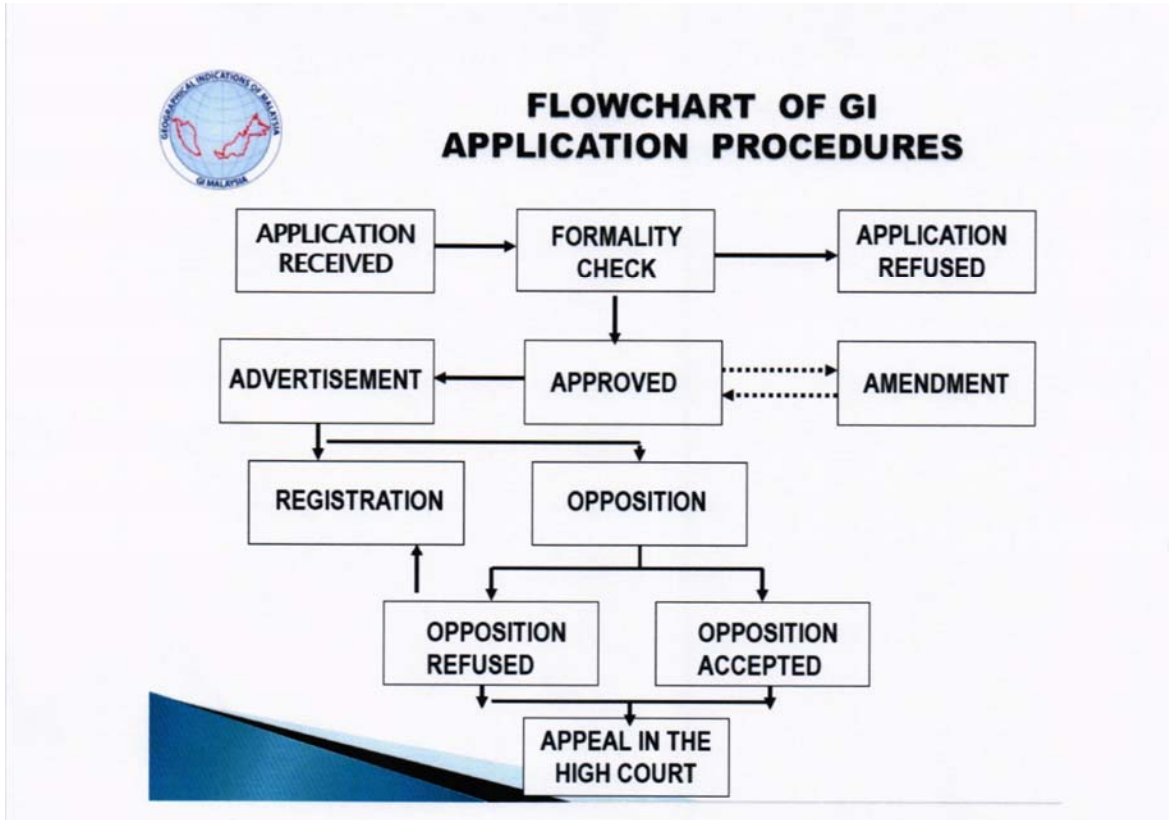
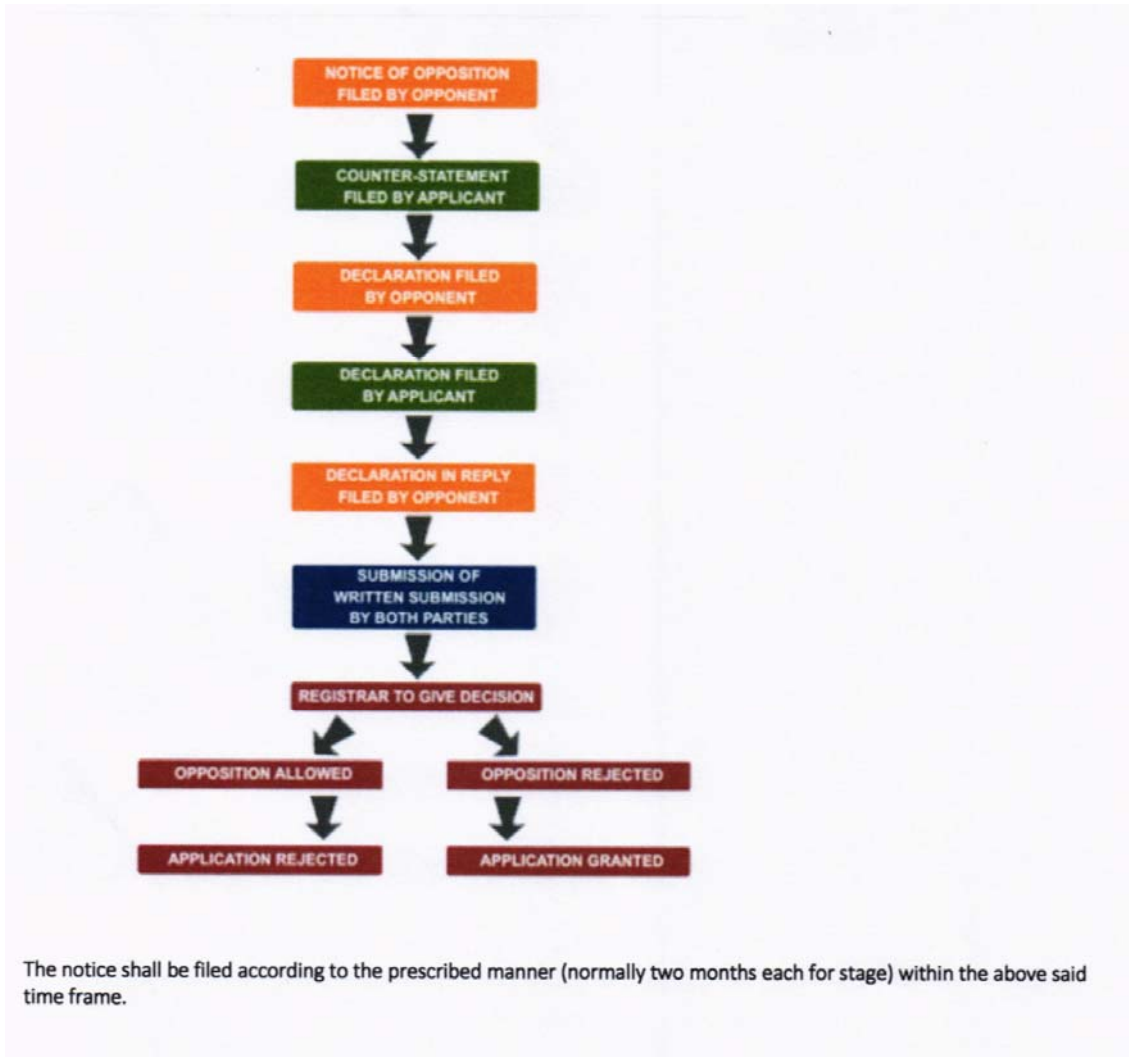


Figure 6

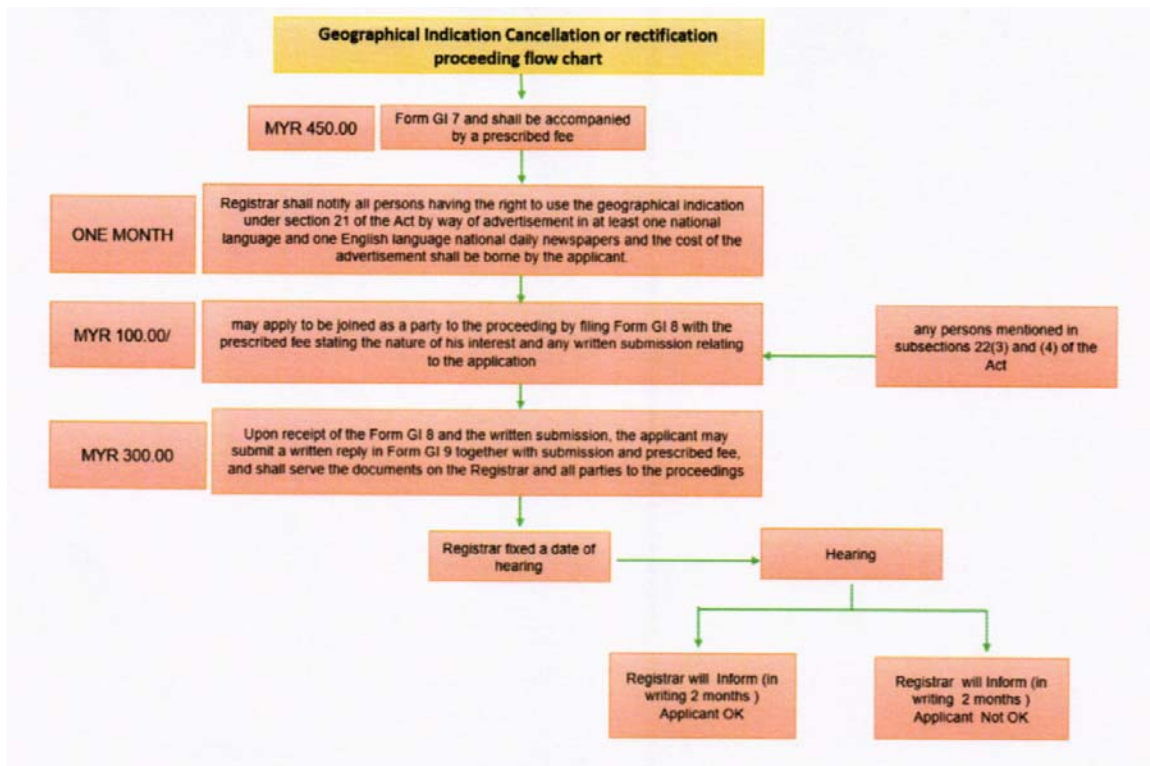
GI Opposition procedure in Malaysia



The notice shall be filed according to the prescribed manner (normally two months each for stage) within the above said time frame.

Figure 7

GI Cancellation procedure in Malaysia



2.6 Myanmar

1. General Information

Country Name	Myanmar
Organization Name	Department of Intellectual Property
Address	Office No. 52, Ministry of Commerce, Nay Pyi Taw
Telephone	+95 673 430570, +95 673 4030569
E-mail	ipdept.intl@gmail.com , ayeaye.maw14@gmail.com
Website	www.ipd.gov.mm

2. Legal Framework

System of Protection	Under the Trademark Law (2019)
Name of Legislation	Trademark Law (2019), Pyidaungsu Hlattaw Law No. 3, promulgated on 30 January 2019.

3. Subject Matter

Definition of GI	Any indication which identifies goods as originating in the territory of a country or a region or a locality in that territory where a given quality, reputation or other characteristics of the goods is essentially attributable to its geographical origin
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products• Wines and spirits• Non-agricultural products Ex: handicrafts, ceramics, silk, etc.
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name• It does not conform to the definition of a geographical indication stated in subsection (o) of section 2 of Trademark law;• The goods for which the geographical indication is used has become common usage or customary in the Republic of the Union of Myanmar;• It is a geographical indication that is contrary to public order, morale or public policy. <p>The registration of geographical indication shall not be registered if it is complied with the following;</p> <ul style="list-style-type: none">• Geographical indication which are likely to mislead or confuse consumers as to the true source origin of goods;• Geographical indication of another country where such geographical indications are not or cease to be protected in their country of origin, or which have fallen into disuse in that country;

	<ul style="list-style-type: none"> The name of the geographical indication which is in the light of a trade mark's reputation and renown and the length of time it has been used, registration of the name proposed as the geographical indication would be liable to mislead the consumer as to the true identity of the product.
Relation between Pre-Existing Trademarks and GI	n.a
Level of Protection (Unlawful acts)	<p>The right holder of a registered geographical indication is entitled to prohibit the following:</p> <ul style="list-style-type: none"> use of a geographical indication in any manner by falsely describing that a product is from the region stated in said geographical indication even though it is from another place of origin in order to deceive the public; any use of a registered geographical indication which creates unfair competition; the use of a disputed geographical indication for goods that are not from the region indicated in said geographical indication for indicating the origins of goods, for use after translating said geographical indication, or for the use of a geographical indication together with the description of the type, group, form, imitation or similar descriptions.
Protection of Multi-Component Terms,	It will be mentioned in the implementing rules which are being drafted.
Translation, and Transliteration of GI name	n.a
Period of Protection and Measures required to sustain such protection	The term of a registered geographical indication shall receive protection under this Law as long as its distinguishing characteristics, quality or reputation for which protection was initially granted exists.

4. Procedure for Registration

Eligible Applicants	A Geographical Indication Association or producers group, producers and/or operators organization, which may benefit from the geographical indication, shall be entitled to file an application for registration.
Application Form	Drafting
Supporting Documents	It will be mentioned in the implementing rules which are being drafted.
Specific Requirements for Foreign GIs	It will be mentioned in the implementing rules which are being drafted.

Chanel for submitting applications	At receiving office of the Department of Intellectual Property, Ministry of Commerce, Myanmar
Procedure for Registration and Office timeframe	Drafting
Fee	Drafting

5. Opposition Procedure

Eligible Persons	Drafting
Form	Drafting
Supporting Documents	Drafting
Grounds for Opposition	Drafting
Opposition Procedure	Drafting
Fee	Drafting

6. Cancellation/Invalidation Procedure

Eligible Persons	Drafting
Form	Drafting
Supporting Documents	Drafting
Grounds for Cancellation/Invalidation	Drafting
Cancellation/Invalidation Procedure	Drafting
Fee	Drafting

7. Appeal Procedure

Possibility to Appeal	× Yes	No
Accredited Authority	The procedure mentioned in the trademark law 2019, Department of IP → IP Agency → IP Court	

8. Use of GIs

Eligible persons	Members of the respective GI Association which received the grant of the GI registration
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Example of GI logo

Drafting

Use of GI logo

Permission from IP Office after the GI registration.

Quality Control

Drafting

2.7 Philippines

1. General Information

Country Name	Philippines
Organization Name	Intellectual Property Office of the Philippines
Address	# 28 Upper Mckinley Road, Mckinley Hill Town Center Fort Bonifacio, Taguig City 1634
Telephone	+632 72386300
E-mail	mail@ipophil.gov.ph
Website	www.ipophil.gov.ph/

2. Legal Framework

System of Protection	Trademark Law
Name of Legislation	The Intellectual Property Code of the Philippines (IP Code) [Republic Act No.8293, as amended]

3. Subject Matter

Definition of GI	Indications which identify a good as originating in a territory, region or locality, where a given quality, reputation, or other characteristic of the goods is essentially attributable to its geographical origin. [TRIPS Agreement, Sec. 3, Art.22 (1)]
Type of Goods	<ul style="list-style-type: none">• The trademark law does not distinguish
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name: Trademark law proscribes registration of a mark which consists exclusively of signs that are generic for the goods or services that they seek to identify. [Sec.123.1(h), IP Code]• The trademark law also proscribes registration of a mark if it:<ol style="list-style-type: none">1. Is likely to mislead the public, particularly as to the geographical origin of the goods or services [Sec.123.1(g), IP Code]2. Consists exclusively of signs or of indications that have become customary or usual to designate the goods or services in everyday language or in bona fide and established trade practice [Sec.123.1(i), IP Code]3. Is contrary to public order or morality [Sec.123.1 (m), IP Code]

Relation between Pre-Existing Trademarks and GI	n.a.
Level of Protection (Unlawful acts)	n.a.
Protection of Multi-Component Terms, Translation, and Transliteration of GI name	n.a.
Period of Protection and Measures required to sustain such protection	10 Years and renewable for periods of ten (10) years, provided that the maintenance requirements have been complied. [Sec.145, IP Code]

4. Procedure for Registration

Eligible Applicants	<p>Natural or juridical person [Sec. 124, IP Code]. If the applicant is a juridical entity, the application shall also contain the law under which it is organized and existing [Sec. 124 (d), IP Code] If the applicant is not domiciled in the Philippines, the application shall also contain the appointment of an agent or representative [Sec.124 (e), IP Code]</p>
Application Form	Trademark application form
Supporting Documents	-
Specific Requirements for Foreign GIs	-
Chanel for submitting applications	<ul style="list-style-type: none"> • At receiving office • Online: www.ipophil.gov.ph/online-filing/
Procedure for Registration and Office timeframe	<ol style="list-style-type: none"> 1. FILING OF THE APPLICATION: Applications may be filed manually or through the online system, and must comply with all the requirements set forth under the IP Code and Trademark Regulations. 2. SEARCH AND EXAMINATION: Applications filed will undergo formality and substantive examination to determine the registrability of the mark following the relevant provisions of the IP Code and Trademark Regulations. 3. PUBLICATION FOR OPPOSITION: Applications that met the registrability requirements will be allowed for publication, for opposition purposes.

When no opposition is filed within thirty (30) days after the publication, the mark is deemed registered on the next calendar day following the expiration of the opposition period. In cases where a motion for extension for the period to file an opposition is granted by the Bureau of Legal Affairs, the mark is deemed registered the day following the expiration of the extension period. When an opposition is filed, a mark shall be considered registered on the date the decision or final order giving due course to the application becomes final and executory.

4. ISSUANCE OF CERTIFICATE OF REGISTRATION: After the period for filing the opposition has expired, or when the Director of Legal Affairs shall have denied the opposition, the Office upon payment of the prescribed fee, shall issue the Certificate of Registration.

5. PUBLICATION OF REGISTERED TRADEMARKS: The issuance of the Certificate of Registration shall be published in the IPO eGazette and shall be entered in the records of the Office.

Please see Figure 8

Fee PHP 1,200.00 (SMALL ENTITY) PHP 2,592.00 (BIG ENTITY)

5. Opposition Procedure

Eligible Persons Any person who believes that he would be damaged by the registration of a mark may file an opposition (Sec.134, IP code)

Form -

Supporting Documents The opposition must be in writing, verified and accompanied by a certification of non-forum shopping, and must indicate the following:

- 1) names and addresses of the opposer and the other parties, including the respondent;
- 2) the assigned application number and the filing date of the trademark application opposed; and
- 3) the ultimate facts constituting petitioner's cause or causes of action and the relief sought.

The opposer shall attach to the opposition the affidavits of witnesses, documentary or object evidence, which must be duly - marked starting from exhibit "A", and other supporting documents mentioned in the notice of opposition together with the translation in English, if not in the English language. The verification and certification of non - forum shopping as well as the documents showing the authority of the signatory or signatories thereto, affidavits and other supporting documents, if executed and notarized abroad, must have been authenticated by the appropriate Philippine diplomatic or consular office. the execution and authentication of these documents must have been done before

the filing of the opposition . [Section 7 Amendments to the Rules and Regulations on Inter - Partes Proceedings, Office Order No.99. S2011]

Grounds for Opposition

The opposition is based on the grounds enumerated under Sec.123 of the IP code.

Example: A mark may not be registered if it is likely to mislead the public, particularly as to geographical origin of the goods or has become customary to designate the goods in everyday language or in bona fide and established trade practice [Sec.123.1 (g) (i), IP Code].

Opposition Procedure

1. The petition for opposition may be filed within thirty (30) days after the publication of the mark and upon payment of the required filing fee. the petition must be in writing, verified and accompanied by a certification of non-forum shopping.
2. The Bureau of Legal Affairs shall issue summons requiring the respondent-applicant to answer the petition.
3. Respondent- Applicant shall file his verified answer within 30days from receipt of the copy of the notice to answer with proof of service thereof to the opposer or petitioner.
4. Upon joiner of issues, the case will be subject to mandatory mediation.
5. In case the parties fail to settle during mediation, the case will be set for preliminary conference.
6. After the termination of the preliminary conference, the parties will be ordered to submit their respective position papers. Thereafter, the case is deemed submitted for decision.

Fee

PHP10,000 (Small Entity) PHP14,600 (Big Entity)

6. Cancellation/Invalidation Procedure

Eligible Persons

A petition to cancel the registration of a mark may be filed by any person who believes that he is or will be damaged by the registration of a mark (Sec. 151, IP Code)

Form

-

Supporting Documents

The petition for cancellation must be in writing, verified and accompanied by a certification of non- forum shopping, and must indicate the following:

- 1) names and addresses of the petitioner and the other parties, including the respondent;
- 2) the registration number, the name of the registrant; and the date of the registration of the trademark, sought to be cancelled;
- 3) the ultimate facts constituting the opposer's or petitioner's cause or causes of action and the relief sought

The petitioner shall attach to the petition the affidavits of witnesses, documentary or object evidence, which must be duly - marked starting from exhibit "A", and other supporting documents mentioned in the

notice of petition together with the translation in English, if not in the English language. The verification and certification of non- forum shopping as well as the documents showing the authority of the signatory or signatories thereto, affidavits and other supporting documents, if executed and notarized abroad, must have been authenticated by the appropriate Philippine diplomatic or consular office. The execution and authentication of these documents must have been done before the filing of the petition. [Amendments to the Rules and Regulations on Inter-Partes Proceedings, Office Order No.99. S2011]

Grounds for Cancellation/Invalidation

Some of the grounds for the cancellation of trademark registration are:

- The trademark has become the generic name for the goods or services, or a portion thereof;
- The trademark has been abandoned;
- The registration of the mark was obtained fraudulently or contrary to the provisions of the IP code;
- The registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the trademark is used;
- The registered owner of the mark without legitimate reason, Fails to use the mark in the Philippines, or to cause it to be used in the Philippines by virtue of a license during an uninterrupted period of three (3) years or longer;
- The trademark is confusingly similar to another trademark or trade name owned by the person who claims to be damaged and who has superior rights thereto. (Sec.151.1(b) (c), IP Code)

Cancellation/Invalidation Procedure

See procedure for opposition, subject to the reglementary period for filing case for cancellation under Sec. 151, IP Code. Please see Figure 9

Fee

PHP10,000 (SMALL ENTITY) PHP14,600 (BIG ENTITY)

7. Appeal Procedure

Possibility to Appeal

Yes No

Accredited Authority

- IP Office
- Judicial authority

8. Use of GIs

Eligible persons

n.a.

Example of GI logo (Collective Mark logos)



Use of GI logo n.a.

Quality Control n.a.

Figure 8

Registration procedure in Philippines

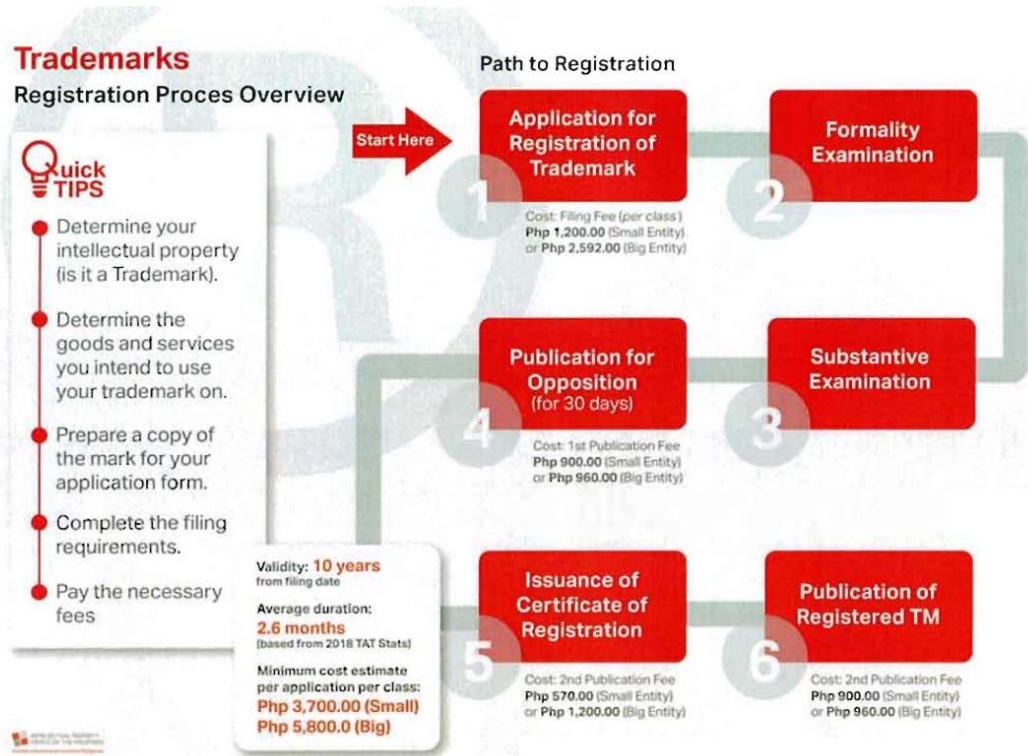
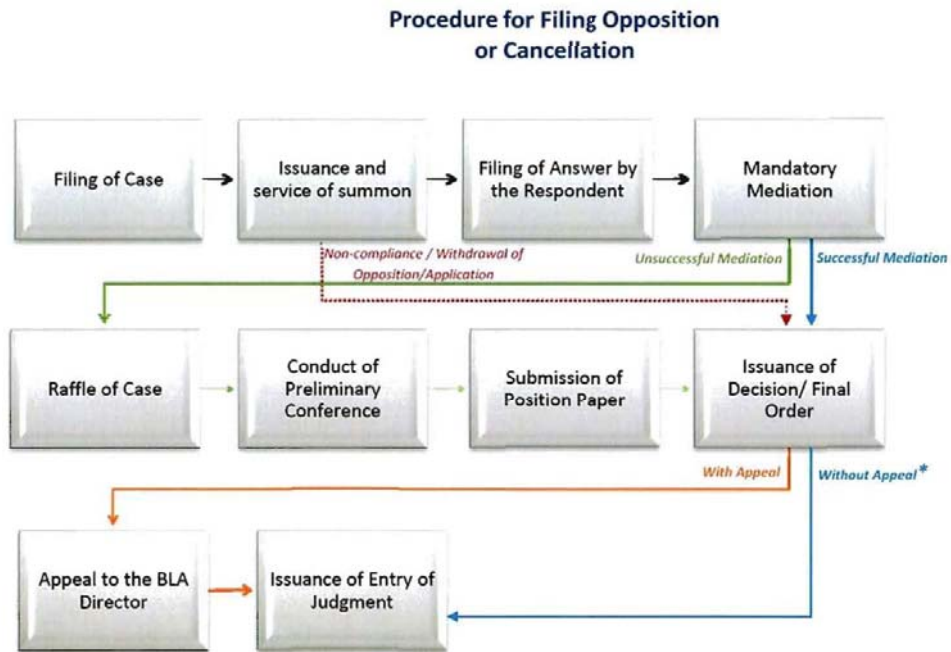


Figure 9
Cancellation procedure in Philippines



Timeline is indicative. Actual timeline varies as disposal could be on technicalities (e.g non-compliance with jurisdictional and formal requirements and orders, withdrawal of opposition/application), amicable settlement or compromise agreement, and/or decision on the merit.

*Decisions and/or final orders based on settlements or compromise agreements are final and executory, hence, no appeal.

2.8 Singapore

1. General Information

Country Name	Singapore
Organization Name	Intellectual Property Office of Singapore
Address	1 Paya Lebar Link, #11-03, PLQ 1, Paya Lebar Quarter, Singapore 408533
Telephone	6339 8616
E-mail	ipos_enquiry@ipos.gov.sg
Website	www.ipos.gov.sg

2. Legal Framework

System of Protection	<ul style="list-style-type: none">• <i>Sui generis</i> law• Trademark Law
Name of Legislation	<p>The <i>sui generis</i> system is as provided under the Geographical Indications Act 2014 (“GI Act 2014”). The GI Act 2014 can be accessed at https://sso.agc.gov.sg/Act/GIA2014 and the subsidiary legislation, the Geographical Indications Rules 2019 (“GI Rules”) can be accessed at https://sso.agc.gov.sg/SL/GIA2014-S125-2019.</p> <p>GIs are registrable as certification and collective marks under the Trade Marks Act (Cap. 332) (“TMA”). The TMA can be accessed at https://sso.agc.gov.sg/Act/TMA1998.</p>

3. Subject Matter

Definition of GI	<p>Any indication used in trade to identify goods as originating from a place, provided that —</p> <p>(a) the place is a qualifying country or a region or locality in a qualifying country; and</p> <p>(b) a given quality, reputation or other characteristic of the goods is essentially attributable to that place</p> <p>(Section 2 of the GI Act 2014)</p>
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products³• Wines and spirits
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name

³ An application for registration of a geographical indication may only be sought in respect of goods falling within one or more of the categories of goods set out in the Schedule (Section 40 GI Act 2014)

- The grounds for refusal of registration is set out in section 41(1) of the GI Act 2014. They are:
 - a. An indication which does not fall within the meaning of "GI" as defined in the GI Act 2014.
 - b. A GI which identifies goods that do not fall within any of the categories set out in the Schedule in the GI Act 2014;
 - c. A GI which is contrary to public policy or morality;
 - d. A GI which is not or has ceased to be protected in its country or territory of origin;
 - e. A GI which is identical to the common name of any goods in Singapore, where registration of the GI is sought in relation to those goods;
 - f. A GI which contains the name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product;
 - g. A GI which is likely to create confusion among the public because the GI is identical with or similar to, and has the same geographical origin as, an earlier GI;
 - h. A GI which is likely to create confusion among the public because it is identical with or similar to a trade mark, and it fulfils either or both of the conditions specified below:
 - i. The trade mark is a registered trade mark which was applied for or registered in good faith under the Trade Marks Act or any previous written law relating to trade marks before the date of the application for registration of the GI in Singapore; and/or
 - ii. The trade mark has been used in good faith in Singapore in the course of trade before the date of application for the registration of the GI in Singapore;
 - i. A GI which is identical with or similar to a trade mark, where:
 - i. The trade mark, is before the date of application of registration for the GI, a well known trade mark in Singapore; and
 - ii. The registration of the GI is like liable to mislead consumers as to the true identity of the goods identified by that GI

Relation between Pre-Existing Trademarks and GI

- A GI shall not be registered if
- a. there exists a likelihood of confusion on the part of the public because —
 - i. the GI is identical with or similar to a trade mark; and
 - ii. the trade mark is a registered trade mark and was applied for or registered in good faith, before the date of application for registration of the GI in Singapore and/or the trade mark has been used in good faith in Singapore in the course of trade before the date of application for registration of the geographical indication in Singapore
 - b. the GI is identical with or similar to a trade mark that is, before the date of application for registration of the GI in Singapore, a well known trade mark in Singapore; and registration of the GI is

liable to mislead consumers as to the true identity of the goods identified by that GI.

However, the Registrar may, in his discretion, register any GI referred to above if the proprietor of the trade mark referred above consents to the registration; or fails to give notice to the Registrar of his opposition to the registration in accordance with section 45(2) of the GI Act 2014.

**Level of Protection
(Unlawful acts)**

Any interested party of goods identified by a GI may bring an action against a person for carrying out an act to which section 4 of the GI Act 2014 applies, as follows:

(1) Subject to the provisions of this Act, an interested party of goods identified by a GI may bring an action against a person for carrying out an act to which this section applies in relation to the GI.

(2) This section shall apply to the following acts:

(a) the use of a GI in relation to any goods which did not originate in the place indicated by the GI, in a manner which misleads the public as to the geographical origin of the goods;

(b) any use of a GI which constitutes an act of unfair competition within the meaning of Article 10 bis of the Paris Convention;

(c) any use of a GI, being a GI which identifies a wine, in relation to a wine which did not originate from the place indicated by the GI, whether or not —

(i) the true geographical origin of the second-mentioned wine is used together with the GI;

(ii) the GI is used in translation; or

(iii) the GI is accompanied by any of the words "kind", "type", "style" or "imitation" or any similar word or expression; and

(d) any use of a GI, being a GI which identifies a spirit, in relation to a spirit which did not originate from the place indicated by the GI, whether or not —

(i) the true geographical origin of the second-mentioned spirit is used together with the GI;

(ii) the GI is used in translation; or

(iii) the GI is accompanied by any of the words "kind", "type", "style" or "imitation" or any similar word or expression.

(3) Any use of a GI within the meaning of subsection (2) shall be deemed to be an act to which this section applies, even if the GI is literally true as to the geographical origin of the goods in question, provided that such use falsely represents to the public that the goods originate in another place.

(4) For the purposes of subsection (2), "use of a GI" includes the use of a trade mark which contains or consists of the GI in question.

(5) Subsection (2)(c) and (d) shall not apply to the use of a GI to identify an ingredient of a wine and an ingredient of a spirit, respectively, if the GI is literally true as to the geographical origin of the ingredient in question, provided that such use does not falsely

represent to the public that the wine or spirit (as the case may be) originates in the place indicated by the GI.

(6) This section shall apply to any use of a registered GI which identifies any agricultural product or foodstuff (other than a wine or a spirit) belonging to a category of goods listed in the Schedule, in relation to any goods which are of the same category as that agricultural product or foodstuff, but which did not originate in the place indicated by the registered GI, whether or not —

- (a) the true geographical origin of those goods is used together with the registered GI;
- (b) the registered GI is used in translation; or
- (c) the registered GI is accompanied by any of the words "kind", "type", "style" or "imitation" or any similar word or expression.

(7) Any use of a registered GI within the meaning of subsection (6) shall be deemed to be an act to which this section applies, even if the GI is literally true as to the geographical origin of the goods in question, provided that such use falsely represents to the public that the goods originate in another place.

(8) For the purposes of subsection (6) —
"foodstuff" means any natural or agricultural product that is meant for human consumption;

"use of a registered GI" includes the use of a trade mark which contains or consists of the GI in question.

(9) Subsection (6) shall not apply to the use of a registered GI to identify an ingredient of any goods, if the GI is literally true as to the geographical origin of the ingredient in question, provided that such use does not falsely represent to the public that the goods originate in the place indicated by the GI.

Protection of Multi-Component Terms, Translation, and Transliteration of GI name

The GI legislation sets out provisions where an interested party of goods identified by a GI may bring an action against unauthorised use of a GI. This also apply to GI constituting 2 or more variants. (*Please refer to section 4 of the GI Act 2014*).

The GI legislation also sets out defences to infringement. (*Please refer to sections 11-16 of the GI Act 2014*).

The determination of infringement of a GI constituting 2 or more variants is subject to whether any variant of that GI has been qualified as per section 46 or has its scope limited as per section 48A of the GI Act 2014.

Under the GI Act 2014, an interested party may bring an action against a person for any use of a registered GI if the use of the GI does not originate from the place indicated by the GI, regardless of whether the GI is used in translation.

Period of Protection and Measures required to sustain such protection

A GI shall be registered for a period of 10 years from the date of registration. The registration of a GI may be renewed in accordance

with section 50 of the GI Act 2014 for further periods of 10 years in respect of each renewal, subject to payment of the prescribed renewal fees.

4. Procedure for Registration

Eligible Applicants	Each of the following persons shall be entitled to file an application for registration of a GI: (a) a person who is carrying on an activity as a producer in the geographical area specified in the application with respect to the goods specified in the application; (b) an association of persons referred to in paragraph (a); (c) a competent authority having responsibility for the GI for which registration is sought.
Application Form	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Form GI1: Application to register a geographical indication
Supporting Documents	1. Where the GI for which registration is sought relates to a qualifying country other than Singapore, the applicant has to provide evidence that the GI has obtained recognition or registration as a GI in the qualifying country of origin, where applicable, under section 39(1)(g) of the GI Act 2014.
Specific Requirements for Foreign GIs	See response for "Supporting Documents"
Channel for submitting applications	<ul style="list-style-type: none">• At receiving office
Procedure for Registration and Office timeframe	<p>1. Application</p> <p>The applicant needs to provide the following information in the application form: (a) the name, address and nationality of the applicant; (b) the capacity in which the applicant is applying for registration; (c) the representation of the GI for which registration is sought; (d) the geographical area to which the GI applies; (e) the goods to which the GI applies; (f) the quality, reputation or other characteristic of the goods and how that quality, reputation or other characteristic is essentially attributable to the place from which the goods originate; (g) evidence that the GI has obtained recognition or registration as a GI in the qualifying country of origin, if the GI relates to a qualifying country other than Singapore.</p> <p>If the above information is provided and the prescribed fee for the application is paid, the application will proceed to examination.</p> <p>2. Examination</p> <p>The application will be examined to determine if the GI is registrable in accordance with the law. If the requirements for registration are</p>

not met or additional information or evidence is required, an examination report stating the ground(s) for refusal would be sent to the applicant.

The applicant must, within two months from the date of the examination report, (i) make representations in writing, (ii) apply to amend the application, or (iii) provide the additional or any other information or evidence.

3. Publication and Opposition

If the application for registration is accepted, it will be published in the Geographical Indications Journal for a period of time to provide third parties an opportunity to oppose to the registration of the GI.

In the event that a notice of opposition and supporting evidence are filed, the opponent must serve on the applicant a copy of the notice of opposition and supporting evidence. Where the counter-statement and supporting evidence have been filed, a hearing officer will hear the case based on the information and evidence presented by both parties and issued a decision.

4. Registration

If there is no notice of opposition received or all opposition proceedings are withdrawn or decided in favour of the applicant, the GI will be registered for a period of 10 years. The applicant will receive a certificate of registration.

Estimated processing time

The total processing time from the date on which the application for registration is filed to the registration of the GI is usually about nine months, if the application did not contain any deficiency or face any objection. Otherwise, the total processing time may be longer.

Fee S\$1,000.00

5. Opposition Procedure

Eligible Persons Any person

Form x Yes
Form GI13: Notice of opposition

Supporting Documents
1. Statement of grounds
2. Supporting evidence

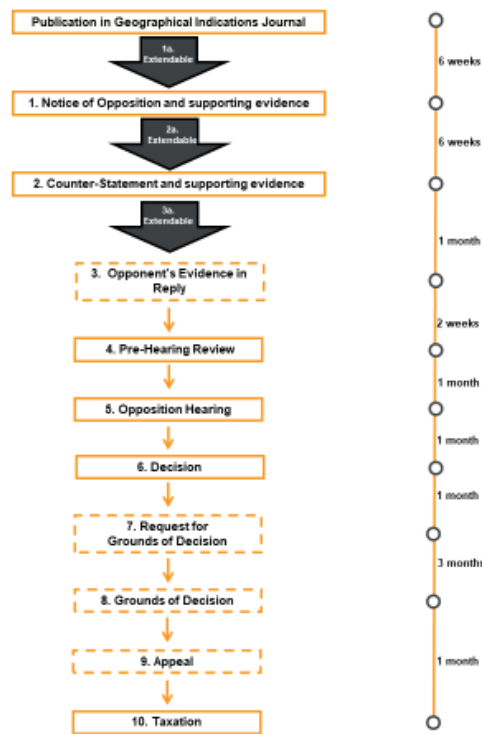
Grounds for Opposition The grounds must be one of the grounds specified in section 41 of the GI Act 2014 which, in brief, include the following:

(a) an indication which does not fall within the meaning of "geographical indication" as defined in section 2 of the GI Act 2014;

- (b) a GI which identifies goods that do not fall within any of the categories of goods set out in the Schedule;
- (c) a GI which is contrary to public policy or morality;
- (d) a GI which is not or has ceased to be protected in its country or territory of origin;
- (e) a GI which is identical to the common name of any goods in Singapore, where registration of the GI is sought in relation to those goods;
- (f) a GI which contains the name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product.
- (g) where there exists a likelihood of confusion on the part of the public because the GI is identical with or similar to, and has the same geographical origin as, an earlier GI.
- (h) where there exists a likelihood of confusion on the part of the public because —
 - (i) the GI is identical with or similar to a trade mark; and
 - (ii) the trade mark is a registered trade mark and was applied for or registered in good faith, before the date of application for registration of the GI in Singapore and/or the trade mark has been used in good faith in Singapore in the course of trade before the date of application for registration of the geographical indication in Singapore.
- (i) a GI that is identical with or similar to a trade mark that is, before the date of application for registration of the GI in Singapore, a well known trade mark in Singapore; and registration of the GI is liable to mislead consumers as to the true identity of the goods identified by that GI.

Opposition Procedure

Typically, and assuming no extension of time is sought, the opposition procedure may be broken down into the following stages:



Where there are 2 or more variants constituting the GI, it is possible to oppose only against one or some of the variants. If so, even if the opposition against the specific variant(s) prevails, the GI will be registered in relation to the remaining variant(s).

Fee S\$550.00

6. Cancellation/Invalidation Procedure

Eligible Persons Registrant or any other person

Form x Yes No
Form GI14 and Form GI17

Supporting Documents 1. Statement of grounds
2. Supporting evidence

Grounds for Cancellation/Invalidation Where the application for cancellation is made by a person other than the registrant, the application must relate to one or more of the grounds specified in section 52(2) of the GI Act 2014:

- a. that the GI was registered in breach of section 41 of the GI Act 2014;
- b. that the registration was obtained fraudulently or by misrepresentation;
- c. that the GI has ceased to be protected in its country or territory of origin;
- d. that there has been a failure to maintain, in Singapore, any commercial activity or interest in relation to the GI, including commercialisation, promotion or market monitoring;

- e. that, in consequence of a lack of any activity by any interested party of goods identified by a registered GI, the GI has become the common name of those goods in Singapore.

Cancellation/Invalidation Procedure A GI may be cancelled by the registrant or any other person.

1. An application to the Registrar for the cancellation of the registration of a registered GI must be made —
 - a. where the application for cancellation is made by the registrant, in Form GI7; or
 - b. where the application for cancellation is made by any other person, in Form GI4.
 2. The application —
 - a. must be accompanied by a statement of the grounds relied upon by the person applying for the cancellation; and
 - b. in the case of an application mentioned in paragraph 1b, must relate to one or more of the grounds specified in section 52(2) of the GI Act 2014.
- 2A. Where the application is for the cancellation of the registration of 2 or more variants constituting a geographical indication, the statement of the grounds mentioned in paragraph (2)(a) must specify which variant or variants each of the grounds relates to.
3. The applicant of an application mentioned in paragraph 1b must serve on the registrant of the registered GI a copy of the application at the same time those documents are filed with the Registrar.
 4. Where the Registrar proposes to allow an application for the cancellation of the registration of a GI, the Registrar must publish the proposed cancellation in the Geographical Indications Journal.
 5. Any person who wishes to oppose the cancellation must, in accordance with rule 66 of the GI Rules, file with the Registrar a notice of opposition to the cancellation.
 6. Where no notice of opposition has been filed within the period mentioned in rule 66(1) of the GI Rules, the application must be granted.

In the event that a notice of opposition is filed, the opponent must serve on the applicant a copy of the notice of opposition. Within 2 months after the date of receipt of the copy of the notice of opposition, the applicant must file with the Registrar a counter-statement. Where the counter-statement has been filed, the Registrar after hearing the parties on the appropriate timelines, will give directions on the filing of parties' evidence. If the case proceeds to a hearing, a hearing officer will hear the case based on the information and evidence presented by both parties and issued a decision.

If all opposition are withdrawn or decided in favour of the applicant for cancellation, the GI will be cancelled.

Fee	<ol style="list-style-type: none"> 1. Application, by person other than registrant, to cancel registration of GI (Form GI4): S\$550.00 2. Application by registrant to cancel registration of GI (Form GI7): S\$30.00
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7. Appeal Procedure

Possibility to Appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Accredited Authority	<ul style="list-style-type: none"> • Judicial authority 	

8. Use of GIs

Eligible persons	<ul style="list-style-type: none"> • Producers • Traders
Example of GI logo	n.a.
Use of GI logo	n.a.
Quality Control	n.a.

Information above is confined to the circumstance where a GI is sought for registration in Singapore.

2.9 Thailand

1. General Information

Country Name	Thailand
Organization Name	Department of Intellectual Property, Ministry of Commerce
Address	563 Nonthaburi Road, Muangnonthaburi District, Nonthaburi, 11000
Telephone	(662) 25475024
E-mail	dipadmin@moc.go.th
Website	www.ipthailand.go.th

2. Legal Framework

System of Protection	<i>Sui generis</i> law
Name of Legislation	Geographical Indications Protection Act B.E.2546 (hereinafter, referred as "the law")

3. Subject Matter

Definition of GI	A name, symbol or any other thing used for calling or representing a geographical origin and capable of identifying that the goods originating in that geographical origin have the particular quality, reputation or characteristic of which is attributable to such geographical origin.
Type of Goods	<ul style="list-style-type: none">• Food and agricultural products• Wines and spirits• Non-agricultural products Ex: handicrafts, ceramics, silk, etc.
Prohibition of GI Registration	<ul style="list-style-type: none">• Generic name (A name commonly known as referring to a particular kind of goods)• Geographical indication which is contrary to public order, morality or the State policy.
Relation between Pre-Existing Trademarks and GI	<ul style="list-style-type: none">• Geographical indications protected under the law are not registrable as trademarks (Trademark Act B.E.2534).• Where a trademark is registered before a geographical indication, the geographical indication registration does not prejudice the pre-registered trademark or the right to use of that trademark.
Level of Protection (Unlawful acts)	<p>The acts are deemed unlawful as follows:</p> <ol style="list-style-type: none">1. The use of geographical indications in order to misrepresent or mislead other persons to believe that the goods which do not

originate from the geographical origin indicated in the application are goods originating from such origin;

2. The use of geographical indications in any manner which will cause confusion or deception as to the geographical origin, quality, reputation or any other characteristics of the goods so as to cause damage to other traders.

The higher protection is provided for specific goods (wines, spirits, rice and silk), designated by the Ministerial regulation. The use of GI designated as specific goods on the goods not originating from the geographical place indicated is unlawful, even the true geographical origin is indicated. The identification of the true origin of the goods includes the use of the expression such as "kind", "type", "style" or any expression or thing similar thereto in association with the geographical indication used for such goods.

Protection of Multi-Component Terms, Translation, and Transliteration of GI name

- The GI term is protected as a whole.
- Both translation and transliteration of GI name are also protected.

Period of Protection and Measures required to sustain such protection

The protection is not limited in time.

4. Procedure for Registration

Eligible Applicants

1. A government agency, a State agency, a State enterprise, a local government or another public body ascribed the status of a juristic person, whose area of responsibility embraces the geographical origin of the goods.

2. A natural person, a group of persons, or a juristic person who engages in trade in connection with the goods for which a geographical indication is used and has a residence in the geographical indication of the goods.

3. A group or an organization of consumers consuming the goods for which a geographical indication is used.

Application Form

Form Sor Chor 01 (Available on www.ipthailand.go.th)

Supporting Documents

1. The Application form and a photocopy of the application.

2. A copy of identification card

2.1 A copy of identification card in case that the applicant is natural person;

2.2. A copy of identification card or passport in case that the applicant is a foreigner and the authorization letter or the power of attorney;

2.3. The Certification of Juristic Person in case that the applicant is a juristic person;

3. A photograph of the goods applied for registration; and

4. The original or a copy of the label or the name or statement indicated in the product label;
5. The authorization letter or the power of attorney (if any);
6. A Document indicating quality, reputation, properties or other characteristics of the product (if any).
7. A Document indicating the relationship between the GI product and geographical environment (if any);
8. A Document proving that the goods applied for registration is originating in that particular origin.

Specific Requirements for Foreign GIs

1. Evidence indicating that the geographical indication of a foreign country is protected under the law of that country and has been continuously valid until the date of its application in Thailand;
2. The supporting documents shall be translated in Thai;
3. An applicant shall have one of the following qualifications:
 - 3.1 Being a national of a country which is a party to an international convention or agreement concerning the protection of geographical indications, to which Thailand is also a party; or
 - 3.2 Being a resident or business operator in Thailand or in a country which is a party to an international convention or agreement concerning the protection of geographical indications, to which Thailand is also a party.

Chanel for submitting applications

- At receiving office
 1. Department of Intellectual Property, Nonthaburi
 2. Offices of Commercial Affair in every province
- By post: Department of Intellectual Property, 563 Nonthaburi Road, Muangnonthaburi, Nonthaburi 11000 Thailand

Procedure for Registration and Office timeframe

Please refer to Figure 10

Fee 500 Baht

5. Opposition Procedure

Eligible Persons	Any interested party
Form	Form Sor Chor 02 and 03 (Available at www.ipthailand.go.th)
Supporting Documents	<ol style="list-style-type: none"> 1. The opposition form 2. A copy of identification card or passport of the oppose
Grounds for Opposition	The application for registration is contrary to the law.
Opposition Procedure	Please refer to Figure 10
Fee	500 Baht


6. Cancellation/Invalidation Procedure

Eligible Persons Form	Any interested party Form Sor Chor 05 (Available at www.ipthailand.go.th)
Supporting Documents	<ol style="list-style-type: none">1. The revocation form with the identification of the ground for the correction or revocation.2. A copy of identification card of the applicant for the correction or revocation.3. The details as to the GI which the intended correction or revocation is related.
Grounds for Cancellation/Invalidation	<ol style="list-style-type: none">1. The application for registration or the registration has been proceeded unlawfully or contrary to the law.2. There is a change of circumstances resulting in the geographical indication contrary to the law or resulting in the geographical origin or others, different from those entered in the register.
Cancellation/Invalidation Procedure	Please refer to Figure 10
Fee	200 Baht

7. Appeal Procedure

Possibility to Appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Accredited Authority	<ul style="list-style-type: none">• IP Office• Judicial authority	

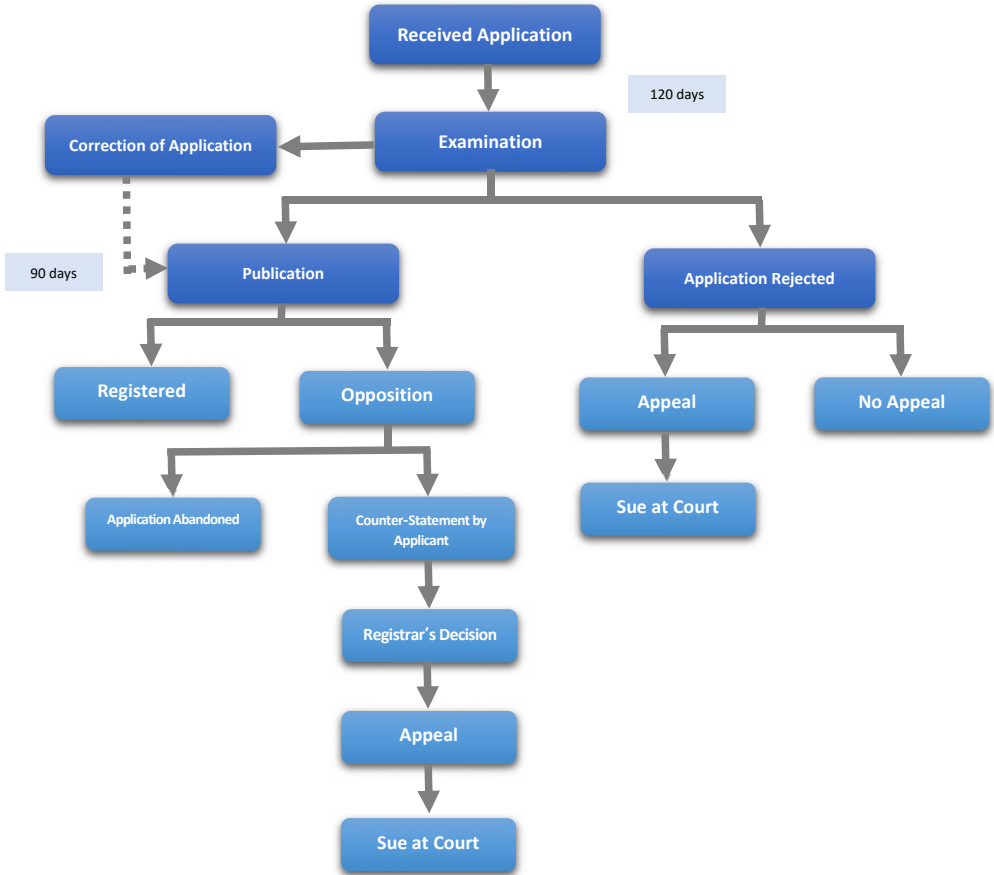
8. Use of GIs

Eligible persons	<ul style="list-style-type: none">• Producers• Traders
Example of GI logo	 The GI logo incorporates a Thai word “สิ่งบ่งชี้ทางภูมิศาสตร์ไทย” and “Thai Geographical Indication” in English, including its initials “GI”, in the gold
Use of GI logo	<ul style="list-style-type: none">• Permission from IP Office after the GI registration.
Quality Control	<ul style="list-style-type: none">• Internal Control• External Control <ol style="list-style-type: none">1. Once a geographical indication is registered, the producers and traders shall prepare a production manual and a control plan.2. There shall be a registration of producer and trader of GI products.3. The Provincial Committee or Certification Body shall audit the producers and the traders according to production manual and control plan.4. The report shall be submitted to the DIP.

5. The DIP grants permission to use the Thai GI Logo which is valid for two years.

Figure 10

Cancellation/ invalidation procedure in Thailand



2.10 Viet Nam

1. General Information

Country Name	Viet Nam
Organization Name	Intellectual Property Office of Viet Nam (IP Viet Nam)
Address	384 – 386 Nguyen Trai St., Thanh Xuan Dist., Ha Noi, Viet Nam
Telephone	(+8424) 3858 3069, 3558 8217
E-mail	vietnamipo@ipvietnam.gov.vn
Website	http://ipvietnam.gov.vn/en/web/english/home

2. Legal Framework

System of Protection	<ul style="list-style-type: none">• <i>Sui generis</i> law• International treaties/agreements on GIs to which Viet Nam is a Contracting Party
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Name of Legislation	<p>1. National legislation</p> <ul style="list-style-type: none">• Civil Code 2005;• Criminal Code 2015;• Intellectual Property Law 2005, amended and supplemented in 2009 and 2019 (hereinafter referred as ‘IP Law’);• Decree No.103/2006/ND-CP dated 22 September 2006 of the Government detailing and guiding the implementation of a number of articles of the IP Law regarding industrial property, revised in 2010 (hereinafter referred as ‘Decree No. 103/2006/ND-CP’);• Decree No. 105/2006/ND-CP dated 22 September 2006 of the Government detailing and guiding the implementation of a number of articles of the IP Law regarding protection of IP rights and state management of IP, revised in 2010 (hereinafter referred as ‘Decree No. 105/2006/ND-CP’);• Decree No. 99/2013/ND-CP dated 29 August 2013 of the Government on sanctioning of administrative violations in industrial property (hereinafter referred as ‘Decree No. 99/2013/ND-CP’);• Circular No. 01/2007/TT-BKHCN dated 14 February 2007 of the Ministry of Science and Technology guiding the implementation of Decree No. 103/2006/ND-CP, revised in 2010, 2011, 2013 and 2016 (hereinafter referred as ‘Circular No. 01/2007/TT-BKHCN’).<ul style="list-style-type: none">• Circular No. 11/2015/TT-BKHCN dated 26 June 2015 of the Ministry of Science and Technology detailing and guiding a number of articles of Decree No. 99/2013/ND-CP
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- Circular No. 13/2015/TT-BTC dated 30 January 2015 of the Ministry of Finance defining inspection, supervision, temporary suspension of customs procedures for exported and imported goods that are subjects of intellectual property rights; control of counterfeit goods and goods infringing intellectual property rights
- Joint Circular No. 01/2008/TTLT-TANDTC-VKSNDTC-BCA-BTP dated 29 February 2008 of the Supreme People’s Court, the Supreme People’s Procuracy, Ministry of Public Security and Ministry of Justice providing guidance for penal liability for infringements of intellectual property rights;
- Joint Circular No. 02/2008/TTLT-TANDTC-VKSNDTC-BVHTT&DL-BKH&CN-BTP dated 03 April 2008 of the Supreme People’s Court, the Supreme People’s Procuracy, Ministry of Culture, Sport and Tourism, Ministry of Science and Technology, and Ministry of Justice providing guidance for application of some legal provisions in disputes settlement on intellectual property rights at courts.

2. International treaties/agreements on GIs

- Paris Convention on Industrial Property Protection;
- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement);
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP);
- Free Trade Agreement between the Socialist Republic of Viet Nam and European Union (EVFTA);
- Free Trade Agreement between the Socialist Republic of Viet Nam and Eurasian Economic Union;
- Free Trade Agreement between the Republic of Chile and the Socialist Republic of Viet Nam (VCFTA);
- Memorandum of Cooperation on Geographical Indications between the Intellectual Property Office of the Ministry of Science and Technology of Viet Nam and the Food Industry Affairs Bureau of the Ministry of Agriculture, Forestry and Fisheries of Japan; Memorandum of Understanding in the field of Geographical Indications between the National Office of Intellectual Property, Ministry of Science and Technology of the Socialist Republic of Viet Nam and the Department of Intellectual Property, Ministry of Science and Technology of the Socialist Republic of the Lao People’s Democratic Republic (DIP Laos)

3. Subject Matter

Definition of GI

A sign which identifies a product as originating from a specific region, locality, territory or country”
(Article 4.22 of the IP Law)

Type of Goods

- Food and agricultural products;
- Wines and spirits;
- Non-agricultural products.

Prohibition of GI Registration

- Names or indications which have become generic names of goods in Viet Nam;
- GIs of foreign countries where they are not or no longer protected or no longer used;
- GIs identical with or similar to a protected mark or an applied mark of which apply date or priority date is prior to the GI's application, where the use of such GIs is likely to cause a confusion as to the origin of products ;
- GIs which mislead consumers as to the true geographical origin of products bearing such GIs.

(Article 80 of the IP Law)

Relation between Pre-Existing Trademarks and GI

- GIs identical with or similar to a protected mark or an applied mark of which apply date or priority date is prior to the GI's application, where the use of such GIs is likely to cause a confusion as to the origin of products

(Article 80.3 of the IP Law);

- Organizations and individuals granted the right to use or the right to manage GIs shall not have the right to prevent others from using marks identical with or similar to protected GIs where such marks have acquired the protection in an honest manner before the date of filing applications for registration of such gGIs *(Article 125.2.g of the IP Law)*.

Level of Protection (Unlawful acts)

The following acts shall be regarded as infringements of the rights to protected GIs:

- Using protected GIs for products which do not satisfy the criteria of peculiar characteristics and quality of products bearing GIs although such products originate from geographical areas bearing such GIs;
- Using protected GIs for products similar to products bearing GIs for the purposes of taking advantage of their reputation and popularity;
- Using any sign identical with, or similar to, protected GIs for products not originating from geographical areas bearing such GIs and therefore misleading consumers as to that products originate from such geographical areas;
- Using protected GIs of wines or spirits for wines or spirits not originating from geographical areas bearing such GIs, even where the true origin of goods is indicated or GIs are used in the form of translations or transcriptions, or accompanied by such words as "category," "model," "type," "imitation" or the like.

(Article 129.3 of the IP Law)

Protection of Multi-Component Terms, Translation, and Transliteration of GI name

- The act of using protected GIs of wines or spirits for wines or spirits not originating from geographical areas bearing such GIs, even where the true origin of goods is indicated or GIs are used in the form of translations or transcriptions, or accompanied by such words as "category," "model," "type," "imitation" or the like shall be considered as infringement of the rights to a protected GI.

(Article 129.3.d of the IP Law)

Period of Protection and Measures required to sustain such protection

- Certificate of GI registration shall have an indefinite validity starting from the grant date.

(Article 93.7 of the IP Law)

- The validity of a GI protection title shall be terminated in the case where the geographical conditions decisive to reputation, quality or special characteristics of products bearing a geographical indication have changed resulting in the loss of such reputation, quality or characteristics of products.

(Article 95.1.g of the IP Law)

- For foreign GIs, the validity of a geographical indication protection title shall be terminated in the case where the GI is not or no longer protected or no longer used.

(Article 80.2 of the IP Law)

4. Procedure for Registration

Eligible Applicants

The right to register Vietnamese GIs belongs to the State. The State allows organizations and individuals producing products bearing GIs, collective organizations representing such organizations or individuals or administrative management agencies of localities to which such GIs pertain to exercise the right to register such GIs. Persons who exercise the right to register GIs shall not become owners of such GIs.

(Article 88 of the IP Law)

- Foreign individuals and organizations who are holders of rights to GIs under laws of countries of origin are entitled to register such GIs in Viet Nam.

(Article 8 of Decree No. 103/2006/ND-CP).

Application Form

Form 05-CDDL

(Available on http://ipvietnam.gov.vn/vi_VN/web/guest/chi-dan-dia-ly)

Supporting Documents

Application for GI registration shall include:

- Request form;
- The description of peculiar characteristics and quality, or reputation of the product bearing the GI and particular elements of natural conditions decisive to the peculiar characteristics and quality, or reputation of the product;
- The map of the geographical area bearing the GI;
- Evidences proving that the information regarding peculiar characteristics and quality, or reputation of the product is factual and validated (such as results of experiments, researches, surveys, etc.);
- 10 samples of presentation of the GI to be used (not bigger than 80 mmx80 mm and not smaller than 20 mmx20 mm (if the GI does not consist of words);
- Documents evidencing that the GI is under protection in the country of origin in case of a foreign geographical origin;
- Power of attorney, if the application is filed through a representative;

- Receipts of the prescribed fees and charges (In case fees and charges are paid via postal services or deposited directly to bank account of the IP Viet Nam).

(Points 7, 10.1 and 43.3 of Circular No. 01/2007/TT-BKHCHN)

Specific Requirements for Foreign GIs

- Documents evidencing that the GI is under protection in the country of origin in case of a foreign geographical origin *(Article 106.1.e of the IP Law)*
- Foreign individuals not permanently residing in Viet Nam, foreign organizations or individuals having no production or business establishments in Viet Nam shall file applications through their lawful representatives in Viet Nam *(Article 89.2 of the IP Law)*

Channel for submitting applications

- IP Office of Viet Nam
- Online application system *(Article 89.3 of the IP Law)*

Procedure for Registration and Office timeframe

Applications of GI registration shall be processed by the IP Viet Nam in the following order: receipt of applications; formal examination; publication of valid applications; substantive examination; grant or refusal to grant protection titles; registration and publication of decisions on granting protection titles.

(Point 11 of Circular No. 01/2007/TT-BKHCHN)

Detailed flowchart of procedures and time frame is in Figure 11 below.

Fee 1,650,000 VND

5. Opposition Procedure

Eligible Persons

- As from the date an application of GI registration is published in the Official Gazette of Industrial Property till prior to the date of issuance of a decision on grant of a protection, any third party shall have the right to express opinions to the IP Viet Nam on the grant or refusal to grant a protection title in respect of such application. Such opinions must be made in writing and be accompanied by documents or must quote the source of information.

(Article 112 of the IP Law)

- Opponents of granting protection titles must pay charges for handling their oppositions to registration of industrial property as provided. The written opinion of third parties must be regarded as a source for reference in the course of processing industrial property applications.

(Point 6.1 of Circular No. 01/2007/TT-BKHCHN)

Form

Form 05-KN

(Available on http://ipvietnam.gov.vn/vi_VN/web/guest/chi-dan-dia-ly)

Supporting Documents

n.a.

Grounds for Opposition	<p>Grounds for opposition are matters of rights of registration, priority rights, protection criteria and others that relate to applications of GI registration pursuant to Article 112 of the IP Law.</p> <p><i>(Point 6.1 of Circular No. 01/2007/TT-BKHCN)</i></p>
Opposition Procedure	<ol style="list-style-type: none"> 1. When the opinion of the third party is considered as grounded, the IP Viet Nam shall notify such opinion to applicants and set a time limit of one month from the notification date for them to respond in writing. After receiving the applicant's response, the IP Viet Nam shall notify it to the third party, if necessary and set a time limit of one month from the notification date for them to have opinion in writing on that response. After those provided time limit, the IP Viet Nam shall handle opinions of the applicant and the third parties based on proofs, arguments furnished, and documents in the applications. The third party shall be notified of the result of substantive examination of those applications. 2. When the opinion of the third party is considered groundless, the IP Viet Nam is not required to notify that opinion to the applicants but shall notify the third party of its refusal to consider his opinion, with clear reasons. 3. If the opinion of the third party is related to the rights of registration, when finding it impossible to determine whether or not such opinion are grounded, the IP Viet Nam shall notify such to the third party so that the latter may file a petition with a court following the provisions of civil procedures. Within one month as of the date the IP Viet Nam issues the notice, if the third party fails to submit to the IP Viet Nam a copy of the notification of admitting the case by the court, the opinion of the third party is considered as withdrawn and the IP Viet Nam continues process the application without opinion of the third party. If the IP Viet Nam receives a copy of the notification of admitting the case by the court from the third party within the above time limit, it shall suspend the application processing until final results of dispute settlement by the court are obtained. After the final results of dispute settlement by the court are obtained, the application processing shall be resumed in accordance with those results. 4. When necessary and upon the request of both parties, the IP Viet Nam shall organize hearings between the third party and the applicant to further clarify matters challenged by opponents. 5. The time-limit for the applicant to respond to oppositions submitted by the third party shall not be counted into the time-limit for the IP Viet Nam to carry out relevant procedures according to regulations. <p><i>(Points 6.2, 6.3, 6.4, 6.5, and 6.6 of Circular No. 01/2007/TT-BKHCN)</i></p>
Fee	550,000 VND

6. Cancellation/Invalidation Procedure

Eligible Persons	Organizations and individuals shall have the right to request the IP Viet Nam to terminate/ invalidate the validity of certificates of GI registration provided that they have paid fees and charges. <i>(Articles 95.4 and 96.3 of the IP Law)</i>
Form	Form 04-CDHB (Available on http://ipvietnam.gov.vn/vi_VN/web/guest/chi-dan-dia-ly)
Supporting Documents	<p>a) An application may request for termination or invalidation of one or more than one protection titles by invoking the same reasons, provided that the applicant shall pay prescribed fees for each protection title.</p> <p>b) An application for termination or invalidation of the protection title must comprise the followings:</p> <p>(i) The request for termination or invalidation of the protection title (Form 04-CDHB);</p> <p>(ii) Proofs (if any);</p> <p>(iii) Power of attorney (if the request is filed through a representative);</p> <p>(iv) A written justification of the request (clearly stating the serial number of the protection title, reasons, legal grounds, contents requested for termination or invalidation of a part of or entire the protection title) and relevant documents as specified at Points 7.2, 22.2 and 22.3 of Circular No. 01/2007/TT-BKHCHN;</p> <p>(v) Receipts of the prescribed fees and charges (In case fees and charges are paid via postal services or deposited directly to bank account of the IP Viet Nam).</p> <p><i>(Point 21.2 of Circular No. 01/2007/TT-BKHCHN)</i></p>
Grounds for Cancellation/Invalidation	<ul style="list-style-type: none">• The validity of a GI protection title shall be terminated in the case where geographical conditions decisive to reputation, quality or special characteristics of products bearing a geographical indication have changed resulting in the loss of such reputation, quality or characteristics of products. <i>(Article 95.1g of the IP Law)</i>• A GI protection title shall be entirely invalidated in the following cases:<ol style="list-style-type: none">a. The registration applicant has neither had not been assigned the right to register a geographical indication;b. The geographical indication fails to satisfy the protection conditions at the time the protection title is granted. <i>(Article 96.1 of the IP Law)</i>
Cancellation/Invalidation Procedure	1. If a request for termination or invalidation of the protection title is made by a third party, the IP Viet Nam shall notify in writing the third party's opinion to the protection title holder within one month as of date of receiving the request, and setting a time limit of two months from the notice date for the protection title holder to respond. The

IP Viet Nam may hold a face-to-face meeting between the third party and the protection title holder for their view exchange.

2. Have considered the opinions of the parties, the IP Viet Nam shall issue the decision on termination or invalidation of part of or the entire protection title or notify its refusal to terminate or invalidate the protection title according to the provisions of Paragraph 4 Article 95 and Paragraph 4 Article 96 of the IP Law.

The time limit for issuing decisions and notices provided for at this Point is 03 months from the expiry of the two-month time limit specified in Point a) if the protection title holder makes no opinion, or from receiving date the protection title holder's opinion. This time limit may be prolonged for a maximum of 03 months if the opinions of the applicants for termination or invalidation of the protection title and the third party is different. Where the protection title holder declares to waive his/ her industrial property rights under the provisions of Paragraph 3 Article 95 of the IP Law, the above-said time limit shall be 10 working days from the date of receiving the request. The time for carrying out other relevant procedures, which are necessary to handle the request for termination or invalidation of the protection, title shall not be included in the above-said time limit.

3. If disagreeing with decision or notice of the IP Viet Nam on handling of the request for termination or invalidation of the protection title, the applicant or an involved party may lodge an appeal about that decision or the relevant notice in accordance with the procedures specified at Point 22 of *Circular No. 01/2007/TT-BKHCN*.

4. A decision on termination or invalidation of the protection title shall be published in the Industrial Property Official Gazette and recorded in the National Register of Industrial Property within two months from the decision date.

(Point 21.3 of Circular No. 01/2007/TT-BKHCN)

Fee	Termination: 470,000 VND Invalidation: 680,000 VND
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7. Appeal Procedure

Possibility to Appeal	Yes
Accredited Authority	<ul style="list-style-type: none">• Intellectual Property Office of Viet Nam (IP Viet Nam)• Judicial authority• Minister of Science and Technology

8. Use of GIs

Eligible persons	<ul style="list-style-type: none">• Producers• Traders
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Example of GI logo

n.a.

Use of GI logo

n.a.

Quality Control

- Internal Control
- External Control

According to Article 88 of the IP Law and Article 19 of Decree No. 103/2006/ND-CP, People's Committee of provinces and municipals shall file applications and manage geographical indications

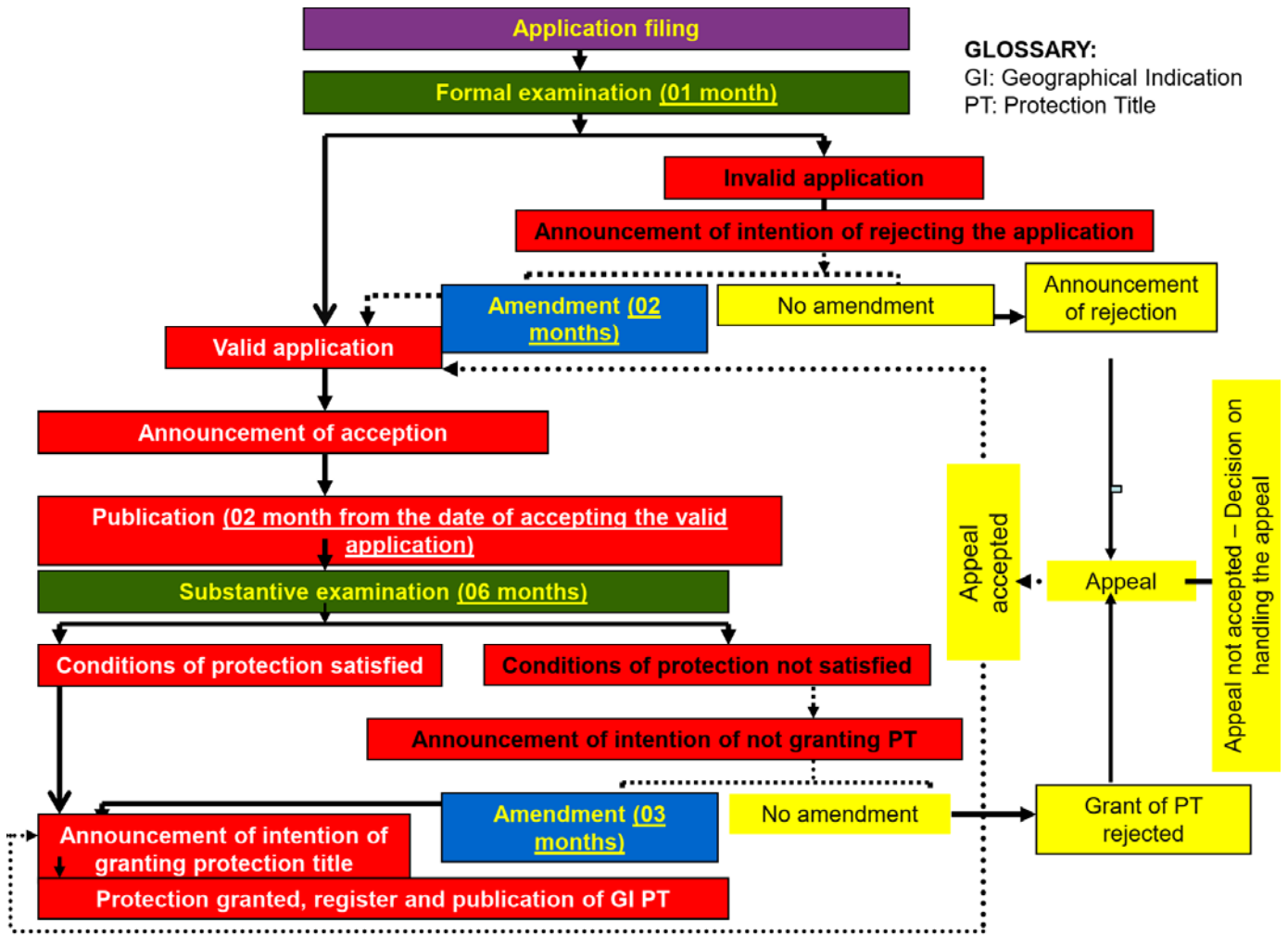
for specialties of one's locality.

In Viet Nam, state agencies (e. g. Departments and People's Committees of all levels) are responsible for the external control.

Associations, producers and traders of products bearing GIs exercise self-control (i.e. internal control).

Figure 11

Registration procedure and timeframe in Viet Nam



ANNEX 1 : Period of Protection

AMS	Period of Protection and Measure required to sustain such protection
Brunei Darussalam	<ul style="list-style-type: none"> • 10 years • Renewable for a period of 10 years
Cambodia	Unlimited time, provided that its registration is not cancelled or invalidated according to this Law.
Indonesia	Unlimited time, as long as the reputation, quality, and characteristics that are the basis of the protection of Geographical Indications are provided for an item.
Laos	Unlimited time
Malaysia	<ul style="list-style-type: none"> • 10 years • Renewable for a period of 10 years
Philippines	<ul style="list-style-type: none"> • 10 years • Renewable for a period of 10 years
Singapore	<ul style="list-style-type: none"> • 10 years • Renewable for a period of 10 years
Thailand	Unlimited time
Viet Nam	<ul style="list-style-type: none"> • Unlimited time • The validity of a GI protection title shall be terminated in the case where the geographical conditions decisive to reputation, quality or special characteristics of products bearing a geographical indication have changed resulting in the loss of such reputation, quality or characteristics of products.

ANNEX 2: Fees and Charges

Brunei Darussalam	
Application Fee	<ul style="list-style-type: none"> • BND 150 per class for registration • BND 125 for publication
Opposition Procedure Fee	<ul style="list-style-type: none"> • Form TM 4 – BND 250 • Form TM 5 – BND 200
Cancellation Procedure Fee	<ul style="list-style-type: none"> • Form TM 18 - BND 225 • Form TM 5 – BND 200
Cambodia	
Application Fee	420,000 ₭ = USD\$105
Opposition Procedure Fee	300,000 ₭ = USD\$75
Cancellation Procedure Fee	200,000 ₭ = USD\$50
Indonesia	
Application Fee	<ul style="list-style-type: none"> • Online (via website): IDR 450.000/application • Offline (at receiving office): IDR 500.000/application • Application for Substantive Examination of Application of GIs: IDR 1000.000
Opposition Procedure Fee	Rp 1.000.000
Cancellation Procedure Fee	-
Laos	
Application Fee	Approx. USD\$125
Opposition Procedure Fee	Under consideration.
Cancellation Procedure Fee	Under consideration
Malaysia	
Application Fee	<p>GI1: Application for registration of a geographical indication MYR 250.00</p> <p>GI2: Form of authorization and request to enter, alter or substitute an address for service MYR 30.00 (Agent appointment form, if any).</p> <p>GI3: Advertisement for registration MYR 45.00</p>

Opposition Procedure Fee	GI4 Form: MYR 450.00 GI5 Form: MYR 300.00
Cancellation Procedure Fee	GI7 450.00 MYR, GI8 100 MYR, GI9 300 MYR
Philippines	
Application Fee	PHP 1,200.00 (SMALL ENTITY) PHP 2,592.00 (BIG ENTITY)
Opposition Procedure Fee	PHP 10,000 (SMALL ENTITY) PHP 14,600 (BIG ENTITY)
Cancellation Procedure Fee	PHP 10,000 (SMALL ENTITY) PHP 14,600 (BIG ENTITY)
Singapore	
Application Fee	S\$1,000.00
Opposition Procedure Fee	S\$550.00
Cancellation Procedure Fee	<ul style="list-style-type: none"> • Application, by person other than registrant, to cancel registration of GI (Form GI4): S\$550.00 • Application by registrant to cancel registration of GI (Form GI7): S\$30.00
Thailand	
Application Fee	500 Baht
Opposition Procedure Fee	500 Baht
Cancellation Procedure Fee	200 Baht
Viet Nam	
Application Fee	1,650,000 VND
Opposition Procedure Fee	550,000 VND
Cancellation Procedure Fee	<ul style="list-style-type: none"> • Termination: 470,000 VND • Invalidation: 680,000 VND